

Randwick Local Planning Panel (Electronic) Meeting

Thursday 10 March 2022



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held online via Microsoft Teams on Thursday, 10 March 2022 at 1pm.

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

D5/22	1/156 Coogee Bay Road Coogee (DA/363/2021)	1
D6/22	159 Boyce Road Maroubra (DA/230/2021)	49
D7/22	59 Beach Street Coogee (DA/637/2019/B)	115
D8/22	46 Adina Avenue La Perouse (DA/104/2021)	141
D9/22	9 Lucas Avenue Malabar (DA/247/2020/A)	179
D10/22	1 Dick Street Randwick (DA/279/2021)	187
D11/22	258 Carrington Road Randwick (DA/575/2021)	221

Kerry Kyriacou
DIRECTOR CITY PLANNING

Development Application Report No. D5/22

Subject: 1/156 Coogee Bay Road Coogee (DA/363/2021)

Proposal:	Alterations and additions to the existing dwelling house including new hardstand car space fronting Coogee Bay Road and rear ground floor balcony
Ward:	East Ward
Applicant:	Pinnacle Plus
Owner:	Ms R & Mr J H Ismin
Cost of works:	\$404,784.00
Reason for referral:	Conflict of Interest

Recommendation

- A. 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/363/2021 for alterations and additions to existing dwelling house, including the construction of a new deck and stair at rear, and internal alterations to accommodate new living areas, access to these and associated works, and hardstand carspace, at No. 156 Coogee Bay Road, subject to the development consent conditions attached to the assessment report.

D5/22

D5/22



1. Executive summary

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

- The applicant has a conflict of interest with Council staff.

The proposal seeks development consent for alterations and additions to existing dwelling house including the construction of new driveway access off Coogee Bay Road, and hardstand carspace, the construction of a new deck and stair at rear, and internal alterations to accommodate new living areas, access to these and associated works.

The key issues associated with the proposal related to:

- The proposed car space involves the removal or relocation of a significant contributory landscape element, this being the Cabbage Tree Palm (*Livistona australis*) at the front of the property situated on Council's footpath which forms part of the avenue of trees planted in accordance with Council's Master Plan.
- the location of the proposed new hardstand car space and whether this would affect visual amenity of the street;
- the impact of the proposed hardstand location on the fabric of the dwelling and the architectural integrity of the building which is not a listed heritage item; and
- the initial concern as to the proximity of the proposed new deck and associated stair to the existing mature Narrow Leaf Peppermint (*Eucalyptus nicholii*) at the rear of the site.

The issue concerning the Narrow Leaf Peppermint (*Eucalyptus nicholii*) located at the rear of the property, was addressed in the amended drawings submitted by the Applicant.

The proposal is recommended for approval subject to non-standard conditions that require relocation of the car parking space at the front of the property as proposed.

The location of the hardstand carspace as proposed will detract from the appearance of the existing dwelling and adversely affect the visual amenity of the street. For this reason conditions of consent require the demolition of both central verandah columns to allow for a centrally located car space at the front, the reconstruction of these columns each closer to either corner post, and reflecting the original form of each column.

Council's tree officer has provided extensive advice relating to the Cabbage Tree Palm (*Livistona australis*) at the front of the property on Council's footpath. Council has explored all options available to incorporate the palm in the proposal, however has concluded that removal is acceptable in this instance with conditions requiring replacement by an advanced replacement tree to be installed elsewhere in the street

2. Site Description and Locality

The subject site is known as 156 Coogee Bay Road, Coogee, and is legally described as Lot 18 in DP 653660. The site is 370.40 m², is regular in shape and has a 9.21m frontage to Coogee Bay Road to the south. The side boundaries are 40.235m long.

The site contains a two storey building plus a lower ground laundry and store and an attic. The building is apparently currently divided into two residential units although it does not appear that there has been consent granted for a dual occupancy.

The site slopes approximately 2.6m from RL26.29 at the front (south) to RL23.72 at the rear (north).



View of existing dwelling and front fence from Coogee Bay Road –



View of existing dwelling, street tree and front fence from Coogee Bay Road



Building elements at the front of the site



Site and adjoining buildings on Coogee Bay Road

D5/22



View to the west with Council's street trees



View of property across Coogee Bay Road to the south



Existing deck and stair at the rear of the site and existing Cocos Palms (*Syagrus romanzoffiana*) and other vegetation



Existing Narrow Leaf Peppermint (*Eucalyptus nicholii*) proposed to be retained.

3. Relevant history

The application was lodged on 24 June 2021. Following a request for amended plans and further details about the trees on the site, an arborist's report was provided by the applicant together with amended plans in September 2021. There were various correspondences with the applicant concerning Council's landscape officer's reservations about the proposed removal or relocation or replanting of Council's street tree –*Livistona australis* – a cabbage tree palm. Various sets of plans were provided.

On about 26 November 2021 the applicant provided further engineering and landscaping advice about the prospect of placing the car space on the eastern side of the property. The advice included three options with their preferred option being to remove an inner support column on the western side of the dwelling to allow for the car space on the western side.

On 17 February 2022 Council's Landscape Development Officer, having consulted with Council's Tree Management Maintenance Co-ordinator, advised that Council had fully canvassed all of the options to incorporate the palm in the proposal and had also considered the prospects of transplanting the palm. Further, Council officers had considered the future of the palm given the

existing interference with the Ausgrid power lines. Council's Landscape Development Officer therefore recommended that in this case it was acceptable to remove the palm, provided the costs were borne by the applicant and a replacement tree was installed nearby.

The streetscape contribution of this tree to the avenue of trees created along Coogee Bay Road, remains a determinant in the assessment of this application, as is the proposed interference with the fabric of the building to accommodate the on-site car parking space.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing residential property, including the following:

To the front of the property:

- The demolition of part of the verandah and the front fence,
- The relocation of the tree at the front
- The construction a driveway, new fence, gate and hardstand car space.

To the rear of the property:

- The demolition of the existing balcony on the northern side at the rear at first floor level
- The construction of a wider balcony with stairs from the western side of the site – away from the *Eucalyptus nicholii* which is on the eastern side of the site near the north eastern corner of the building.

Internally:

- The internal alternations largely rearrange the walls without creating more gross floor area.
- The ground floor will provide for two bedrooms (one with ensuite), a bathroom and combined kitchen, living and dining area.
- On the first floor will be a sunroom at the front off the master bedroom (with ensuite and walk in robe), two further bedrooms, a bathroom and lounge opening to a sunroom facing north.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

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

The relevant aims of this policy are to protect biodiversity values of trees and preserve amenity of non-rural areas through the preservation of trees and other vegetation.

The trees on site and in front of the property are not part of a heritage item or area nor part of an Aboriginal object or place with heritage significance, and are not declared in Council's DCP to be vegetation to which this SEPP applies.

However the aims of this policy along with Council's Street Tree Masterplan guided the assessment in relation to the landscape requirements.

Whereas the existing vegetation on site is not covered under Part 3 of this SEPP, the existing tree size and canopy is substantial and as determined by Council's landscape officer, largely worthy of retention, as contributing to the ecology and amenity of the location.

Further, the original application required the removal of Council's Cabbage Tree Palm (*Livistona australis*) on the street kerb at the front of the property. This palm forms part of the avenue of palms planted in accordance with Council's Street Tree Masterplan some 30 years ago.

For these reasons, Council's landscape officer provided guidance in relation to this application.

The initial application required the removal of Council's street tree, situated in front of the property for the construction of the proposed driveway on the western side of the site. Following consultation with Council's landscape officer, the proposed location of the new driveway was relocated to the eastern end of the front fence however this proposed location would result in further damage to the existing building with unreasonable impact on the character of the area while also being a more expensive solution.

Conditions of consent would require the relocation of the proposed driveway centrally to the building façade, with the demolition and reconstruction of the two central columns supporting the front verandah each closer to the respective corner post. Conditions proposed also provide for the removal of the street tree and the replacement by an advanced tree of the same species at an alternative location in Coogee Bay Road, at the cost of the applicant.

An arborist's report was sought to assess the value of the existing trees at the rear of the property, and guide their retention if this was required.

The plans have been amended to ensure that the Narrow leaf peppermint (*Eucalyptus nicholii*) in the rear of the site will be at least 2 metres from the proposed balcony and stairs to ensure that it does not become an exempt tree under the RDCP 2013.

6.3. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with some of the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community, particularly in relation to the internal alterations and the proposed rear deck and access to the rear yard.

However whilst the proposal aims to provide for the needs of the owners in respect to parking provision, as originally proposed it fell short of recognising the desirable elements of the streetscape and built form and failed in enhancing the aesthetic character of the dwelling and urban environment within which it stands, by way of the proposed alterations to the front.

The colonnade on the façade of the dwelling, is a distinctive feature and should be retained as far as feasible.

Recognising the need for the onsite hardstand carspace, a more sympathetic solution has been attempted by the imposed conditions of consent, which require the removal of the two ground-level central columns and the reconstruction of these equidistantly each closer to its respective corner post, to accommodate a centrally located hardstand car space, while retaining some form of balance in the existing façade.

The conditioned location of the driveway, and the associated works, including the relocation of the street tree would better address some of the objectives of Zone R3, including recognising the desirable elements of the existing streetscape and built form that contribute to the character of the area.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.9:1	As existing: 0.707:1	Yes
CI 4.3: Building height (max)	12m	As existing: 9.4m	Yes

7. Clause 4.6 exception to a development standard

The proposal does not seek to vary a development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012).

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

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

D5/22

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

No submissions from neighbouring properties were received during the notification period. The main issues identified during the course of assessment were as follows:

1. The location of the proposed driveway and hardstand car space, and whether a car space could be accommodated on site at all.
2. The location of Council's street tree in front of the property, and whether this should be retained in place, relocated or removed.
3. The design of the rear deck and stair and whether this would impact on the retention of the mature tree in the rear garden.

There has been intense discussion with Council's Landscape Development Officer in relation to the likely impact of the proposal on the trees existing on site at the rear and in front of the site on the street curb. An arboricultural report was requested and provided. This report assessed the condition of the existing trees and made recommendations. The relevant recommendations are included in the conditions of consent.

(a) Trees at the rear

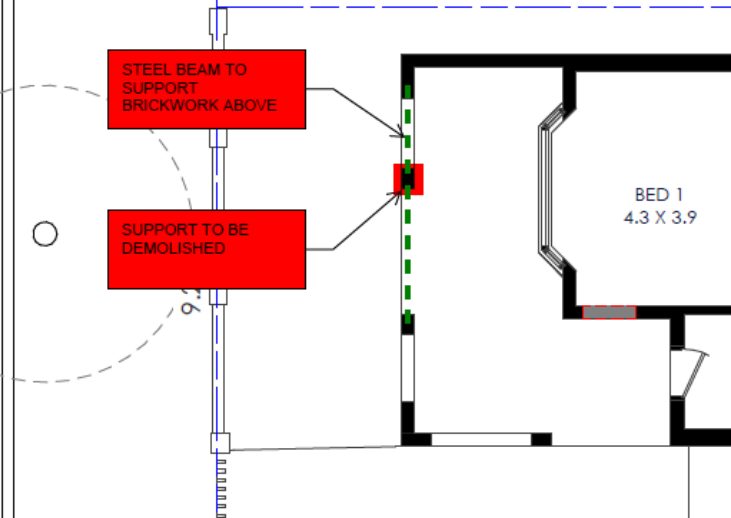
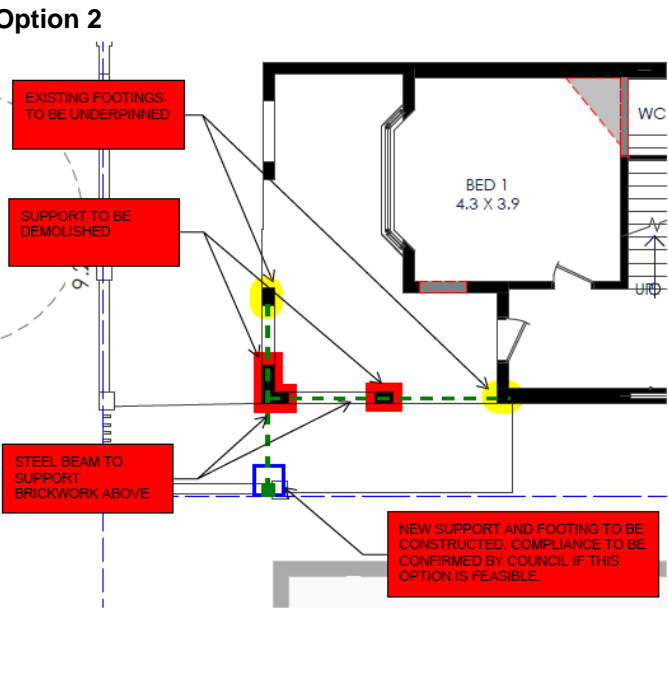
Council's officer recommended changes to the rear balcony and stairs to ensure that the *Eucalyptus nicholii* (Willow Leafed Peppermint, T1) would not become exempt development due to proximity to the built form of the dwelling. Amendments were made to the plans to reflect this recommendation. Conditions of consent are included to ensure retention of the *Eucalyptus nicholii* (Willow Leafed Peppermint, T1). Other conditions of consent have been included concerning pruning of tree T1 and other trees in the rear of the property.

(b) Location of Car space and the street tree

Council's Landscape Development Officer initially had reservations about the removal of the *Livistona australis* (Cabbage Palm) from the Coogee Bay Road footpath. This prompted consideration of various options and the provision of engineering advice by the applicant.

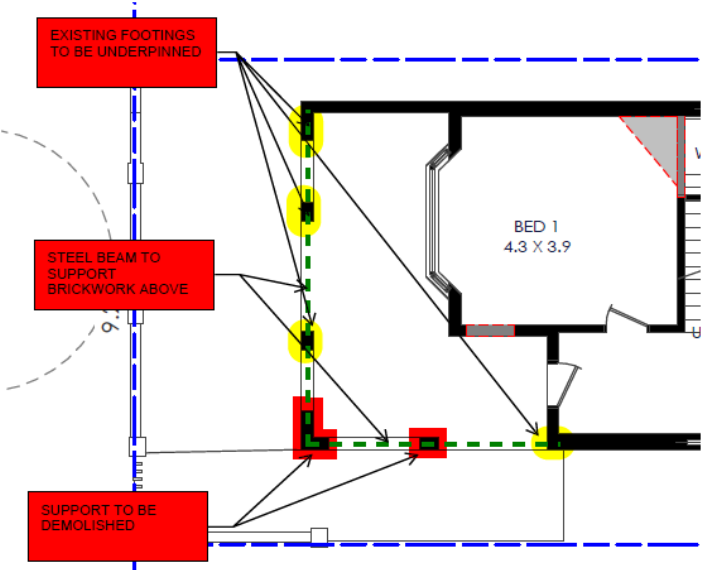
Council's final advice is that it is not possible to retain the street tree and to also accommodate the proposed car space. However an acceptable outcome is to require the removal at the applicant's cost and a replacement tree planted elsewhere along the street (again at the applicant's cost).

The Applicant's engineers provided advice regarding 3 options for the car space and recommended Option 1. The options and conclusions are set out below:

Options	Option description
<p>Option 1</p> 	<p>Option 1. Driveway located to the western half of the site. 1 structural brick column removed and a small beam to support brick work above No underpinning required</p> <p>Engineer's Conclusion Option 1 – This option is the most economical and feasible option</p>
<p>Option 2</p> 	<p>Option 2 Driveway located to the eastern half of the site. 2 structural brick columns removed 2 large beams to support brick work above 1 post located within 900mm of the neighbouring property which would be required to be fire compliant and restricts access to the side of the property Underpinning required</p> <p>Engineer's Conclusion This option is still feasible however the support on boundary may cause issues with compliance and may not be accepted. As well as this, additional strengthening will be required for the existing structure</p>
<p>Option 3</p>	<p>Option 3 Driveway located to the eastern half of the site. 2 structural brick columns removed 2 large beams to support brick work above Underpinning required</p> <p>Engineer's Conclusion This option is the most difficult option as it is a risky method of practice. This option allows very little tolerance for any discrepancies on site and will require additional</p>

D5/22

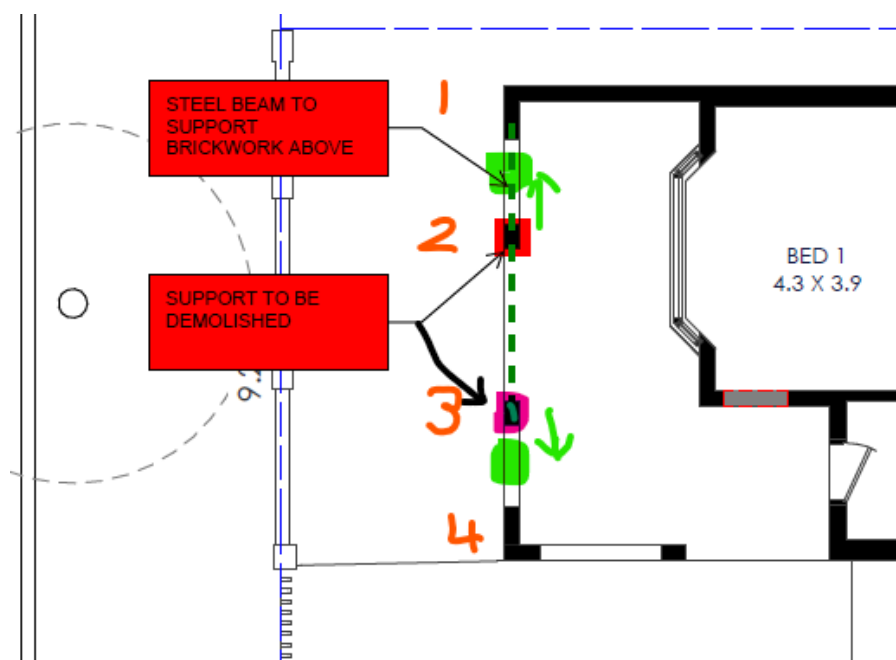
D5/22

Options	Option description
	strengthening to the existing structure

None of the locations of the driveway and hardstand car space along with the associated works as proposed were deemed suitable in architectural and urban design terms. The applicant's preferred option 1 would leave the attractive dwelling with a lop-side frontage which would reflect poorly in the streetscape.

The **recommended option** by this assessment report is close to the option 1 preferred by the engineers. As illustrated below:

- the major structural corner columns 1 and 4 remain untouched
- the internal supporting columns 2 and 3 and part of the balustrade are removed and relocated closer to columns 1 and 4 respectively
- The steel beam support between the two relocated internal columns 2 and 3 appears of similar length to that proposed under option 1
- The car space is located centrally to the building which retains a symmetrical presentation to the street.



The need for an on-site car space is noted. Further amendments are required and are dealt with by conditions of consent. These include the relocation of the driveway and hardstand car space to

be central to the façade, with the reconstruction of the central columns to be closer to either corner post of the front colonnade so as to retain some form of balance and integrity in the street face of the building.

The location of the driveway as conditioned will remove an additional car space from the street, however this would be offset to a degree by the provision of an on-site car space.

Consequently, further conditions of consent deal with the resultant new fencing, to ensure compliance with Randwick Development Control Plan 2013.

10. Conclusion

That the part of the application to carry out alterations and additions to the existing dwelling involving the construction of a new deck and stair at rear, and internal alterations to accommodate new living areas, access to these and associated works be approved (subject to conditions) for the following reasons:

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

That the aspect of the application to carry out alterations and additions to existing dwelling involving the construction of new driveway access off Coogee Bay Road, and hardstand carspace, not be approved as proposed, for the following reasons:

- This aspect of the proposal is inconsistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013 in that it fails to recognise the desirable elements of the existing streetscape and built form of the dwelling.
- If approved as proposed, this aspect of the proposal will adversely impact the fabric of the existing dwelling and the appearance of the colonnade and the façade and will detract from the aesthetic character and visual amenity of the locality.

Noting the need for off-street car parking, an on-site car space is approved subject to conditions that require:

- The removal of two existing columns of the dwelling that are located centrally to the façade and the reconstruction of these columns equidistantly but each closer to the respective corner posts to allow for the car space to be centrally located to the building.
- The demolition of the existing fence and reconstruction subject to the requirements of RDCP 2013.
- The removal of the street palm (at the applicant's cost) and the payment of compensation for loss of amenity and the cost of installing an advanced replacement elsewhere of the same species back on the public footpath, at an alternative location elsewhere along Coogee Bay Road, to be determined by Council.
- Plans to reflect these changes to be submitted to Council prior to the Construction Certificate stage.
- A schedule of materials and colours to be submitted to Council prior to the Construction Certificate stage.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

Undergrounding of power lines to site

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

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

The subject **is** 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.; OR

2.2 Landscape Officer

The DA drawings were referred informally to Council's Landscape Development Officer who in conjunction with Council's Engineering Officer:

- advised against the removal or relocation of the cabbage tree palm the Coogee Bay Rd footpath, as the row of palms in which it stands is part of a strategic avenue planting identified in the Masterplan, which has taken literally decades just to get to that size.
- advised that the environmental criteria in the DCP require that established native species be retained as part of development wherever possible.
- advocated the retention and protection of the narrow leaf peppermint at the rear of the site.

The amended DA drawings were again referred to Council's Landscape Development Officer who provided the following response:-

RETENTION OF PALM ON PUBLIC FOOTPATH IS NON-NEGOTIABLE

If the applicant seeks off street parking, then the required hardstand can only be provided to the east of the Palm.

DRIVEWAY OPENING OFFSET FROM RETAINED PALM

We have determined that the western driveway opening at the front boundary must be offset a minimum 0.50m from the outside edge of the trunk of the Palm at ground level, with measurements to be shown on the plans to confirm compliance. Council also confirms that the existing levels and asphalt surfacing between the kerb and front property boundary can remain unchanged.

CARSPACE PROPOSAL EAST SIDE

The check measuring on-site showed there is sufficient space over the eastern half of this site to provide an off-street car space; however this will require the existing supporting structures/brick columns to be removed/redesigned/relocated/re-engineered so as to then accommodate the required internal car space dimensions. This option requires that plans identifying the amendments to the structural/brick column/s be provided, with Development Engineering to then condition the DA to require that full structural details, prior to the issuing of a Construction Certificate. While the 'Structural Proposal Letter' by Capital Engineering Consultants dated 05/11/21 confirms the increased complexity of meeting this requirement, it does not rule this out as a feasible option. If the applicant had sought feedback through Council's Pre-Lodgement service, this advice & course of action is what would have been presented.

CARSPACE PROPOSAL WEST SIDE

The check measuring on-site with the required 0.50m offset showed the car space could not be located on the western side of the site as there is insufficient space between the Palm and the western boundary.

REAR DECK

The amendments now showing all parts of the rear deck being offset a minimum distance of 2m from the trunk of the large Gum, including the stairs being completely relocated, is supported.

It is acknowledged that this will increase the scope of works involved, but ultimately, it is Council's primary responsibility to ensure that we get what we consider to be the best possible outcome for every application, and in this situation, this involves retaining the avenue of native Palms, which have taken almost 30 years to establish, whilst still allowing the applicant to obtain off-street parking.

A subsequent joint report was received from Council's Development Engineer and Landscape Development Officer. The final Tree Manager's comments in relation to the matter are set out below:

This report is based on the following plans and documentation:

- **Amended** Architectural Plans by Pinnacle Plus, dwg's DA. – 00.20 – 07.01, issue 3, dated 08/11/21;
- Arboricultural Impact Assessment by Lee Hancock Consulting dated 07.09.2021;
- Statement of Environmental Effects by Pinnacle Plus;
- Detail & Level Survey by Harrison Friedman & Assoc.

Tree Manager's Comments

Within a dedicated tree square on Council's full width Coogee Bay Road bitumen footpath, roughly centrally across the width of this site, is a semi-mature, 6m tall *Livistona australis* (Cabbage Palm, T8) of good health and condition, which is protected by the DCP, and is an endemic species to this area and LGA.

While only being relatively small at this point in time, it is part of a strategic, single species avenue planting that was installed around 25-30 years ago, which now as a group, are a main feature of the streetscape, extending along the length of both sides of this roadway, with the intention of enhancing and announcing entry to the Coogee Beach precinct, and to provide a sense of place/character, with retention of this avenue being important to the success of this initiative.

Given an absence of off-street parking, a new layback was proposed over the western half of this frontage, with the internal hardstand to then be contained within the front portion of the existing building, which requires removal of the palm due to being in direct conflict, and while their Arborist simply recommends that it be removed and replaced, it also needs to be recognised that it has taken several decades for these palms just to get this size, so any new plantings will take a similar amount of time to attain similar dimensions and presence in the landscape and avenue.

As Council must demonstrate that all options available for its retention have been thoroughly investigated, the applicant was requested to relocate the hardstand to along the eastern side boundary, which seemed logical given that a slightly greater offset between the palm and the opening could be achieved on that side.

While the rev 2 Ground Floor Plan, dwg DA-04.10, complied with this request, it was also accompanied by additional supporting information in the form of a Structural Proposal Letter by Capital Engineering Consultants (dated 05/11/21), explaining that while it would be feasible to remove the front eastern column of the building so as to accommodate this outcome, this would defiantly not be a recommended or suggested course of action given the complexity and high-risk safety factors involved, as it would significantly affect the condition and structural adequacy of the structure.

Council still requested a more detailed response (RFI), with the subsequent submission (Pinnacle Design Studio & Capital Engineering Consultants dated 26/11/21) outlining that Council's eastern hardstand option would require under-pinning of the existing building, as well as inserting new steel beams and support columns, all of which would not only alter the appearance of the building, but

would also significantly increase the time frame involved with the build, the scope of works, as well as impose additional, prohibitive costs, that would well exceed their budget.

Even with the eastern side hardstand option, Council was still concerned as to clearances, given that the western edge of the opening would be almost in line with its trunk, which may then pose both a physical and visual obstruction of vehicles approaching from the west, uphill, when reversing out into the street.

In light of all of this, further discussions were held with Council's Tree Management & Maintenance Coordinator, who confirmed that while the importance of these Palms to the integrity of the streetscape and avenue was noted, ultimately, they have a limited life-span given that they are located directly beneath the overhead wires, with their crowns already interfering with those utilities, and due to a combination of the Ausgrid clearance requirements that apply, as well as the single trunk leader and height at maturity of this species, their removal will be needed in the near future, regardless of this or any other private development.

Even if under-grounding of the wires was undertaken, as was forecasted when they were all originally planted, none of these palms could remain as part of that process either due to the extensive excavations that would need to be performed, meaning that this whole side of the street would still need to be removed anyway.

The only other possibility for saving this palm would be to relocate or transplant it to an alternative location elsewhere in the street, a Council reserve or similar; however, this is an intense, costly process, with a long turn-around time, so is only ever required in exceptional circumstances, which this is not.

While this genus is tolerant of root disturbance and can be transplanted, this applies more to situations where they are growing in undisturbed deep soil, and a root ball can be easily and cleanly severed; whereas in this situation, significant excavations of the whole footpath area would be needed in an attempt to extract the required amount of root material to support it into the future.

Physiologically, this Palm would have grown in response to, and with a reliance on, its immediate environment, which in this case involves the existing kerb, gutter and roadway to its south, and the impervious asphalt surfacing to its east, north and west, so would not have developed a normal, radial root spread that is typically required in such circumstances.

This means it could not simply be lifted out of its existing situation and placed somewhere else in the footpath/street as it would be regarded as unstable and pose a major safety risk and liability for Council out in the public domain, not to mention the need for bracing, which would need to remain in place for several years just to keep it upright until its root system establishes itself.

For these reasons, Council is deemed to have explored every option available to incorporate this palm into the proposal, and on the basis of all of the factors discussed above, it will not be pursued in this case, particularly as removal in the near future will be required regardless of this development, with conditions requiring that all costs be borne by the applicant, including for an advanced replacement to be installed nearby to ensure there is no 'net loss' from the streetscape, with a loss of amenity fee to also facilitate additional public plantings elsewhere in the street and surrounding area.

Progressing into the rear yard, along the eastern boundary, adjacent the northeast corner of the existing building, is a mature *Eucalyptus nicholii* (Willow Leafed Peppermint, T1), which appears in fair health and condition, is protected by the DCP, as well as being the most established specimen assessed for this application, and as its crown occupies most of this rear setback, as well as overhanging into the other private property to the east, it is identified as having an environmental presence in the immediate area, so must be retained as part of these works.

When scaled off the survey, its trunk is measured to be about 2500mm from the northwest corner of the building, with the existing access stairs attached to the elevated rear deck being hard up against its northern wall, offset 2100mm away, with a paved pathway then just to its south.

Both the existing stairs and pathway are to be completely demolished, with the Ground Floor Plan, dwg DA-04.10, showing that a new curved stairway will then be provided much closer to the tree, at a setback of only 500mm, with the deck to be almost doubled in size, extending further out to both the north and east, so that its northeast corner then finishes only 1200mm from its trunk.

Part B5, Section 2, Exceptions, point iii of Council's DCP states that consent is not required to:

Remove any tree growing within two (2) metres of any building (excluding an outbuilding) measured horizontally from the closest point of the trunk at one (1) metre from ground level to the closest point of the vertical alignment of the building which may be the eave, guttering or fixed awning of the building.

This effectively means that if works did proceed as shown, this tree would then be eligible for removal at any time without even requiring Council consent (due to its proximity within 2m of the building as per the above DCP clause), which is an unacceptable outcome for this application, so in order to ensure it is properly retained and incorporated as an existing site feature into the future, **conditions require that the plans be amended to show that all parts of the stairs, rear deck and similar are setback wholly outside a 2m radius of its trunk**, which is also consistent with the Recommendations of the Arborist Report, and needs to be imposed so as to avoid this tree then being exempt/removed as soon as the stairs were constructed.

The stand of three Cocos Palms (T2) towards the western boundary, adjacent the northwest corner of the existing deck are an exempt species in Council's DCP due to their low landscape value and weed-like properties, meaning they can already be removed at any time, without consent, and whilst the Arborist has noted that the applicant wishes to retain them, it is not possible to formally require that in this report, with conditions actually allowing/recommending their removal, should the applicant wish, with the new deck noted as finishing almost hard up against their trunks.

The mature *Archontophoenix cunninghamiana* (Bangalow Palm, T3) just to their north is a desirable native feature species that is protected by the DCP, and as it sited well away from all works, should not be directly affected in anyway, with the same also applying to the Bottlebrush (T4) and another Bangalow Palm (T5) just further to its north again, along with a smaller Frangipani in this same area. To their east is a mature *Melaleuca quinquinervia* (Broad Leafed Paperbark, T6), which displays good health and condition, is protected by the DCP, and is an endemic species so benefits native fauna and the local environment.

While it is physically sited well away from the actual works, due to its size, a generous clearance/exclusion zone to any disturbance still needs to be applied, with the only works within its calculated TPZ to be new footings for the stairs/deck, which are all considered minor, particularly given the well-known resilience of this species, with conditions specifying the use of pad footings only so as to minimise impacts, with relevant protection measures listed in this report.

The Mulberry (T7) that is located wholly on the adjoining private property to the east, at no.158, is an undesirable, invasive weed, that will not be affected in anyway, so comments are not required.

Appendix 2: DCP Compliance Table**2.1 Section C1: Low Density Residential**

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	Aspects of the proposed development in relation to the internal alterations and the addition of the deck at the rear are consistent with zone objectives. The balance of the development to the front of the site is not consistent with some of the zone objectives.
2	Site planning		
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP): • R3 = 325sqm	Existing lot, not proposed to be subdivided	Yes
	Minimum frontage	Existing lot	N/A
	i) Min frontage R3 = 9m	Min = 9m Existing = 9.21m	Yes but N/A as existing
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 370.4m ² Existing = 39.42% 146 m ² Proposed = 146 m ²	Yes - as existing
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 370.4m ² Existing = 11.47% 42.5 m ² Proposed = 42.5 m ²	No, in relation to landscaping but it is as existing and no change is proposed. Yes, if permeable surfaces are included, at approx. 43.63%. The hardstand car space should be conditioned to incorporate permeable ground surface.
2.5	Private open space (POS)		

DCP Clause	Controls	Proposal	Compliance
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Site = 370.4m ² Existing = More than 42.5 m ² Proposed = More than 42.5 m ²	Yes. As existing which is more than the minimum 6m x 6m required.
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.9:1	Site area = 370.4m ² Existing FSR=0.707:1 Proposed FSR= 0.707:1	Yes. As existing
3.2	Building height		
	Maximum overall height LEP 2012 = 12m	Existing = 9.4m Proposed = 9.4m	Yes. As existing
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Existing= approximately 8m Proposed= no change Dimensions not provided as no work is proposed to alter existing height.	N/A. As existing.
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Minimum= 6m Existing= 3.095m Proposed= 3.095m	As existing – no change is proposed.
3.3.2	Side setbacks: Semi-Detached Dwellings: • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum= 900mm Existing= 780mm to west 1805mm to east Proposed= New balcony continues setback of 780mm to west	Existing. Side setback to west is less than the minimum required, but it is an existing setback. Replacement balcony at the rear will also have a 780mm setback
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.	Minimum = 8m Existing = not provided	Yes

D5/22

D5/22

DCP Clause	Controls	Proposal	Compliance
	<p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Proposed = 9.48m	
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	<p>The proposal entails alterations and additions to existing building.</p> <p>The proposed external works to the front are in relation to constructing a driveway and associated work to accommodate one off-street parking space and relate to the existing fence and front verandah.</p> <p>The proposed external works to the rear are to replace the existing deck and stairs in a slightly different configuration.</p> <p>Additional external works involve the bricking in of a window in the master bedroom WIR on the first floor which will not</p>	<p>Largely existing.</p> <p>In order to retain the integrity of the existing façade to a fair degree, the relocation of the proposed driveway and hardstand car space is conditioned to be central to the façade, with the two columns to be reconstructed closer to either corner of the colonnade, so as to make room for the car space.</p> <p>The reconstructed columns should reflect the form of the originals.</p> <p>The proposal will also involve the demolition and reconstruction of the existing front fence and the</p>

DCP Clause	Controls	Proposal	Compliance
		impact on the character of the building or locality.	new fence will be conditioned to comply with the requirements of RDCP 2013. The proposed deck and stair at the rear have been redesigned in the amended drawings to reflect Council's position. A condition of consent requires screening to be incorporated on the western side of the deck stair to protect the privacy and amenity of the neighbouring properties, particularly the adjoining property at No 93 Mount Street, Coogee.
4.4	Roof Design and Features		
	<i>Rooftop terraces</i> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side) <i>Dormers</i> iii) Dormer windows don't dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <i>Celestial windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.	N/A	N/A
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand	Provided	Yes. An updated schedule of materials and colours is conditioned to be provided at the Construction

D5/22

DCP Clause	Controls	Proposal	Compliance
	natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)		Certificate stage.
4.6	Earthworks		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	N/A	N/A
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	N/A The dwelling is existing and no work is proposed that would substantially alter existing solar access to the living spaces and POS.	N/A
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of 	The dwelling is existing and no work is proposed that would substantially alter existing solar access of the neighbouring properties. The rear deck is proposed to be enlarged, however any shadows likely to be cast by way of this structure will not adversely impact the neighbouring properties.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>the urban block.</p> <ul style="list-style-type: none"> Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	<p>The dwelling is existing and no work is proposed that will impact on energy efficiency. Arguably the proposed new work will facilitate a better use of natural ventilation by way of enlarging the windows to the rear.</p>	Yes
5.3	Visual Privacy		
	Windows		
	<p>i) proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). <p>ii) orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>No new windows are proposed to be installed on either side of the property which might overlook into adjacent dwellings. The proposed new glazing to the rear opens onto the proposed new deck. A vertical garden proposed on the western edge of the balcony to provide privacy to the adjoining development in not included in the final version marked 'Rev 3'. Any potential overlooking from the proposed enlarged new deck may be dealt with by screening</p>	Yes, and any potential to overlook from enlarged windows and deck at the rear may be dealt with by condition of consent.

D5/22

D5/22

DCP Clause	Controls	Proposal	Compliance
		via condition of consent.	
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	As above, a condition of consent may be imposed to minimise overlooking potential from rear deck and stair to the west. The proposed balcony will be further from the development at 158 Coogee Bay Road so no additional privacy screening is considered necessary to the east.	Yes, as above, a condition of consent to include screening on the western side of the rear deck should minimize potential overlooking.
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	NA – no substantial changes are occurring.	Yes
5.5	Safety and Security		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	The entry to the dwelling is existing and it is to the side, but accessed from the streetfront.	N/A
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures	No structures are proposed that will adversely impact on views enjoyed by neighbouring properties.	Yes

DCP Clause	Controls	Proposal	Compliance
	adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	One parking space is proposed, and is to be accessed off the main street at the front of the site. It is not possible to position car space either behind the front façade or the side of the dwelling, due to the size of the dwelling and the site. There is no rear lane access and the location of a car space at the front may be the only feasible location for the new car space. However, as proposed, the carspace will result in a diminished aesthetic on the façade, and will adversely impact the visual quality of the streetscape by the removal of at least one column of the front verandah. The driveway into the car space is minimal.	Yes, to the degree allowable due to the site conditions, however if approved as proposed, the proposed location of the carspace will result in a diminished aesthetic of the built form as viewed from the public domain. For this reason, conditions of consent require the location of the car space to be central to the façade, with the two central columns to be located closer to either end post and be equidistant from each respective post. The reconstructed columns are to reflect the form of the original columns that are being removed. An updated schedule of materials and colours is required to be submitted to Council.
6.2	Parking Facilities forward of front façade alignment (if other options not available)		
	i) The following may be considered: - An uncovered single car space - A single carport (max. external width of not more than 3m and	The uncovered single car space is proposed to be sited forward of	An uncovered single car space at the front of the existing building

D5/22

D5/22

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> - There is no alternative, feasible location for accommodating car parking; - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls) 	the front façade alignment due to the particular site conditions and size of dwelling. There is no alternative feasible location for the car space. It is not envisaged that the proposed driveway to the car space will pose a pedestrian risk. The work as originally proposed to accommodate the car space, involved altering the configuration of the front fence and verandah and will require the removal / relocation of the cabbage tree palm which is a significant landscape element.	will result by way of this application. The conditioned location of the hardstand space will minimise impact on visual amenity of the street and on significant landscape elements. Removal of the street tree is considered acceptable by Council's tree officer
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing 	No carport is proposed.	N/A
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The driveway is conditioned to be 3m wide.	Yes as conditioned.
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm	No garage is proposed.	N/A

DCP Clause	Controls	Proposal	Compliance
	behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1		
6.6	Carport Configuration		
	i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open). ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling iii) 3m maximum width. iv) 5.4m minimum length v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof. vi) No solid panel or roller shutter door. vii) front gate allowed (minimum 30% open) viii) Gate does not open to public land	No carport is proposed.	N/A
6.7	Hardstand Car Space Configuration		
	i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The proposed hardstand carspace surface is sealed but if approved, it may be appropriate to seek to include permeable surface materials.	Not in relation to permeable materials but this may be addressed by condition of consent.
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	A new fence will be conditioned to be compliant with RDCP 2013 and with similar materials to existing so as to accommodate the proposed new hardstand carspace.	Yes
7.2	Front Fencing		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a</i>	As above – new front fencing is conditioned, to accommodate new hardstand carspace.	Yes, N/A

D5/22


DCP Clause	Controls	Proposal	Compliance
	<p><i>combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> <p>iv) 150mm allowance (above max fence height) for stepped sites</p> <p>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible</p> <p>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</p> <p>vii) Gates must not open over public land.</p> <p>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</p>		
7.3	Side and rear fencing		
	<p>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	No new fencing is proposed to the side and rear of the property.	Yes
7.4	Outbuildings		
	<p>i) Locate behind the front building line.</p> <p>ii) Locate to optimise backyard space and not over required permeable areas.</p> <p>iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height)</p> <p>iv) Nil side and rear setbacks where:</p> <ul style="list-style-type: none"> - finished external walls (not requiring maintenance; - no openings facing neighbours lots and - maintain adequate solar access to the neighbours dwelling <p>v) First floor addition to existing may be considered subject to:</p> <ul style="list-style-type: none"> - Containing it within the roof form (attic) - Articulating the facades; - Using screen planting to visually soften the outbuilding; - Not being obtrusive when viewed from the adjoining properties; - Maintaining adequate solar access to the adjoining dwellings; and - Maintaining adequate privacy to the adjoining dwellings. <p>vi) Must not be used as a separate business premises.</p>	No new outbuildings are proposed.	N/A
7.6	Air conditioning equipment		
	<p>i) Minimise visibility from street.</p> <p>ii) Avoid locating on the street or laneway elevation of buildings.</p>	No new air conditioning is proposed, but if it	N/A

DCP Clause	Controls	Proposal	Compliance
	iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	is anticipated, this may be dealt with by condition of consent.	
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	No new clothes drying facilities are proposed.	N/A

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	Vehicle Parking Rates		
	One Space per dwelling house with up to 2 bedrooms Two Spaces per dwelling house with 3 or more bedrooms Note: Tandem parking for 2 vehicles is allowed.	1 space is proposed.	No. The proposal aims to improve the existing situation where there is no parking.

Attachment/s:

1.  RLPP Dev Consent Conditions - DA/363/2021 - 1/156 Coogee Bay Road, Coogee

Responsible officer: Urban Perspectives, Town Planners

File Reference: DA/363/2021

D5/22

Development Consent Conditions (dwellings and dual occupancies)



Folder /DA No:	DA/363/2021
Property:	1/156 Coogee Bay Road, COOGEE NSW 2034
Proposal:	Alterations and additions to the existing dwelling house including new hardstand car space fronting Coogee Bay Road and rear ground floor balcony.
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
Lower Ground Floor demolition works DA – 02.00 Rev 2	Pinnacle	23/08/2021	23/08/2021
Ground Floor Demolition works DA – 02.10 Rev 3	Pinnacle	08/11/2021	8/11/2021
First floor demolition works DA – 02.20 Rev 2	Pinnacle	23/08/2021	23/08/2021
Roof demolition works DA – 02.30 Rev 2	Pinnacle	23/08/2021	23/08/2021
Lower Ground Floor general arrangement DA – 04.00 Rev 2	Pinnacle	23/08/2021	23/08/2021
Ground floor general arrangement DA – 04.10 Rev 3	Pinnacle	08/11/2021	8/11/2021
First floor general arrangement	Pinnacle	23/08/2021	23/08/2021

DA – 04.20 Rev 2			
Roof general arrangement DA – 04.30 Rev 2	Pinnacle	23/08/2021	23/08/2021
Section A & B DA – 05.00 Rev 2	Pinnacle	23/08/2021	23/08/2021
Driveway section DA – 05.00 Rev 3	Pinnacle	08/11/2021	8/11/2021
Front and rear elevations DA – 06.00 Rev 2	Pinnacle	23/08/2021	23/08/2021
East and west elevations DA – 06.10 Rev 2	Pinnacle	23/08/2021	23/08/2021

BASIX Certificate No.	Dated	Received by Council
A415886	22/06/2021	24/06/2021

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
- a. The drawings shall be amended to delete the driveway, hardstand car space and associated works to the fence and façade colonnade of the dwelling and to amend the plans in accordance with the requirements in condition 2. c. below.
 - b. The drawings shall be amended to remove all reference to a semi circular stairway adjacent to the *Eucalyptus nicholii* (Willow / Narrow Leafed Peppermint), and to include the rear deck and stairwell as set out in Drawing DA- 04.10 Rev 3 dated 08.11.21 and subject to the Tree Protection Measures set out in the relevant conditions of this consent.
 - c. The drawings shall indicate:
 - i. A hardstand car space centrally located in front of the façade of the existing dwelling no more than 3,000mm wide and associated driveway access from the street;
 - ii. To accommodate the car space, the removal of the two front central columns on the front verandah and the adjacent masonry balustrade to either side of these columns at ground level;
 - iii. The reconstruction of these columns and balustrade in the form reflecting the existing, so that these are located each closer to its respective corner post of the verandah equidistantly as each other from the corner whilst allowing for a 3 metre wide car space between the reconstructed columns;
 - iv. Associated structural work to support the upper level enclosed verandah to not be visible from the street;
 - v. The hardstand space is to be constructed of permeable materials;
 - vi. Removal of existing front fence and associated works to accommodate the car space;
 - vii. Construction of a new front fence and associated gates to be in keeping with style and architectural language of existing dwelling and to a maximum height of 1,800mm as measured from the footpath level with the solid portion of the wall, if any, not exceeding 600mm except for piers and the non-solid portion of the fence

D5/22

to be at least 30% open and constructed of vertical equidistant elements. The gates are not to open outwards onto the public street;

- viii. Drawing DA-04.10 Rev 3 dated 8.11.21 is to be amended to illustrate that the rear setback to the outer edge of the deck is 9.480 metres;
- ix. The proposed deck and stairs at the rear as indicated in Drawing DA- 04.10 Rev 3 dated 08.11.21 and the requisite privacy screen as required in condition 2(d), to be reflected in all revised plans .
- d. A privacy screen having a height of 1.6m (measured above finished floor level of deck and stair treads) shall be provided to the western side of the rear deck and stairs leading from the deck to the private open space at the rear.

Privacy screen 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.

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 sympathetic to the dwelling style, to maintain the integrity and amenity of the building and the streetscape.
- 5. 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

- 6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$404,784.64 the following applicable monetary levy must be paid to Council: \$4,047.85.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Compliance Fee

7. A development compliance and enforcement fee of \$850.05 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

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

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

Security Deposits

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

- \$2000 - Damage / Civil Works Security Deposit

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

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

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

Design Alignment levels

10. 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 Council asphalt footpath levels along the full site frontage.**

The design alignment levels at the property boundary as issued by Council and their relationship to the Council asphalt footpath must be indicated on the building plans for the construction certificate (a construction note on the plans is considered satisfactory). 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.

11. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of **\$171**. This amount is to be paid prior to a construction certificate being issued for the development.

Stormwater Drainage

12. Surface water from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifier and details are to be included in the construction certificate:-
 - a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
 - b) The surface water/stormwater is to be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - d) 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 the adjoining premises;
 - e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

Sydney Water Requirements

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

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

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

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

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

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

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

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

D5/22

Removal of Public Palm

14. The applicant must submit a payment of **\$3,720.00** (GST inclusive) to cover the following costs:

- a. For Council to remove, stump-grind and dispose of the existing *Livistona australis* (Cabbage Palm) from the Coogee Bay Road footpath, centrally across the width of this site, given its direct conflict with the new vehicle access and internal hardstand along the western site boundary as shown;
- b. For Council to supply, plant and maintain 1 x advanced replacement of the same species back on the public footpath, at an alternative location elsewhere along Coogee Bay Road, to be determined by Council, and also includes the cost to saw cut out and provide a new tree planting pit;
- c. A loss of amenity fee in recognition that the only reason this established native species is being removed from its position in public property is to accommodate the development of private property, with the replacement to take many decades to replicate a similar size and presence in the streetscape, with this part of the fee to be used towards additional plantings elsewhere 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 UP TO SIX WEEKS NOTICE to arrange for its removal 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 North Area Tree Preservation & Maintenance Coordinator on 9093-6843.

Tree Protection Measures

15. In order to also ensure retention of the *Eucalyptus nicholii* (Willow / Narrow Leafed Peppermint, T1) that is located in the rear yard of this site, adjacent the northeast corner of the building, as well as the two *Archontophoenix cunninghamiana* (Bangalow Palms, T3 & T5) and Bottlebrush (T4) on the opposite, western side, along with the centrally located *Melaleuca quinquinervia* (Broad Leafed Paperbark, T8) in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show their retention, along with the position and diameter of their trunks, canopies, SRZ's, TPZ's, and Tree Identification Number as taken from the Arboricultural Impact Assessment by Lee Hancock Consulting dated 07.09.2021 ('the Arborist Report') in relation to the site and new works.
 - b. The Principal Certifier must ensure that the Construction Certificate plans are amended to show all parts of the rear access stairs, rear deck and associated works being offset a minimum distance of 2100mm, measured horizontally from the closest point of the trunk of T1 at one metre above ground level to the closest point of the building, so as to then avoid this tree being exempt from Council's DCP, and is also consistent with the Arborist Report recommendations. Distances in millimetres to the trees must be included to confirm compliance.
 - c. Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as '*the Project Arborist*' for the duration of works and will be responsible for both implementing and monitoring the conditions of development consent, as well as Section 6.0 - Recommendations, and Section 10 - Tree Protection Specification of the Arborist Report, along with any other instructions issued on-site.

- d. The Project Arborist must be present on-site at the relevant stages of works and is to keep a log of the dates of attendance and the works performed, which is to be presented as a Final Compliance Report, for the approval of the Principal Certifier, prior to any Occupation Certificate.
- e. Prior to the commencement of any site works, their trunks are to be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, 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.
- f. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until completion, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION, DO NOT REMOVE".
- g. In order to prevent soil/sediment being washed over their root systems, erosion control measures must be provided at ground level around the perimeter of their TPZs.
- h. Within the TPZs, 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 to comply with this requirement.
- i. Existing paving/surfacing in the rear yard must be retained in-situ for as long as possible as a form of ground protection to prevent root damage during works, and if the Project Arborist deems that additional ground protection is required, it shall comprise strapped together rumble boards, sheets of plywood or similar, over the extent of their TPZ's, which must remain in place throughout works.
- j. All initial excavations for footings, or, for the removal/demolition of existing gardens, edging, paving, posts/deck and similar within their TPZ's must be performed by hand, either by, or, under the direct supervision of, the Project Arborist.
- k. So as to minimise the amount of excavations and potential for root damage, construction details must be submitted to, and be approved by, the Principal Certifier, confirming that any new footings for the rear access stairs and/or deck will be supported on localised pads only, and must also be flexible enough to be relocated around any major roots that may be encountered.
- l. Where major roots with a diameter of **more than 50mm** or more are encountered, which the Project Arborist determines must be retained, then footings shall be relocated/re-positioned, and works re-designed/relocated around them as necessary, with the Project Arborist to document compliance with this procedure by the submission of time stamped photos, which are then to form part of the Final Compliance Report.
- m. Where roots with a diameter of less than 50mm are found which are in direct conflict with the works, and the Project Arborist gives permission for their pruning, they may be cut cleanly by hand, with the affected area to then be backfilled with clean site soil so that the cut ends are not left exposed to the atmosphere.
- n. Ground levels within their TPZ's must not be altered by more than 200mm, and other than the approved works, there must be no other structures such as continuous strip footings, planter boxes or similar, which are to remain as undisturbed, deep soil.
- o. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works, and prior to any Occupation Certificate.

D5/22

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

16. 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

17. 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.

Stormwater Drainage

18. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
 - b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - d) 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 the adjoining premises;
 - e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
 - f) A certificate, from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

D5/22

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

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

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

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

- b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the *Principal Certifier* and Council are to be notified accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

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

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

Dilapidation Reports

21. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
 - excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential

- damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
- as otherwise may be required by the *Principal Certifier*.

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

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

Construction Noise & Vibration Management Plan

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

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

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

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

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

Demolition & Construction Waste Plan

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

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

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

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

Public Utilities

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.

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 Certifier 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

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

Site Signage

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

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

Restriction on Working Hours

29. 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 5.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

Removal of Asbestos Materials

30. 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 Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

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

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

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

Support of Adjoining Land

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

33. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifier*:

- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
- when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
- as may be required by the *Principal Certifier*.

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

Sediment & Erosion Control

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

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

Public Safety & Site Management

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

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

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

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

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

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

Site Signage

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

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

Survey Requirements

37. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:
- prior to construction (pouring of concrete) of the footings or first completed floor slab,
 - upon completion of the building, prior to issuing an occupation certificate,
 - as otherwise may be required by the Principal Certifier.

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

Building Encroachments

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

Tree Management

39. Despite appearing to be shown for retention, the stand of 3 x Cocos Palms (T2) in the rear setback of this site, adjacent the northwest corner of the existing/new deck are an exempt species in Council's DCP due to their low landscape value and weed-like properties, meaning they can already be removed at any time, even irrespective of these works, should the applicant wish.

Pruning

40. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the southern aspect of T1, which is located in the rear yard of this site, along the eastern boundary, only where needed avoid damage to the tree; or, interference with the approved works.
41. All pruning can only be undertaken by a Practicing 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'.

Road / Asset Opening Permit

42. 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.

Ausgrid Power Feed Connection from Power Pole

43. Should the existing overhead power feed from the Ausgrid Power Pole need to be reconnected to the site during any stage of building works it is to comply with either of the following methods:

From the power pole directly to the façade of dwelling, similar to the existing connection, to the satisfaction of Ausgrid;

OR

Relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements.

Note: **A Private Power Pole at the front of the site is not permitted.** The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

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

BASIX Requirements & Certification

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

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

Council's Infrastructure, Vehicular Crossings, street verge

46. The applicant must meet the full cost for a Council approved contractor to:
- a) Construct a concrete layback at kerb and vehicular crossing, opposite the vehicular entrance to the site to Council's specifications and requirements.
- Note; This shall include the reknit of the existing asphalt footpath either side of the vehicular crossing to match the new concrete driveway levels.
47. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
48. 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.

DCP Exclusion Certification

49. Prior to any Occupation Certification, the Principal Certifier must confirm that all parts of the completed building works, including walls, steps/stairs, posts, deck, handrails, guttering and similar, are sited a minimum distance of **2100mm** from the trunk of T1, as is required by the 'Tree Protection Measures' condition.

Street and/or Sub-Address Numbering

50. 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.

External Lighting

51. 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

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

Plant & Equipment – Noise Levels

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

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

Air Conditioners

54. Should air conditioning plant and equipment be installed this shall not be visible from the street and it shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

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

Rainwater Tanks

55. Should a rainwater tank be installed this shall not be visible from the street and the operation of such plant and equipment associated with rainwater tanks are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

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

Use of parking spaces

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

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

- A5 Any proposed amendments to the design and construction of the building may require a new development application or a section 4.55 amendment to the existing consent to be obtained from Council, before carrying out such works
- A6 A Local Approval application must be submitted to and be approved by Council prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

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

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

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

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

- A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au 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.

- 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.
- 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.

D5/22

Development Application Report No. D6/22

Subject: 159 Boyce Road Maroubra (DA/230/2021)

Proposal:	Demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two Torrens title allotments, addition of two swimming pools, landscaping and associated works (variation to subdivision lot size)
Ward:	Central Ward
Applicant:	SLC Design Group
Owner:	Xiao Feng Cai & Susan Shieh
Cost of works:	\$1,749,643.83
Reason for referral:	The development contravenes the development standard for minimum lot size 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 minimum subdivision lot size development standard in Clause 4.1 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and 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/230/2021 for demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two torrens title allotments, addition of two swimming pools, landscaping and associated works, at No. 159 Boyce Road, Maroubra, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Conditions of Consent - DA/230/2021 - 159 Boyce Road, Maroubra

D6/22



1. Executive summary

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

- The development contravenes the development standard for minimum subdivision lot size by more than 10%.

The proposal seeks development consent for demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two Torrens title allotments, addition of two swimming pools, landscaping and associated works.

The key issues associated with the proposal relate to non-compliance with the minimum subdivision lot size. The proposal also results in non-compliance with Council's development controls in relation to external wall height, and with regards to the extent of excavation, the location of off-street parking being forward of the building, and articulation of the side elevations for Dwelling 2. The proposed land subdivision is supported given the consistency with the established subdivision pattern of the area, and noting that the subject site is one of the last remaining allotments within the urban block that can be subdivided. The site has two (2) street frontages which enables a dwelling to be constructed on each allotment with vehicular access to each proposed lot. Furthermore, the proposed allotments are considered to be adequately sized to accommodate the proposed dwelling houses without unreasonably impacting upon the residential amenity of the neighbouring sites or the existing streetscape.

The proposal is recommended for approval subject to non-standard conditions that require amendments to reduce the extent of excavation for Lot 1, provide articulation for the proposed dwelling on Lot 2, and some additional privacy measures. The recommendation also requires the

submission of an updated landscape plan to reflect the correct position of the proposed swimming pool on Lot 1.

2. Site Description and Locality

The subject site is known as 159 Boyce Road, Maroubra and has a legal description of Lot 1 in Deposited Plan 963584. The site is rectangular in shape and has a total area of 670.3m². The site is located on the southern side of Boyce Road and has a double street frontage, with Green Street located to the south. Pedestrian access is gained via the 10.06m frontage to Boyce Road and vehicular and pedestrian access to the site is gained via the 10.06m frontage to Green Street (see **Figures 1 and 2**). The site experiences a slight slope from north to south, with a fall of approximately 1.76m from the front northern boundary down towards the rear southern boundary, with an average slope of approximately 2.69%. The site is elevated above street level at the Boyce Road frontage, being approximately 4.2m above the road level. There is an embankment adjoins the site in the immediate road reserve area and a public footpath on the upper level of the embankment which provides access from the lower portions of Boyce Road to the east and west.

The site is zoned R2 - Low Density Residential and is currently occupied by an existing dwelling house and detached garage. The property is surrounded by residential properties to the north, south, east and west. The existing streetscape is predominantly dwelling house with some semi-detached dwellings and dual occupancies. The architectural style of the area is a mixture of older and newer style developments, and there is no prevailing architectural form.



Figure 1: View of the existing dwelling house from Boyce Road

D6/22

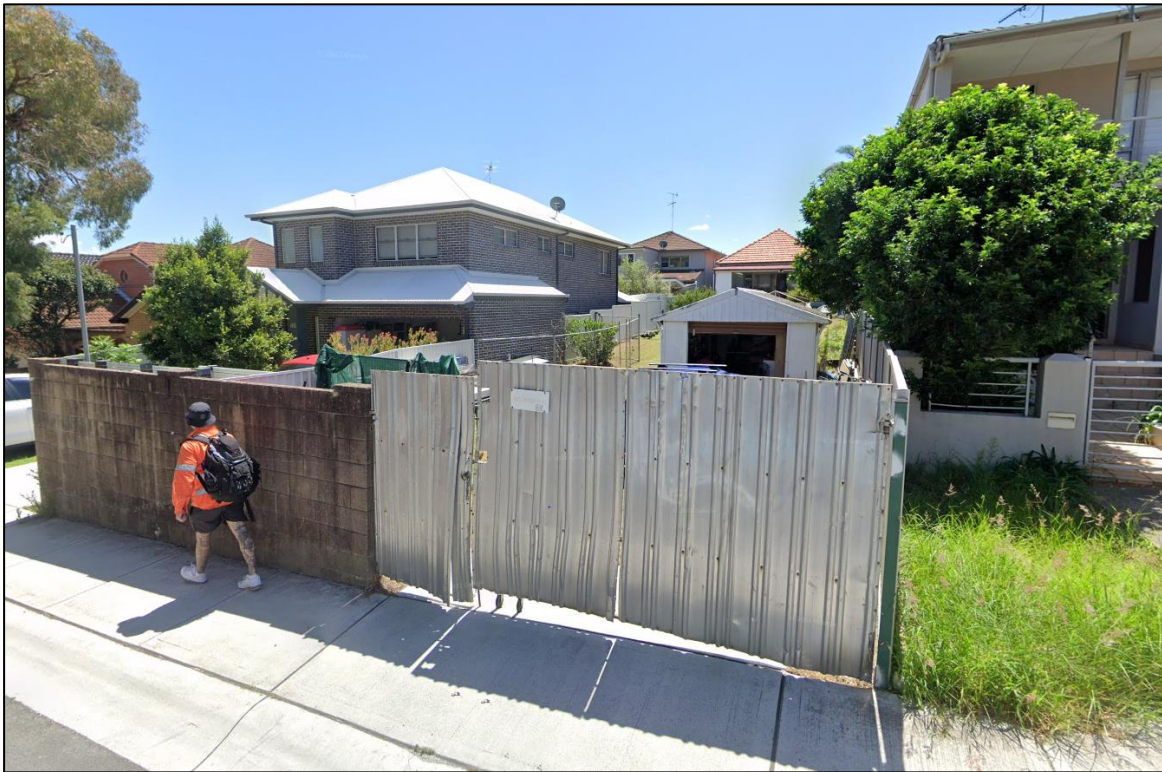


Figure 2: View of the subject site from Green Street

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records revealed the following relevant and/or recent applications for the site:

PL/6/2020

A prelodgement application and associated meeting was held which proposed the subdivision of the site and the construction of a two (2) storey dwelling with a six (6) car basement garage on the Boyce Road frontage. No dwelling was proposed on Green Street. The application highlighted concerns in relation to the minimum subdivision lot size, frontage width, location of parking, front setback, FSR including the excess parking spaces, solar access, potential view loss, and the extent of excavation. The prelodgement advice also recommended that a concept scheme for the proposed allotment fronting Green Street be provided in any future development application.

Subject Application

Development Application DA/230/2021 was lodged with Council on 21 April 2021. The application was referred to Council's Development Engineer for comment and/or recommendation.

4. Proposal

The proposal seeks development consent for demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two torrens title allotments, addition of two swimming pools, landscaping and associated works.

Specifically the applicant seeks consent for the following works:

- Demolition of the existing structures on site;
- Torrens title subdivision of the lot into two (2) allotments, one (1) fronting Boyce Road and one (1) fronting Green Street. The proposed lot sizes shall be 297.918m² and 329.215m² respectively;
- New vehicular access driveways to each street frontage;

- Construction of a dwelling house on each new allotment comprising:
 - Lot 1 (Boyce Road)
 - *Basement Level*
Four (4) car parking spaces, storage area and internal access stair;
 - *Lower Ground Floor Level*
Cellar, Laundry, Bathroom and internal access stair;
 - *Ground Floor Level*
Entry hall, open-plan Living/Kitchen/Dining area including Bulter's Pantry, and internal access stair;
 - *First Floor Level*
Five (5) Bedrooms, one (1) En-suite, one (1) Bathroom, and internal access stair;
 - Lot 2 (Green Street)
 - *Ground Floor Level*
Double garage, open-plan Living/Kitchen/Dining area, combined Laundry and Pantry, and internal access stair;
 - *First Floor Level*
Four (4) Bedrooms, one (1) Walk-in Robe, one (1) En-suite, one (1) Bathroom, and internal access stair;
- Construction of a swimming pool within the rear yard of each new allotment;
- Associated landscaping and earthworks, including substantial excavation within the northern portion of the site.

5. Notification

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

- 161 Boyce Road, Maroubra

Issue	Comment
Request for a dilapidation report to be undertaken in relation to the excavation proposed.	Due to the extent of excavation proposed, a condition of consent is recommended for dilapidation reports to be undertaken for all adjoining properties.
The Landscape Plan does not show the location of the pools correctly, and the proposed planting does not permit a path.	It is acknowledged that the Landscape Plan identifies the pool for Lot 1 in the wrong location (being within the front of the site rather than the rear where it is proposed). The assessment has been based on the location of the pool in the rear of the site, with all other landscaping works as per the landscape plan. A condition of consent shall be imposed for the Landscape Plan to be updated and amended to reflect the correct location of the swimming pool, and for the Landscape Plan to be updated prior to the issue of a Construction Certificate.
Lack of details regarding the wall on Boyce Road, and the partition between the properties on the boundary at 159/161 Boyce Road.	The proposal involves extensive works within the road reserve area to facilitate vehicular access to the site, which includes excavation of

D6/22

Issue	Comment
The demolition plans identify the removal of an existing sandstone wall on Boyce Road. No details are provided on how it will be completed. The plans do not identify how the division between 159 and 161 will be laid out. Details regarding the driveway and landscaping should be reviewed before the development is approved.	the front embankment and removal of the existing sandstone retaining wall. These works will have to be designed and undertaken in accordance with Council requirements, and discussions with Council's Engineering Technical Services department will be required. As such, a condition of consent is recommended for the Applicant to consult with Council in the preparing of the design of the road reserve works, and have the works approved by Council, prior to the issue of a Construction Certificate. The details which the objector is seeking shall be provided and approved by Council prior to the construction of the development.

6. Relevant Environment Planning Instruments

6.1. SEPP (Vegetation in Non-rural Areas) 2017

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

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

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

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). While the subject site does not contain any significant trees or vegetation, and therefore no removal is sought, the proposed development shall require the removal of an existing tree located within the nature strip along Boyce Road.

Assessing officer's comment:

The application was referred to Council's Landscape Technician who confirmed that the subject tree is an undesirable species and has been a result of self-seeded rather than being formally planted. As such, removal of the tree is not considered to be unwarranted in this instance. Landscaping on site shall be enhanced through new plantings, including the provision of canopy trees.

6.2. SEPP 55 – Remediation of Land

The site has been utilised for residential purpose for an extended period of time, and it is considered that the subject site is suitable for the proposed development.

6.3. SEPP (Building Sustainability Index: BASIX) 2004

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

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	Lot 1 = n/a (site area less than 300sqm) Lot 2 = 0.75:1	Lot 1 = 0.85:1 Lot 2 = 0.67:1	Yes Yes
Cl 4.3: Building height (max)	9.5m	Lot 1 = 7.07m Lot 2 = 8.51m	Yes Yes
Cl 4.1: Subdivision lot size (min)	400m ²	Lot 1 = 297.918m ² Lot 2 = 329.215m ²	No No

D6/22

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 standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.1: Subdivision lot size (min)	400m ²	Lot 1 = 297.918m ² Lot 2 = 329.215m ²	Lot 1 = 102.082m ² Lot 2 = 70.785m ²	Lot 1 = 25.52% Lot 2 = 17.69%

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.

D6/22

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 Minimum Lot Size development standard (CI 4.1)

The applicant's written justification for the departure from the minimum lot size 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 minimum lot size 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 minimum lot size standard are set out in Clause 4.1 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed subdivision shall retain the existing subdivision pattern of the immediate locality, whilst permitting infill development.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposal shall provide two (2) dwelling houses which are consistent with the objective.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the site has demonstrated that development of this nature can be accommodated on the proposed allotments, particularly given the relatively flat building areas on the proposed lots.

Assessing officer's comment:

The predominant subdivision pattern of the surrounding area, including Boyce Road and Green Street and the urban blocks to the north being Alma Road, Gale Road and Metcalfe Street, is primarily smaller allotments of approximately 300m²-350m² in size, with some larger lots greater than 400m². It is noted that there are a few remaining larger allotments in excess of 600m² within each urban block that have not been subdivided in accordance with the predominant subdivision pattern. As can be seen below, within the portion of Boyce Road between Garden Street and Cooper Street, there are two (2) allotments which have remained large allotments and do not follow the predominant subdivision pattern.

D6/22



Figure 3 – Existing subdivision pattern of the area with the subject site highlighted in green.

Given the existing subdivision pattern of the immediate area, it is considered that the proposed allotment sizes would be adequate to accommodate low density residential development in the form of a dwelling house, which is demonstrated by the existing surrounding sites. The double street frontage also allows vehicular access to be provided to each proposed allotment, without the need for batel-axe access, minimising the impact of the development upon the neighbouring properties. The assessment has demonstrated that the proposed dwellings on each allotments are consistent with the relevant provisions of RLEP and RDCP and shall not result in any unreasonable impacts upon the amenity of neighbouring properties.

The proposed development does not require the removal of any trees or vegetation on the subject site to facilitate the subdivision or proposed dwellings. The subject site is not identified as being within a heritage conservation area nor as a heritage item. Furthermore, whilst it is noted that there is a heritage item on the western side of Green Street, being the School and Church site, given the low density nature of the proposal and distance from the heritage item, it is considered that the proposal shall not detrimentally impact upon the heritage significance of the item.

Assessment of the proposed dwellings has demonstrated that the proposed allotments are capable of accommodating residential development consistent with the provisions of RLEP and RDCP with particular regards to vehicular access and the built form controls in which a high level of compliance is achieved.

In conclusion, the applicant's written request has adequately demonstrated that compliance with the minimum lot size 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 minimum lot size development standard as follows:

- The development would be consistent with the desired future character of the area.
- The minimum lot size standard has been abandoned by virtue of previous consents.
- The subject site is unique in configuration and size, being a narrower isolated site. The proposed subdivision shall allow for visually interesting buildings.

- The proposed allotments are compatible with the existing development and subdivision pattern of the immediate area.
- There shall be no loss to any significant views as a result of the variation.
- There shall be no adverse overshadowing impacts as a result of the lot sizes.
- The proposal shall result in an improved urban design outcome.

Assessing officer's comment:

As outlined above, in this instance there is a predominant subdivision pattern within the surrounding area which does not reflect the current lot size standard of 400m², with the majority of the existing allotments in the immediate surrounds less than 400m². Furthermore, unlike other areas, by which the existing subdivision pattern has been largely established by the subdivision of dual occupancy developments pursuant to clause 4.1D of RLEP 2012, the existing subdivision pattern of Boyce Road is a historical pattern. This existing historical subdivision pattern can also be seen in the surrounding area, with a similar pattern and lot sizes along Alma Road, Gale Road and Metcalfe Street. It is considered that the existing pattern is likely a consequence of the double street frontage of the sites which allowed orderly subdivision of the area, albeit of a lesser lot size than currently required. Given that the subject site is only one (1) of two (2) remaining sites within this portion of Boyce Road, it is considered that approval of the subdivision would not result in any undesirable precedent.

With regards to the proposed location of the common boundary between Lots 1 and 2 and the proposed size of the allotments, it is noted that there is no standard configuration of the existing allotments along Boyce Road, with common rear boundaries and the lengths of the individual allotments varying. As such, the proposal is not seen to be inconsistent with the existing subdivision pattern, including the configuration of the existing neighbouring lots.

Additionally, Part B11 of RDCP 2013 relates to development within sites identified for road widening, with Green Street (fronting the south of the subject site) being nominated. Part B11 encourages the development of residential dwellings fronting these laneways and permits the subdivision for the purpose of a dwelling to the rear lane, provided a strip of land is dedicated to Council for road widening purposes. The control acknowledges that this may result in non-compliance with the minimum subdivision lot size and frontage widths in relation to subdivision of land, in which instance regard should be given to the overall merits of the proposal and compliance with the objectives of the DCP. The proposed development is considered to be largely consistent with the provisions of RDCP 2013 in relation to low density residential development, and therefore in view of the land dedication and the location of the site fronting Green Street, a variation to the standard would be warranted in this instance.

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, consideration is given to the objectives of the minimum lot size standard and R2 zone.

As discussed in Section 6.4 of the report, the proposal is considered to be consistent with the objectives of the R2 zone, and as outlined above, the proposed development is also found to be consistent with the objectives of clause 4.1 Minimum Lot Size, subject to the recommendations within the report. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the minimum lot size 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	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Minimum subdivision lot size and frontage

- **Clause 4.1 (Minimum Lot Size) of RLEP 2012**
- **Part B11 (Development in Laneways Nominated for Road Widening) of RDCP 2013**
- **Clause 2.1 (Minimum Lot Size and Frontage) of Part C1 of RDCP 2013**

Clause 2.1 supplements the RLEP provisions in relation to subdivision which requires a minimum lot size of 400m² for the proposed allotments. The proposed allotments result in non-compliance with the minimum subdivision lot size and a Clause 4.6 written statement has been provided to request a variation to the minimum subdivision lot size. As discussed above under Section 7 of the report, the variation to the minimum subdivision lot size is supported in this instance.

Clause 2.1 stipulates that the minimum frontage width for allotments resulting from subdivision of land within the R2 zone is 12m. The proposed allotments shall have a frontage width of 10.06m to Green Street and Boyce Road, which does not comply with the control.

The objectives of the control aim to ensure that land subdivision respects the predominant subdivision and development pattern of the locality, and that allotments are of adequate width and configuration to deliver suitable building design and maintain the amenity of neighbours. Furthermore, clause 2.1 identifies that the frontage control is to ensure suitable subdivision configuration, which will enable dwellings of adequate dimensions, configuration and amenity performance as well as suitable space for open space and visually acceptable and efficient parking and access arrangements.

The existing character of the area is predominantly low density residential developments, comprising a mixture of dwelling houses, semi-detached dwellings and attached dual occupancies. The subdivision pattern of the area is predominantly smaller allotments with single dwelling houses, being approximately 300m²-350m² in size. The subdivision pattern of the area, and in particular the urban block of Boyce Road between Cooper Street and Garden Street, provides allotments with a frontage width of approximately 10m, however it is noted that there are examples of greater widths. As such it is considered that the proposed allotment widths and configuration are consistent with the predominant pattern of the area. The detailed assessment has demonstrated that the proposed dwellings are largely consistent with the built form controls specified by RLEP 2012 and RDCP 2013, with particular regards to height, site coverage, setbacks and FSR. As such it is considered that the proposed allotments are of sufficient size and width to accommodate the proposed dwellings. The proposed development shall retain adequate landscaped and private open space within the rear yards of each allotment, and the north-south orientation of the site will provide good solar access and overall amenity for occupants. Despite the narrow width of the site, the proposal is able to achieve compliant car parking provisions on each allotment. In view of the above, it is considered that the proposed lot widths are consistent with the character or subdivision pattern of the area, noting numerous examples of narrow allotments within the immediate vicinity, and the proposed development is consistent with the objectives of the control. As such the non-compliance is supported in this instance.

D6/22

Clause 4.4 (Floor Space Ratio) of RLEP 2012

It is noted that the northern allotment is proposed to be less than 300m², being 297.9m², which subsequently results in a non-numerical standard in accordance with the provisions of clause 4.4(2B), and Council does note that the subdivision pattern proposed allows for a greater FSR on the northern allotment, and technical compliance with the standard (whereby if the allotments were subdivided equally then both allotments would be over 300m² and a FSR of 0.75:1 would apply to both). The proposed allotment sizes also results in less onerous built form controls for the northern allotment due to being under 300m².

Notwithstanding the above, it is considered that the proposed FSR would result in a level of development which is consistent with the objectives of clause 4.4 for the following reasons:

- The proposed development on Lot 1 shall have a FSR of 0.85:1. However it is noted that the lower levels of the dwelling which are located below ground contribute to a significant portion of the Gross Floor Area. The lower levels of the dwelling accommodate car parking, storage and non-habitable uses such as a Cellar, Laundry and Bathroom. The proposed garage provides four (4) off-street parking spaces, where only two (2) spaces are required under RDCP 2013, and therefore the excess parking contributes to the GFA. If the parking areas were deleted the proposal would result in a FSR of 0.76:1, and the above ground levels of the dwelling would result in a FSR of 0.64:1. As such, the visual bulk of the development, as viewed from the public domain and adjoining properties, is not considered to be excessive and would be commensurate of a level of built form anticipated for the site, and therefore compatible with the desired future character of the area.
- The proposed dwelling is well articulated and is supported by a BASIX certificate which shows that the development meets the relevant water and energy saving targets.
- The subject site is not within a heritage conservation area nor is a heritage item. Local heritage item St Aidan's Catholic School is located to the far south-west of the site on the corner of Green Street and Garden Street, however it is considered that there is sufficient spatial separation and the proposed development shall not detrimentally impact upon the heritage significance of the item.
- The two (2) storey nature of the dwelling, as located above ground, and design of the development shall ensure that the proposal does not result in any unreasonable impacts upon the adjoining properties with regards to privacy, overshadowing and views.

Clause 3.2 (Building Height – External Wall Height) of Part C1, RDCP 2013

Clause 3.2 stipulates a maximum wall height of 7m, or up to 8m for steeply sloping sites.

The southern site identified as Lot 2 experiences a slope from north to south, however it is not considered that the site would be defined as steeply sloping. The proposed dwelling on Lot 2 results in a breach of the 7m wall height on the eastern and western elevations, with a maximum wall height of up to 8.53m. It is considered that the non-compliance is a result of the design of the development, where the proposal incorporates a parapet roof, and the topography of the site which slopes at the point of non-compliance. While the proposed design is not uncharacteristic of the architecture of the area, concerns are raised regarding the proposed height of the parapet (and resultant external wall height) which is considered to be excessive.

It is noted that an alternative roof form would likely result in compliance with the control, or a reduction to the parapet height would lessen the extent of non-compliance without compromising the internal amenity of the dwelling. Furthermore, the proposed roof shall be a skillion roof with a 5° pitch and therefore there is scope to lessen the pitch of the roof which would also minimise the overall height. It is considered that a 2° pitch would allow for the parapet height to be reduced by a minimum of 600mm from the main roof parapet and 850mm from the highest parapet located within the south-western corner. However, it is also noted that while the higher roof component is an architectural feature, this roof is located over the First Floor level balcony and therefore the additional height is not necessary from an amenity perspective. The higher building height at the front portion exacerbates the overall height of the building (and the external wall height), particularly as viewed from Green Street. The objectives of the control aim to ensure that the development height establishes a suitable scale to the street and contributes to its character, and ensure

development does not cause any unreasonable impacts upon the neighbouring properties with regards to overshadowing, privacy and visual amenity. While the overshadowing from the increased height would be minor, the non-compliance does result in additional adverse overshadowing impacts upon the neighbouring property. In view of the above, it is recommended that the proposal be amended to lower the overall parapet height and main roof of the dwelling which would ensure the proposal is consistent with the objectives of the control. Furthermore, the parapet and skillion roof over the southern First Floor balcony is to be lowered in alignment with the height of the rear balcony (being RL41.258) which would reduce the wall height by 1.052m for this portion. Subject to the above recommendations, the external wall height breach would be a maximum of 7.64m to the main roof parapet and 7.47m to the front balcony roof parapet, in which the minor non-compliance could be supported.

Clause 4.1 (Building Design – General) of Part C1, RDCP 2013

Clause 4.1 specifies that side elevations should be divided into sections to ensure no wall length greater than 12m, in order to avoid unrelieved walls and provide articulation.

The proposed dwelling on Lot 2 shall have wall lengths of 15.5m on both sides at the upper level and a wall length of 17.29m on the eastern side at Ground Floor level. Concerns are raised regarding the unrelieved wall lengths, the lack of articulation and resultant adverse visual impact. Furthermore, the proposal does not provide a variation of materials and finishes, with large areas of brick and render. The Ground Floor level of the development shall be largely screened by boundary fencing and therefore it is considered that the façade could be appropriately articulated by the use of different materials to break up the built form. However, it is recommended that the First Floor level of the development provides a recessed element to modulate the side elevations and soften the visual bulk. As such, it is recommended that either the eastern and western external walls of Bedrooms 3 and 4 or the eastern and western external walls of Bedroom 1 and 2 be recessed a minimum of 500mm to suitably articulate the side elevations and ensure wall lengths no greater than 12m. A condition of consent shall be imposed for the architectural drawings to be amended prior to the issue of a Construction Certificate.

Excavation and Earthworks

- **Clause 6.2 (Earthworks) of RLEP 2012**
- **Clause 4.1 (Building Design – General) of Part C1, RDCP 2013**
- **Clause 4.6 (Earthworks) of Part C1, RDCP 2013**

The proposed development involves extensive excavation for the lower two (2) levels of the dwelling on Lot 1 which are located below ground.

Clause 4.6 states that any excavation within the building footprint should be limited to 1m, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling. Furthermore, excavation should be setback a minimum of 900mm from side and rear boundaries.

The proposed development involves excavation up to a depth of approximately 4.8m to accommodate the lower two (2) levels of the development, and the proposed excavation is setback a minimum of 1.5m from the side boundaries.

The subject site currently does not provide any vehicular access off Boyce Road, with vehicular access gained via Green Street to the south. As a result of the proposed subdivision, the proposal includes new vehicular access to the north from Boyce Road. The topography of the site is highly irregular in that the site is elevated significantly above the street level to the north, being approximately 4.2m above the street level. The road reserve area adjoining the site contains an embankment and sandstone retaining wall a minimum of 1.8m in height along the kerb, with an elevated pedestrian footpath immediately adjoining the site above the retaining wall. The existing retaining wall and streetscape can be seen in Figure 2 below.

D6/22



Figure 4 – Existing retaining wall at the front of the site, with the elevated footpath beyond (Google Streetview).

Clause 3.2 of Part B7, RDCP 2013 requires a minimum of two (2) off-street parking spaces to be provided per dwelling, and as such excavation on Lot 1 is inevitable to meet the parking requirements, due to the topography of the site and the existing embankment. The Basement and Lower Ground Floor level shall be located entirely underground and comprise Cellar, Laundry, Bathroom, Storage area, and internal access, as well as four (4) off-street parking spaces.

It is noted that the proposal seeks to have four (4) off-street parking spaces, where only two (2) spaces are required under RDCP 2013. The subject site is located in close proximity to a local School (St Aidan's Catholic Primary School) and an adjoining Church. Furthermore, given the nature of the sites within this portion of Boyce Road, which are sited above street level and therefore have double garages and wide cross-over driveways, there is no on-street parking available from No.'s 155-161 Boyce Road. While the large garage results in additional excavation, the proposed size of the garage and additional off-street parking is not considered to be unwarranted in this instance given the location of site to community facilities and the limited on-street parking immediately adjacent to the site.

Given the difference in level between the street and existing elevated ground levels of the site, it is also considered appropriate to allow storage areas within the garage, which provides direct access to the street, for bins and items such as bikes and the like. The proposed floor area of the dwelling is not considered to be excessive, and it is considered in this instance the additional areas required for storage is better utilised within the basement area rather than add unnecessary bulk at the upper levels. Furthermore, internal access is not unreasonable in this instance as the topography and constraints of the site would mean that occupants would need to leave the garage area and access the dwelling from the footpath via public stairs to the east. In order to provide a centralised internal access stair across all levels of the dwelling, the proposed stair has been located to the rear of the garage level, which shall require further excavation. While the excavation associated with this is extensive, it is not considered unreasonable given the topography of the site. However, the proposed development includes a Lower Ground Floor level below ground which extends further

into the site, and results in additional excavation above and beyond the parking areas. The proposed Cellar and Laundry are considered to be extremely generous in size. Furthermore, Council questions the necessity of the Cellar area which is not considered to be integral to the use as a dwelling house.

In view of the above, and in consideration of the aims and objectives of clause 4.1 and clause 4.6 of Part C1 of the RDCP, it is considered that any unnecessary excavation should not be supported and should be minimised. As such, it is recommended that the southern wall of the Lower Ground Floor level be relocated a minimum of 500mm to minimise the extent of excavation on the site.

Off-Street Parking Facilities

- **Clause 3.2 (Vehicle Parking Rates) of Part B7, RDCP 2013**
- **Clause 6.1 (Location of Parking Facilities) of Part C1, RDCP 2013**
- **Clause 6.2 (Parking Facilities forward of front façade alignment (if other options not available)) of Part C1, RDCP 2013**
- **Clause 6.5 (Garage Configuration) of Part C1, RDCP 2013**

Clause 3.2 of RDCP 2013 requires a minimum of two (2) off-street parking spaces to be provided for the proposed dwelling. Each dwelling shall include a double width garage accommodating a minimum of two (2) off-street parking spaces. However, both garages are located forward of the building and do not comply with the provisions of clause 6.1.

Boyce Road

Clause 6.2 permits a garage within the front setback area where the dwelling is located above street level, and provided the proposed garage will not adversely affect the visual amenity of the streetscape. Due to the nature of the topography of the subject site and surrounding sites along this portion of Boyce Road, there are several examples of garages fronting the street along the southern side of Boyce Road, with particular regards to the immediately adjoining properties from 155-161 Boyce Road. The existing streetscape consists of a combination of single and double garages. Furthermore, it is noted that the existing streetscape includes examples of parking structures that extend across the entire width of the allotment. While the internal width of the garage exceeds 6m, the garage door shall be 5.5m and as such the garage shall not appear excessive in size. As such, the proposed development is not considered to be inconsistent with or detrimental to the streetscape, noting the garages immediately to the east and west. In view of the above, it is considered that the proposal can achieve the objectives of the control and is supported in this instance.

Green Street

The proposed garage fronting Green Street extends approximately 1.5m forward of the building alignment. However, in this instance the proposal has been designed to mirror the adjoining property to the west at 46 Green Street, in which the garage has a nil side setback to the common boundary and extends slightly forward of the dwelling. The proposed garage has been integrated with the dwelling, and the protrusion of the garage forward of the dwelling shall provide additional articulation to the front façade to minimise the visual impact. The existing streetscape of Green Street includes several examples of garages forward of the building, integrated with the dwelling, and therefore the proposed development is not considered to be inconsistent with or detrimental to the existing streetscape. As such the minor non-compliance is supported in this instance.

Notwithstanding the above, concerns are raised regarding the external wall height of the proposed garage, with particular regards to the height along the western common side boundary with 46 Green Street. Clause 6.6 specifies a maximum wall height of 2.6m and building height of 3m for detached garages, and that the maximum height of a parapet wall above the garage entry is generally limited to 600mm. While the proposed garage is not detached, the garage does protrude beyond the external walls of the dwelling to the front of the site on Green Street and to the side boundary. Additionally, the proposed bulkhead above the garage door shall be approximately 1.5m. It is considered that the non-compliance is a result of the architectural design of the overall dwelling, which incorporates a series of parapet roof forms. Concerns are primarily in relation to the western side of the garage which shall extend well above the wall height of the adjoining garage to the west, and would be detrimental to the streetscape presentation. As such it is recommended that the western wall of the garage and roof area within the side setback from the western boundary and the external wall of the dwelling be reduced in height to coincide with the gutter line and wall height of

the adjoining garage. This will still permit an internal ceiling height of 2.95m for the western portion of the garage, however would soften the visual dominance of the garage as viewed from the street and neighbouring property. A condition of consent shall be imposed accordingly.

10. Conclusion

That the application for demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two torrens title allotments, addition of two swimming pools, landscaping and associated works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will contribute to the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The proposed allotments shall be consistent with the predominant subdivision pattern of the area.
- 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 proposal shall not result in any unreasonable impacts upon the residential amenity of neighbouring properties, and shall be compatible with the existing and future streetscape character.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for demolition of existing structures and construction of a 2 x two storey dwelling house with swimming pools, landscaping and Torrens Title Subdivision, with the rear Lot with sole frontage to Green Street.

This report is based on the following plans and documentation:

- Architectural Plans by Sustainable Living Concepts, rev D, dated 21/02/21;
- Statement of Environmental Effects by Sustainable Living Concepts;
- Site Survey Plan by Sustainable Living Concepts;
- Landscape Plans by Simpla, dwg's A3/001-002, rev B, dated 28/01/21.

General Comments

The Planning Officer is advised that Council's Development Engineers do not object to the proposed basement garage at the front of the site (Boyce Rd frontage) and the proposed suspended pedestrian pathway over the driveway entrance, similar to other properties along this section of Boyce Road, however, the suspended pedestrian pathway is to be considered as a possible temporary structure due to the fact that the continuing removal of the Council sandstone retaining wall along this section of Boyce Rd to allow vehicular access to the subject sites will eventually see the pedestrian footpath relocated to the road level of Boyce Road.

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 Principal Certifier 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 sites in Boyce Road and/or Green Street; 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),

Undergrounding of power lines to site

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

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

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

Tree Management & Landscape Comments

There is a juvenile, 6m tall *Cinnamomum camphora* (Camphor Laurel, T01) on the Boyce Road frontage, in line with the eastern site boundary, which is growing out of a narrow garden bed that exists between the driveway for no.161 and the sandstone retaining wall.

This species is an undesirable, invasive environmental weed, which has clearly self-seeded from a bird resting on the wires directly overhead rather than being formally planted, given their immense proportions at maturity.

The existing raised section of verge in front of the subject site, which is supported on three sides by sandstone retaining walls, will be lowered down to street level, the same as what can be seen for each of the properties to both its east (no.161) and west (no.157).

This will necessitate removal of the tree, which Council supports for the reasons given above, with conditions specifying that this be completed by Council prior to the commencement of any of the other external works, given the safety implications of the overhead wires as well as the fact it fronts directly onto the roadway, and will be wholly at the applicant's cost.

The three mature Cocos Palms (T02-04) within the side setback of the adjoining private property to the east, no.161, along the common boundary, as well as the stand of smaller Bangalow Palms (T05-19) immediately to their south should all remain unaffected as excavations, civil works and the lowering of ground levels within the development site will be performed at an offset of more than 1500mm, with deep soil to be retained in this perimeter, and as both genus are known for their high tolerance to disturbance, the minimal protection conditions listed in this report are deemed sufficient.

Similarly, the Murraya shrub at the rear of no.161, fronting Green Street, and also close to the common boundary will not be affected as a landscape zone will be maintained in this area, with the driveway to be provided on the opposite, western side of this frontage.

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

Clause 4.6 - Clause 4.1 Minimum subdivision lot size –

Randwick Local Environmental Plan (RLEP) 2012

1. Introduction to the Clause 4.6

This is a formal written request prepared in accordance Clause 4.1 Minimum subdivision lot size - Randwick Local Environmental Plan (RELPL) 2012 to support a development application submitted to Randwick Council seeking consent for the proposed subdivision of Lot: 1, DP: 963584, for the creation of a Torrens Title Subdivision at No. 159 Boyce Road, Maroubra, 2035.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

As the following request demonstrates; by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application, compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard as the proposed development will be consistent with the objectives of the development standard and zone.

The development standard that this request seeks approval to vary is the Minimum subdivision lot size, Clause 4.1 Randwick Local Environmental Plan (RLEP) 2012.

The numeric value of the minimum subdivision lot size development standard is 400.0m². Clause 4.6 of the Randwick LEP states;

Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

D6/22

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) 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.*
- (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 Planning Secretary has been obtained.*
- (5) In deciding whether to grant concurrence, the Planning 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, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made, it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 6.16(3)(b).



Figure 1: Minimum Lot Size Map of 159 Boyce Road Maroubra 2035

The subject site observes a unique characteristic with a proposal currently being assessed by Council. Currently, the site offers an existing dwelling located over one allotment (land title).

The site is identified as Lot: 1, DP: 963584 at 159 Boyce Road, Maroubra, 2035. The site is located on the southern side of Boyce Road between Garden Street to the west and Mons Avenue to the east. The site is a rectangular shaped allotment with a total site area of 670.3m².

The development standard is not specifically excluded from the operation of Clause 4.6 of RLEP.

This request has been prepared having regard to the Department of Planning and Environment's *Guidelines to Varying Development Standards* (August 2011) and relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal.

In Sections 3 and 4 of this Clause 4.6 Request, we have explained how flexibility is justified in this case in terms of the matters explicitly required to be addressed in a written request from the applicant. In Sections 5, and 6 we address additional matters that the consent authority is required to be satisfied of when exercising either the discretion afforded by Clause 4.6 or the assumed concurrence of the Secretary.

2. Extent of Variation

The subject site is located within the Local Government Area (LGA) of Randwick Council.

Description	Lot 1 / Dwelling 1 (Boyce Road)	Lot 2 / Dwelling 2 (Green Street)
Site Area	297.91m ²	329.215m ²
Site Area Required	400m ²	400m ²
Variation (%)	26%	18%
Elevation	Northern	Southern
Frontage Width	10.06m	10.06m

The surrounding locality is characterised by a variety of single and double storey dwellings and detached dual occupancies. Development in the area is a mix of original brick and tiled roof dwellings, with more contemporary homes becoming common. These new homes provide a more varied material palette, with rendered brick, lighter colours, cladding, timber, concrete and low pitch to flat metal roofs.

It is also important to note that within the locality of the proposed application, this development application is seeking approval for a common subdivision pattern that is in keeping with the local amenity. The proposed dwellings have been designed in a way to cater for each individual allotment with the built forms reflecting the particular site constraints.

The subject site is identified as 159 Boyce Road, Maroubra, 2035; which proposes the demolition of all structures, construction of two (2), two (2) storey dwellings (one with a basement), with an in-ground swimming pool, lodged with Council for assessment. This proposed development also seeks a 'Torrens Title Subdivision' for the register of two titles.

The proposed subdivision / Boundary Adjustment seeks to amend the existing titles with a more rational, characterised subdivision pattern of the immediate locality in the following



Figure 2: existing subdivision pattern of 159 Boyce Road, Maroubra, 2035

way:

The extent of the variation is related primarily to the adjustment of the boundary between the existing allotments. The new titles will provide a more conventional subdivision pattern with an equitable approach for a new dwelling, posing reduced and minimal impacts on the adjacent neighbouring allotments.

The subdivision will deliver an appropriate opportunity for a built form that is consistent with the desired future character as outlined in the Randwick Local Environmental (RLEP) Plan and Development Control Plan(s).

3. Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case. [cl. 4.6(3)(a)]

This submission has been prepared having regard to the following guideline judgements:

- i. *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- ii. *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- iii. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- iv. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- v. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')
- vi. *Micaul Holdings Pty v Randwick City Council* [2015] NSWLEC 1386;
- vii. *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7; and
- viii. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118

Planning Principle: Assessment of Height, Bulk and Scale (taken from *Veloshin v Randwick Council* [2007] NSWLEC 428)

An assessment of the proposal against the relevant tests of this planning principle follows:

- *Are the impacts consistent with impacts that may be reasonably expected under the controls? (For non-complying proposals, the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified.)*

Comment:

The proposal is located on a dual frontage lot which presents an attractive opportunity for a development with a high degree of compliance with the Randwick LEP and DCP, and this has proven to be the case. In particular compliance, with the permitted maximum height, FSR, site frontage, setbacks and site coverage have all been achieved.

A variation of this nature is typically accepted as minor and enables council officers to approve under delegation when conforming planning outcomes are achieved. As in this case.

The site has clearly demonstrated that a built form of that nature can accommodate a two-storey dwelling on each allotment. The assessment of existing and desired character within the above Statement of Environmental Effects indicate that the proposed development will be in harmony with the immediate locality.

- *How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?*
 - *Where the planning controls are aimed at creating a new character, the existing character is of less relevance. The controls then indicate the nature of the new character desired. The question to be asked is:*
 - *Is the proposal consistent with the bulk and character intended by the planning controls?*

Comment

The site is zoned for R2 low density residential development. As indicated by this report, it is evident that there is range of higher and lower density properties within the R2 zone.

Council's planning controls are not necessarily aimed at solely preserving the existing character of the area. Council's controls aim to increase density of residential development within this area subject to objectives and controls within the LEP and DCP.

Our survey demonstrates the proposal has a below average site coverage and a higher than average site frontage. The proposal does not exceed maximum permissible height or FSR within the nominated LEP. The nominated setbacks, site coverage and off street car parking controls within the DCP are deemed suitable and can be achieved within this development.

The proposal is constructed of face brick with a concrete tiled hipped roof. This is typical of the prevailing materials of other dwellings within the immediate area. The proposal is consistent with the desired character of the area and appears appropriate within its context.

The NSW Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827. Under *Wehbe*, the most common way of demonstrating that compliance is unreasonable or unnecessary, was whether the objectives of the standard were still met despite the contravention of that standard.

The following discussion provides a response to the relevant "tests" of the 5-part *Wehbe* test, remembering only one (1) of the tests has to be achieved, not all five (5).

3.1 Achieves the objectives of the standard

Compliance with the minimum 400.0m² site area is unreasonable or unnecessary in the circumstances of this case because, as explained in the table below, the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.

4.1 Minimum subdivision lot size	
(1) The objectives of this clause are as follows -	
(a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,	The proposed subdivision will retain the existing subdivision pattern in the residential zone, and specifically the immediate surrounding environment, whilst allowing infill development. As identified within the above image (<i>Figure 2</i>)
(b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,	The current allotment is seeking approval to provide two (2) two (2) storey dwelling house developments, which addressed these objectives during the assessment of the application.
(c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose.	The site has demonstrated above that a development of this nature can be achieved as the topography is considered to be relatively flat with no specific natural features of the site limiting the subdivision.

3.2 The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

Compliance with Clause 4.1 minimum subdivision lot size development standard is also unreasonable or unnecessary in the circumstances of this case because it would thwart the objective (b) of the standard (Test 3 under Wehbe).

The breach of the standard allows a built form that is consistent with the urban design principles established in the Randwick Local Government Area. This includes providing an adequate site width, setback to the street, side and rear boundaries; as well as the provision of deep soil landscaping and private open space.

If the breach did not occur, the built-form outcome would be compromised as it would otherwise result in a poorer streetscape presentation of the residential dwelling, and poor amenity for the adjacent residents, with limited solar amenity and resulting in significantly less building articulation.

This would detrimentally affect the scale and intensity of the development. The positive interface with the public domain would be reduced.

3.2 Development standard has been virtually abandoned or destroyed by the granting of consents departing from the standard in similar cases to this

Compliance with the Clause 4.1 Minimum subdivision lot size development standard is also unreasonable or unnecessary in the circumstances of this case because the development

standard has been abandoned for similar reasons in the immediate area and Local Government Area (Test 4 under Wehbe).

Application No.	Address	Suburb	Variation	Delegation
DA/640/2019	4 Galvin St	MAROUBRA, 2035	Lot A- 225.4m2 / Lot B - 225.4m2 or Lot B over by 6.1%	DEL
DA/375/2020	53-55 Carrington road	RANDWICK, 2031	Lot A- 18.2m2 / Lot B - 185.7m2 or 47% (same as existing)	RLPP

Examples, where this variation to the minimum lot size standard and development consent has been granted is shown above and can be found on Randwick Council's website, register.

3.2 There are sufficient environmental planning grounds to justify contravening the standard. [cl. 4.6(3)(b)]

The Statement of Environmental Effects (SEE) prepared for this DA provides a holistic environmental planning assessment of the proposed development and concludes that there are sufficient environmental planning grounds to support the development.

There is robust justification through the SEE and accompanying documentation to support the overall development and contend that the outcome is appropriate on environmental planning grounds.

Additional specific environmental grounds to justify the breach of the standard are summarised as follows:

The breach of the standard allows for a development that is consistent with the desired future character of the area which is going through a transition. It is consistent in the transition of perceived site area,

- The proposal complies with the maximum permissible floor space ratio for the site, provides a better designed building which results in improved amenity for the residents of the development and those adjoining. It is a better allocation of floor space across the sites, avoiding a short/squat built-form, thus maintaining the human scale at street level.

Compliance with the standard would be unreasonable or unnecessary, due to the existing controls being virtually abandoned or destroyed from previous consents being granted.

- The subject allotment is unique in configuration and size, narrower isolated site. The boundary adjustment will allow for a visually interesting building, that achieves high quality design for the occupants of the development and little impact on the adjoining

residents,

- The proposed new allotments are compatible with the existing development and subdivision pattern in the immediate context of the environment and with the emerging pattern of development in the locality.
- There will be no loss to any 'significant' views as a result of the breach of the standard,
- The shadow diagrams that form part of the previously approved Development Application indicated that the area of non-compliance with the lot size will not have an adverse impact on solar amenity or overshadowing,
- It is considered that the proposed non-compliances with the lot area does not result in any unreasonable impact and is appropriate for the orderly and economic use of the land, and
- The proposed development results in an improved urban design outcome and enhanced compliance.

The environmental planning benefits that are facilitated by the variation of the minimum lot size relate to a boundary adjustment and the achievement of the desired future character of the precinct.

It enables the provision of a generous street setback and the creation of a modest residential dwelling. The variation also facilitates the provision of generous building articulation.

3.3 The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone. [cl. 4.6(4)(a)(ii)]

In section 3 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal is also consistent with the objectives of the zone as outlined below:

Zone R2 – Low Density Residential	
Objectives of the Zone	
<ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. 	The variation to the minimum lot size will provide for the housing needs of the community within a low density residential environment.
<ul style="list-style-type: none"> • To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	The variation to the minimum lot size will enable other land uses that provide facilities or services to meet the day to day needs of residents.
<ul style="list-style-type: none"> • 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 variation to the minimum lot size will encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, character of the area, or the natural or cultural heritage of the area.

D6/22

<ul style="list-style-type: none"> To protect the amenity of residents. 	The variation to the minimum lot size will ensure a high level of residential amenity is still achieved and maintained.
<ul style="list-style-type: none"> To encourage housing affordability. 	The variation to the minimum lot size will encourage housing affordability based on the proposed new areas of the allotment.
<ul style="list-style-type: none"> To enable small-scale business uses in existing commercial buildings. 	The variation to the minimum lot size will provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.
<ul style="list-style-type: none"> To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area. 	The variation to the minimum lot size will encourage greater visual amenity through maintaining and enhancing landscaping as a major element of the proposed dwellings.

As identified above from the tables provided, the proposal is consistent with the objectives of the standard and the objectives of the zone; and is therefore considered to be in the public interest.

In response to the above the following is provided:

In its current condition, the subject site provides for a single dwelling. Therefore, the redevelopment of the subject site to comprise of a dwelling house development on each allotment which will provide for an additional dwelling on the land positively contributing towards the housing needs of the community. The additional density sought by this proposal is considered characteristic of the area with a number of examples of dwelling house developments in close proximity to the subject site, including on either side of the site to the north and south, and within the Randwick local government area in general (as referred to in this submission) where similar variations to the minimum subdivision standard have been approved. The two (2) dwelling house developments will contribute to the variety of housing types within the low-density zone. With regards to the third objective, there are no other land uses proposed as part of this application. The fourth objective is satisfied as the proposal maintain a residential land use on the site. The existing context and setting of the area are that of a low density residential environment which consists of single dwellings, dual occupancies and multi dwelling housing. The proposed development is therefore reflective of the varied housing types in the zone.

In view of the above, the zone objectives have been satisfied.

4. Contravention of the development standard does not raise any matter of significance for State or regional environmental planning. [cl. 4.6(5)(a)]

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would result as a consequence of varying the development standard as proposed by this application.

5. There is no public benefit of maintaining the standard [cl. 4.6(5)(b)]

As discussed earlier, the proposed breach of the standard facilitates public benefits through

a built form outcome that achieves the desired urban design principles. The proposal provides generous setbacks and articulation, resulting in a building that will provide an improved relationship to the public domain. It is also consistent with the objectives of the zone.

The breach of the standard does not result in any adverse environmental impacts to the public domain or surrounding properties.

Accordingly, there is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the minimum lot size standard and hence there are very minor disadvantages.

We therefore conclude that the benefits of the proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.

6. Conclusion

This Clause 4.6 variation request demonstrates, as required by Clause 4.6 of the Randwick Local Environmental Plan (RLEP) 2012, that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- There are sufficient environmental planning grounds to justify the contravention;
- The development achieves the objectives of the development standard and is consistent with the objectives of the R2 - Low Density Residential Zone;
- Compliance with the standard would thwart the objectives of the standard and would be incongruous with the existing and desired character of the area;
- The development standard has been departed by Council historically by the granting of consents departing from the standard in similar cases to this,
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard; and
- The variation does not raise any matter of State or Regional Significance.

On this basis, therefore, it is considered appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.

Appendix 3: DCP Compliance Table**3.1 Section B11: Development in Laneways Nominated for Road Widening**

DCP Clause	Controls	Proposal	Compliance
	<p>Notwithstanding minimum RLEP 2012 lot size and minimum DCP frontage, the subdivision of land for a dwelling house fronting a nominated laneway may be permitted having regard to the following criteria:</p> <ul style="list-style-type: none"> i) The merits of the proposal and compliance with the objectives of this DCP; and ii) The dedication to Council of a strip of land 4.57m in depth along the frontage of the lane for road widening purposes. 	Part B11 of RDCP 2013 identifies Green Street as being a nominated laneway for the purpose of road widening. The control encourages the development of residential dwellings fronting Green Street, provided a dedicated strip of land 4.57m in depth is dedicated to Council. The proposal includes the dedicated parcel of land.	Acceptable. <i>See further discussion in Key Issues.</i>

3.2 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	The resultant development would be defined as two (2) dwelling houses, being located on their own lot of land, which are permissible in the R2 zone.
2	Site planning		
2.1	Minimum lot size and frontage		
	<p>Minimum lot size (RLEP):</p> <ul style="list-style-type: none"> • R2 = 400sqm • R3 = 325sqm 	<p>Proposed Lot 1 = 297.918m²</p> <p>Proposed Lot 2 = 329.215m²</p>	Does not comply. <i>See Key Issues and Clause 4.6 assessment for further discussion.</i>
	Minimum frontage		
	<ul style="list-style-type: none"> i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m 	<p>Min = 12m</p> <p>Proposed = Lot 1 = 10.06m Lot 2 = 10.06m</p>	Does not comply. <i>See Key Issues for further discussion.</i>
2.3	Site coverage		
	<p>Up to 300 sqm = 60% 301 to 450 sqm = 55%</p>	<p>Total Site Area = 670.3m² Lot 1 = 297.918m²</p>	Complies.

DCP Clause	Controls	Proposal	Compliance
	451 to 600 sqm = 50% 601 sqm or above = 45%	Lot 2 = 329.215m ² Proposed = Lot 1 = 52.27% Lot 2 = 47.33%	
2.4	Landscaping and permeable surfaces		
	<p>i) Up to 300 sqm = 20%</p> <p>ii) 301 to 450 sqm = 25%</p> <p>iii) 451 to 600 sqm = 30%</p> <p>iv) 601 sqm or above = 35%</p> <p>v) Deep soil minimum width 900mm.</p> <p>vi) Maximise permeable surfaces to front</p> <p>vii) Retain existing or replace mature native trees</p> <p>viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply.</p> <p>ix) Locating paved areas, underground services away from root zones.</p>	<p>Total Site Area = 670.3m²</p> <p>Lot 1 = 297.918m²</p> <p>Lot 2 = 329.215m²</p> <p>Proposed =</p> <p>Lot 1 = 22.9%</p> <p>(it is noted that if the areas of planting less than 900mm and planter boxes at ground level were included the proposal would result in a deep soil calculation of 24.75%).</p> <p>Lot 2 = 19.27%</p> <p>The proposal does not comply with the minimum 25% deep soil requirements, however it is noted that if the pathway along the eastern side boundary was replaced with landscaping then the proposed deep soil areas would be 25.7% and compliant with the control. There is no side access along the eastern side, with the western Laundry door and rear living room doors providing access to the rear of the site. As such the replacement of paving with lawn/landscaping is not considered to be unreasonable.</p>	Complies, subject to recommendations.
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	<p>Up to 300 sqm = 5m x 5m</p> <p>301 to 450 sqm = 6m x 6m</p> <p>451 to 600 sqm = 7m x 7m</p> <p>601 sqm or above = 8m x 8m</p>	<p>Total Site Area = 670.3m²</p> <p>Lot 1 = 297.918m²</p> <p>Lot 2 = 329.215m²</p> <p>Proposed =</p> <p>Lot 1 = 10m x 7.4m</p>	Complies.

D6/22

D6/22

DCP Clause	Controls	Proposal	Compliance
		Lot 2 = 10mx8m	
3	Building envelope		
3.1	Floor space ratio LEP 2012 =	<u>Total Site Area</u> = 670.3m ² Lot 1 = 297.918m ² Lot 2 = 329.215m ² <u>Proposed FSR =</u> Lot 1 = 0.85:1 Lot 2 = 0.67:1	Complies.
3.2	Building height		
	Maximum overall height LEP 2012 =	Proposed = Lot 1 = 7.07m Lot 2 = 8.51m	Complies.
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = Lot 1 = 6.71m Lot 2 = 8.53m	Complies. Does not comply. <i>See Key Issues for further discussion</i>
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Minimum = Boyce Road (Lot 1) = 6m average Green Street (Lot 2) = 4.9m average <u>Proposed =</u> Lot 1 = 6m, nil setback to Garage. Lot 2 = 5.973m to Garage, 7.48m to dwelling.	Acceptable. <i>See Key Issues for further discussion regarding the proposed Garage setback.</i>
3.3.2	Side setbacks: Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 900mm for Ground and First Floor, 1500mm above. <u>Proposed =</u> Lot 1 = 1.5m Lot 2 = 900mm, nil setback to the western side of the Garage.	Complies. <i>See Key Issues for further discussion regarding the proposed Garage setback.</i>
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and	<u>Minimum =</u> Lot 1 = 7.4m Lot 2 = 8m <u>Proposed =</u> Lot 1 = 7.4m Lot 2 = 8m	Complies.

DCP Clause	Controls	Proposal	Compliance
	<p>private)</p> <ul style="list-style-type: none"> - protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	The proposed development includes swimming pools located within the rear setback area of each site which is permitted pursuant to clause 7.5. See clause 7.5 for comment.	
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	<p>Lot 1 = The dwelling provides recessed elements along the side elevations to provide articulation and ensure the wall length is not greater than 12m.</p> <p>Lot 2 = The proposal results in wall lengths along the side elevations of up to 17.29m.</p>	Does not comply. <i>See Key Issues for further discussion.</i>
4.5	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes</p> <p>ii) Finishing is durable and non-reflective.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</p> <p>vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)</p>	No formal materials and colours schedule was submitted with the application. A condition of consent is recommended for a colour and material schedule to be provided to and approved by Council prior to the issue of a Construction Certificate.	Subject to condition.
4.6	Earthworks		
	<p>i) excavation and backfilling limited to 1m, unless gradient too steep</p> <p>ii) minimum 900mm side and rear setback</p> <p>iii) Step retaining walls.</p> <p>iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a</p>	<p>The proposed dwelling on Lot 1 requires extensive excavation for the two (2) lower floor levels.</p> <p>The proposed development on Lot 2 is</p>	Does not comply. <i>See Key Issues for further discussion.</i>

D6/22

DCP Clause	Controls	Proposal	Compliance
	maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	generally located at natural ground level with minimal excavation and earthworks proposed.	
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Due to the north-south orientation of the site, the northern windows to the dwelling on Lot 1 shall receive solar access in excess of the minimum requirements. While the principal private open space is located in the rear to the south, there shall also be a recreation area at the northern front portion of the site. As such, it is considered that the POS areas throughout the site shall receive adequate solar access. It is also considered that the dwelling on Lot 2 shall receive adequate solar access to living areas and the northern POS.	Acceptable.
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.	Due to the north-south orientation of the site it is considered that the proposed development shall not unreasonably impact upon solar access to adjoining properties.	Acceptable.

DCP Clause	Controls	Proposal	Compliance
	vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	A BASIX Certificate has been submitted with the application. Natural lighting and ventilation shall be facilitated through the design of the dwellings.	Complies.
5.3	Visual Privacy		
	Windows		
	i) proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). ii) orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	The development proposes highlight windows at the upper levels to mitigate privacy impacts, however it is noted that the proposed sill height are 1.5m. Council requires sill heights to be a minimum of 1.6m above the finished floor level and as such it is recommended that a condition be imposed for the sill height to be increased. It is also recommended that the window to the circulation space of the dwelling on Lot 1 be translucent	Complies, subject to condition.

D6/22

DCP Clause	Controls	Proposal	Compliance
		glazing to prevent any direct overlooking into the neighbouring property.	
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	The proposed upper level balconies shall have privacy screens along the side edges in accordance with the control.	Complies.
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposed development is not considered to result in any unreasonable impacts upon adjoining properties with regards to acoustic privacy. Outdoor recreation spaces are located adjacent to living spaces with bedrooms located on the upper levels.	Complies.
5.5	Safety and Security		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	The dwelling on Lot 1 provides the entrance on the side elevation, however it shall be easily identifiable due to the proposed pathway and entrance gate. Both dwellings shall have large glazed areas fronting the street for casual surveillance.	Acceptable.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views	Given the proximity of the site to the waterway, which is located in excess of 1km, the proposed development is not considered to result in any unreasonable view loss impacts.	Complies.

DCP Clause	Controls	Proposal	Compliance
	v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	Both dwellings provide parking structures in front of the building alignment. See Key Issues for further discussion.	Acceptable. <i>See Key Issues for further discussion.</i>
6.2	Parking Facilities forward of front façade alignment (if other options not available)		
	i) The following may be considered: - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: - There is no alternative, feasible location for accommodating car parking; - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)	Both dwellings provide parking structures in front of the building alignment. See Key Issues for further discussion.	Acceptable. <i>See Key Issues for further discussion.</i>
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks.	The proposed garage on Lot 2 shall have a nil	Acceptable. <i>See Key Issues</i>

D6/22

D6/22

DCP Clause	Controls	Proposal	Compliance
	ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing 	setback to the western boundary. However, the proposed garage is located adjacent to the neighbouring garage at 46 Green Street, which also provides a nil setback and therefore is considered appropriate in this instance.	<i>for further discussion.</i>
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The garage on Lot 1 shall have a nil setback, the cross-over driveway shall be designed to Council's specifications. The proposed internal driveway to Lot 2 shall be 4m at the front boundary, tapered to the garage entry.	Complies.
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	Both dwellings provide parking structures in front of the building alignment. See Key Issues for further discussion. The garage on Lot 1 shall be greater than 6m in width, however due to the unique topography of the site, pedestrian access is also provided through the garage. The width of the garage door shall be 5.5m and therefore it is considered that the proposed width of the garage shall not appear excessive as viewed from the public domain. Furthermore, the proposed garage is consistent with the neighbouring streetscape presentation for parking structures. The garage on Lot 2 shall be 6m in width. Concerns are raised regarding the garage wall	Does not comply. <i>See Key Issues for further discussion.</i>

DCP Clause	Controls	Proposal	Compliance
		height.	
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	<ul style="list-style-type: none"> i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street 	The proposed fencing is consistent with the provisions of clause 7.1.	Complies.
7.2	Front Fencing		
	<ul style="list-style-type: none"> i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines. 	<p>The proposal includes new front fencing to the Boyce Road and Green Street frontages.</p> <p><u>Boyce Road</u> The proposed fencing shall be primarily up to 1.8m in height, stepped in accordance with the slope of the land, with minor portions of the fencing exceeding 1.8m. The fence shall be open in style of the upper portion and is considered to be consistent with the control.</p> <p><u>Green Street</u> The fencing along Green Street shall be up to 1.3m in height with the upper portion open in style.</p>	Acceptable.
7.3	Side and rear fencing		
	<ul style="list-style-type: none"> i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished. 	<p>No side fencing has been proposed in the subject application.</p> <p>The rear boundary fencing dividing the proposed allotments shall be a maximum of 1.5m in height.</p>	Complies.

D6/22

D6/22

DCP Clause	Controls	Proposal	Compliance
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	<p>The proposed pools are located within the rear yard of each allotment.</p> <p>The pool on Lot 1 shall be located at existing ground level, with the pool on Lot 2 requiring earthworks to a depth of approximately 600mm.</p> <p>The pools shall be well setback from the side boundaries and a minimum of 900mm from the common rear boundary.</p> <p>A condition of consent shall be applied to ensure the pool filter and pump are located appropriately.</p>	Complies.
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	There shall be adequate space on within the sites to accommodate clothes drying.	Complies.

Responsible officer: Angela Manahan, Executive Planner

File Reference: DA/230/2021

Development Consent Conditions



D6/22

Folder /DA No:	DA/230/2021
Property:	159 Boyce Road, Maroubra NSW
Proposal:	Demolition of existing structures and construction of two storey dwelling houses (one with basement level), subdivision to create two torrens title allotments, addition of two swimming pools, landscaping and associated works. Variation to lot size.
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
A.01.4 (Site Plan & Demolition Plan), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.02.1 (Basement Floor Plan), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.02.2 (Floor Plans), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.03.1 (East & West Elevation), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.03.2 (North & South Elevations), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.04.1 (Sections), Revision D	SLC Design Group	21 February 2021	28 April 2021
A.01.6 (Subdivision Plan), Revision D	SLC Design Group	21 February 2021	28 April 2021

BASIX Certificate No.	Dated	Received by Council
1168302M	03 March 2021	28 April 2021

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:

Dwelling on Lot 1

- The southern external wall of the Lower Ground Floor level of the dwelling on Lot 1 (fronting Boyce Road) shall be relocated a minimum of 500mm to the north (reducing the size of the Cellar and Laundry) to minimise excavation associated with the development.

D6/22

- Dwelling on Lot 2
- b. The eastern and western external walls of the First Floor level of the dwelling on Lot 2 (fronting Green Street) are to be recessed a minimum of 500mm at the following areas in order to provide articulation to the building:
- Either:
- Eastern wall of Bedroom 1 and the western wall of Bedroom 2; **OR**
 - Eastern wall of Bedroom 4 and the western wall of Bedroom 3.
- c. The main roof pitch of the dwelling on Lot 2 is to be amended to a 2° pitch (from 5°). In addition to the change in roof pitch, the main parapet is to be lowered to have a maximum height of RL41.458.
- d. The parapet roof above the First Floor level southern balcony (including the architectural protruding roof feature to the west) is to be a maximum height of RL41.258.
- e. The western external wall of the garage is to be reduced to a maximum wall height of RL36.99. The western side of the garage within the 900mm setback between the western side boundary and external wall of the dwelling is to be lowered in accordance with the specified wall height, being a maximum height of RL36.99.
- Privacy Measures
- f. 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:
- Dwelling on Lot 1 (fronting Boyce Road)
- Eastern elevation windows to Bedrooms 3 and 4;
 - Western elevation windows to Bedroom 5, and Bathroom.
- Dwelling on Lot 2 (fronting Green Street)
- Eastern elevation windows to Bedrooms 2 and 3, and to En-suite;
 - Western elevation windows to Bedrooms 1 and 4, and to the circulation space at the top of the internal stair.
- g. The window to the internal stair on the western elevation at Ground Floor level of the dwelling on Lot 1 (fronting Boyce Road) is to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing.

Details of compliance with the above conditions are to be submitted to and approved by Council's Manager Development Assessment prior to the issue of a Construction Certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4. 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. The materials and finishes of the dwelling located on Lot 2 (fronting Green Street) are to provide a mixture of external finishes on the side elevations, with particular regards to the Ground Floor level, in order to articulate the building and break up the building mass.

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 \$1,749,643.83 the following applicable monetary levy must be paid to Council: \$17,496.45 .

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 6000** 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 \$3,674.25 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 Deposits

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

- \$10,000.00 - Damage / Civil Works Security Deposit

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

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

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

Design Alignment levels

9. 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 as follows:

Green Street Frontage – Driveway Entrance – 75mm above the top of the Roll Top Kerb at all points along the site frontage, opposite the roll top kerb.

Boyce Road Frontage –

The Garage Entrance – RL 31.85 AHD

Pedestrian Door Entrance at Basement Level RL 31.80 AHD

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

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

10. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$1,147.00** calculated at \$57.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Boyce Road Suspended Council Footpath & Retaining Wall Design

11. Prior to the issuing of a construction certificate the applicant is to contact Council's Coordinator of Engineering Technical Services (Mr Peter Cormican) to discuss and submit details regarding the Council's design requirements for the proposed retaining wall location, driveway, footpaths, handrails and structural columns located on Council's road reserve in Boyce Road and have the subject design approved as well as addressing public pedestrian access along the Boyce Rd frontage. The applicant may be requested to submit a Civil Works Application Form prior to submitting details for consideration/approval.

Note: As a guide the sandstone retaining walls on Council's road reserve at either side boundary should have a similar design as to the one provided at the boundary of no 155 & 157 Boyce Road and where possible the existing sandstone along the site frontage of No 159 is to be used in the reconstruction.

12. The proposed suspended Council footpath along the Boyce Road site frontage is to be designed by a suitably qualified structural engineer so as to be structurally independent from the developed sites front wall and so as to allow the footpath to be easily removed, without causing structural damage to the redeveloped site frontage at a future date. This is so that should Council wish to provide pedestrian access along Boyce Rd at the street level the suspended footpath may be easily removed. A separate structural engineer shall certify the design prior to the issuing of a Construction Certificate by the Principal certifying Authority.

Note: The proposed pedestrian gate entrance at the suspended Council footpath level can only be considered as temporary and will have to be closed off in the future at the owners expense. A letter from the owner agreeing to this requirement is to be forwarded to council prior to issuing a Construction Certificate.

Stormwater Drainage

13. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier. A copy of the engineering calculations and plans are

to be forwarded to Council, if the Council is not the Principal Certifier. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
 - b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
 - c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
 - d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
 - e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
 - f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.
14. 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 the Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
 - b) The stormwater must be discharged (by gravity) either:
 - i. Directly to the kerb and gutter in front of the subject site in Boyce Road and/or Green Street; **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.

D6/22

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 Principal Certifier.

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 adjacent to Council land (eg. road, laneway or reserve).

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

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

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

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

- g) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;

i. There are suitable clear-outs/inspection points at pipe bends and junctions.

- ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
- h) 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.
- 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".
- 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) Seepage waters are required to be drained and disposed of within the site and are not to be drained into Council's stormwater drainage system.
- p) 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.

Amended Landscape Plans

15. The Landscape Plans by Simpla, dwg's A3/001-002, rev B, dated 28/01/21 must be amended where necessary so as to now comply with the following requirements:

- a) Be consistent in terms of footprint and layout as the Rev D architectural plans;
 - i. With particular regards to the correct location of the pool for Lot 1, being the Lot fronting Boyce Road. The pool is to be located in the rear yard, consistent with the architectural plans, with the pool in the front as shown on the landscape plan deleted.
- b) Reduce the excessive areas of paved/tiled/hard surfaces that are currently shown, which are to be replaced with undisturbed deep soil, landscaping, lawn and similar, with details of compliance to be provided.
- c) The paving/pathway along the eastern side of the dwelling on Lot 2 (fronting Green Street) is to be replaced with landscaping.

16. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the revised scheme, submitted for the Construction Certificate, complies with the requirements specified above, with this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

Street Tree Management

17. The applicant must submit a payment of **\$788.40** (GST inclusive) to cover the costs for Council to remove, stump-grind and dispose of the *Cinnamomum camphora* (Camphor Laurel) from the Boyce Road frontage, in the narrow garden between the driveway for no.161 to the east of the tree, and the existing sandstone retaining wall immediately to its west, so as to accommodate the extensive civil works and lowering of grounds levels that will be performed on public property across the full frontage of this site.

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 UP TO SIX WEEKS NOTICE to arrange for its removal prior to the commencement of ANY site works.

After this, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's South Area Tree Preservation & Maintenance Coordinator on 9093-6964.

Protection of Neighbours Palms

18. In order to ensure retention of the group of Cocos Palms (T02-04) that are located wholly within the adjoining private property at no.161, along the common boundary, as well as the stand of smaller Bangalow Palms (T05-19) that are immediately to their south in good health, the following measures are to be undertaken:
- All documentation submitted for the Construction Certificate application must show their retention and tree identification numbers, together with the position and diameter of their trunks and crowns in relation to the works.
 - All parts of the building fronting Boyce Road must be offset a minimum distance of **1510mm** from the eastern site boundary, as is shown on dwg A.02.1, with the resulting eastern side setback to then provided as a permeable/porous treatment, with details of compliance to be provided.
 - Prior to the commencement of any excavation/piling works associated with the Basement Level for the dwelling fronting Boyce Road, temporary shoring must firstly be provided within the development site, adjacent these palms, to ensure they are not de-stabilised during works, and must remain in place until such time as the approved landscaping is being installed in this area.
 - Ground protection comprising strapped together rumble boards, sheets of plywood or similar must then be provided in the eastern side setback, adjacent these palms, for the duration of works, and is to remain in place until the approved landscaping is being installed.
 - 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 adjacent these palms, with all Site Management Plans to comply with this requirement.
 - Where roots are encountered which are in direct conflict with the approved works, they may then be cut cleanly using only hand-held tools only, not machinery, with the affected area/s to be backfilled with clean site soil so that roots are not left exposed to the atmosphere.
 - The Principal Certifier 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.

Sydney Water Requirements

19. 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™](https://www.sydneyswater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm) online service is available at:

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia & Relevant Standards

20. 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

21. 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 Certifier.

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

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

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

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

- b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the *Principal Certifier* and Council are to be notified accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

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

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

Dilapidation Reports

24. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
 - excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - as otherwise may be required by the *Principal Certifier*.

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

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

Construction Noise & Vibration Management Plan

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

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

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

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

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

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

Demolition & Construction Waste Plan

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

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

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

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

Public Utilities

29. 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 Certifier 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

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

Site Signage

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

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

Restriction on Working Hours

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

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

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

Removal of Asbestos Materials

D6/22

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

- Work Health & Safety legislation and SafeWork NSW requirements
- Preparation and implementation of a *demolition work plan*, in accordance with AS 2601 (2001) – Demolition of structures; NSW Work Health and Safety Regulation 2017 and Randwick City Council's Asbestos Policy. A copy of the demolition work plan must be provided to Principal Certifier and a copy must be kept on site and be made available for Council Officer upon request.
- A SafeWork NSW licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by SafeWork NSW or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'Danger Asbestos Removal In Progress' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2014*. Details of the disposal of materials containing asbestos (including receipts) must be provided to the Principal Certifier and Council.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier as soon as practicable after completion of the asbestos related works, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

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

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

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

Support of Adjoining Land

35. 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.
36. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifier*.

- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
- when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
- as may be required by the *Principal Certifier*.

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

Sediment & Erosion Control

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

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

Public Safety & Site Management

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

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

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

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

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

- e) Access gates and doorways within site fencing, hoardings and temporary site buildings or amenities must not open out into the road or footway.
- f) Site fencing, building materials, bulk bins/waste containers and other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health, Building and Regulatory Services department.

- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
- i) Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.

Site Signage

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

Survey Requirements

40. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:
- prior to construction (pouring of concrete) of the footings or first completed floor slab,
 - upon completion of the building, prior to issuing an occupation certificate,
 - as otherwise may be required by the Principal Certifier.

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

Building Encroachments

41. 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

42. 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:

Drainage

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

Tree Management

44. Due to their small size and insignificance, as well as to accommodate the works that are shown for these same areas, approval is granted for the removal of all vegetation within this development site, subject to full implementation of the amended Landscape Plans.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

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

BASIX Requirements & Certification

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

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

Swimming Pool Safety

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

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

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

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

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

Spa Pool Safety

48. Spa pools are to be designed and installed in accordance with the relevant provisions of the *Building Code of Australia* and be provided with a child resistant barrier, in accordance with the provisions of the *Swimming Pools Act 1992* and the *Swimming Pools Regulation 2008*.

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

Swimming Pool & Spa Pool Requirements

49. Swimming pools (and spa pools) are to be designed, installed and operated in accordance with the following general requirements:
- a) Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and

- b) All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
- c) Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2010: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
- d) Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

Notification of Swimming Pools & Spa Pools

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

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

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

Council's Infrastructure & Vehicular Crossings

51. Prior to the issuing of an occupation certificate the applicant must meet the full cost for a Council approved contractor to:

- a) Construct a concrete vehicular crossing opposite the vehicular entrance to the site in **Green Street**, to Council's specifications and requirements.
- b) Construct a concrete vehicular crossing and layback opposite the vehicular entrance to the site in **Boyce Road**, to Council's specifications and requirements. This shall include and not be limited to the following:

Suspended footpath slab and handrails.
Retaining Wall removal and reconstruction, including underpinning/footings
Council driveway
Altering public utility services.
Temporary pedestrian access.

Note: The reconstructed retaining walls are to use the existing sandstone where possible any additional materials are to be provided by the applicant/owner.

52. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
53. The applicant is to have their own structural engineer certify the suspended footpath and handrails have been constructed/installed to relevant Australian Standards. A copy of the certification is to be forwarded to Council prior to the issuing of an occupation certificate. The applicant's contractor/builder shall liaise with Council's Coordinator of Engineering Technical Services prior to the commencement of any demolition/building works on Council's naturestrip/roadway regarding Council requirements for traffic control etc.
54. 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.

Sydney Water

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

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

A Section 73 Compliance Certificate must be completed before an occupation certificate will be issued.

Stormwater Drainage

56. 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.
 - c) Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.
57. A Works-As-Executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):
- Finished site contours at 0.2 metre intervals;
 - The location of any detention basins/tanks with finished surface/invert levels;
 - Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
 - Volume of storage available in any detention areas;
 - The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - Details of any infiltration/absorption systems; and
 - Details of any pumping systems installed (including wet well volumes).
58. The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction

of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

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

Subdivision

59. A subdivision certificate for the two-lot subdivision and road widening on Green Street must be issued by Council and the plan registered at NSW LPI prior to the issuing of any form of occupation certificate.

Note: All old structures/fencing within the road widening/dedicated area are to have been removed, to the satisfaction of Council.

Landscaping

60. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Simpla, dwg's A3/001-002, rev B, dated 28/01/21, and must specifically reference compliance with the conditions of consent relating to the requirement for an amended scheme.
61. Suitable strategies must then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

Waste Management

62. The owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services to the additional premises.

Street and/or Sub-Address Numbering

63. 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.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

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

Sydney Water

64. A Section 73 Compliance Certificate, under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

Easements

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

Dedication of Land

66. Plans submitted for the subdivision certificate must indicate a 4.57m strip of land along the full Green Street frontage to be dedicated to Council as 'Road Widening'. Such dedication shall be at no cost to Council.

Compliance with Development Consent DA/230/2021

67. A formal application for a subdivision certificate is required to be submitted to and approved by the Council and all relevant conditions of this development consent (DA/230/2021) are required to be satisfied prior to the release of the subdivision plans.

OPERATIONAL CONDITIONS

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

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

External Lighting

68. 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

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

Plant & Equipment – Noise Levels

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

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

Swimming/Spa Pools

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

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

Air Conditioners

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

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

Use of parking spaces

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

Stormwater Management

74. The sites stormwater systems must be regularly cleaned and maintained to ensure it operates as required by the design.

D6/22

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

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

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

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

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or

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

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

- A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au 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.
- 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.
- A15 Council's assessment of this application does not include an assessment of compliance with the *Swimming Pool Act 1992*. All pool barriers, fences and structures within properties containing a swimming pool must comply with the requirements of the *Swimming Pool Act 1992*, BCA and relevant Australian Standards.

Details of compliance with the *Swimming Pool Act 1992*, Building Code of Australia and relevant Standards must be included in the Construction Certificate to the satisfaction of the Certifier.

Development Application Report No. D7/22

Subject: 59 Beach Street Coogee (DA/637/2019/B)

Proposal:	S4.55(2) modification of the approved development by deletion of condition 2.a. & 2.b., reduction of skylights, minor revision/relocation of windows, external stair revision, widen garage door, add louvre roof to balcony and repair/rebuild retention wall.
Ward:	North Ward
Applicant:	Edifice Design Pty Limited
Owner:	Peter Ong & Vivienne Yu
Cost of works:	\$1,002,011
Reason for referral:	The proposal is seeking to modify a condition that was imposed / modified at the RLPP pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act 1979. Note: DA/637/2019 was considered by the Panel as the application attracted over 10 submissions.

Recommendation

That the RLPP, as the consent authority, approve the application made under Section 4.55(2) of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. DA/637/2019/A for modification to the approved development by deleting Condition 2a & 2b, reduction of skylights, minor revision/relocation of windows, external stair revision, widen garage door, add louvre roof to balcony and repair/rebuild retention wall, at No. 59 Beach Street Coogee NSW 2034, in the following manner:

A) Amend Conditions 1 and 2. a. to read:

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 Rev C	Edifice design architects	27.10.20
DA02 Rev C		27.10.20
DA04 Rev C		27.10.20
DA05 Rev C		27.10.20
DA06 Rev C		27.10.20
DA07 Rev C		27.10.20
DA08 Rev C		27.10.20
DA09 Rev C		27.10.20
DA10 Rev C		27.10.20
DA11 Rev C		27.10.20
DA16 Rev C		27.10.20
DA00 Rev C		27.10.20

BASIX Certificate No.	Dated
A364438	22 November 2019

EXCEPT where amended by:

D7/22

D7/22

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

Plan	Drawn by	Dated
DA04 Rev D	Edifice design architects	8 June 2021
DA05 Rev D		8 June 2021
DA06 Rev D		8 June 2021
DA08 Rev D		8 June 2021
DA09 Rev D		8 June 2021
DA10 Rev D		8 June 2021
DA11 Rev D		8 June 2021

EXCEPT where amended by:

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

Plan	Drawn by	Dated	Received by Council
DA02 Rev E	Edifice design architects	06 August 2021	11 August 2021
DA04 Rev E			
DA05 Rev E			
DA06 Rev E			
DA07 Rev E			
DA08 Rev E			
DA09 Rev E			
DA10 Rev E			
DA11 Rev E			

BASIX Certificate No.	Dated	Received by Council
A364438_03	15 February 2022	15 February 2022

Amendment of Plans & Documentation

2. The approved plans and documents must be amended, where necessary, in accordance with the following requirements:
 - a. A privacy screen having a minimum height of 1.6m (measured above the deck or balcony floor level) of the following areas:
 - Full length of the northern side ground level balcony connected to the Master Bedroom;
 - Full length of the southern and northern sides of the ground level rear balcony connected to the ensuite and retreat; and
 - Full length of the southern and northern sides of the upper level rear balcony.

All 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.

Privacy treatment shall be provided to W28 to ensure direct overlooking of neighbouring properties does not occur. The privacy screen must be constructed with 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.

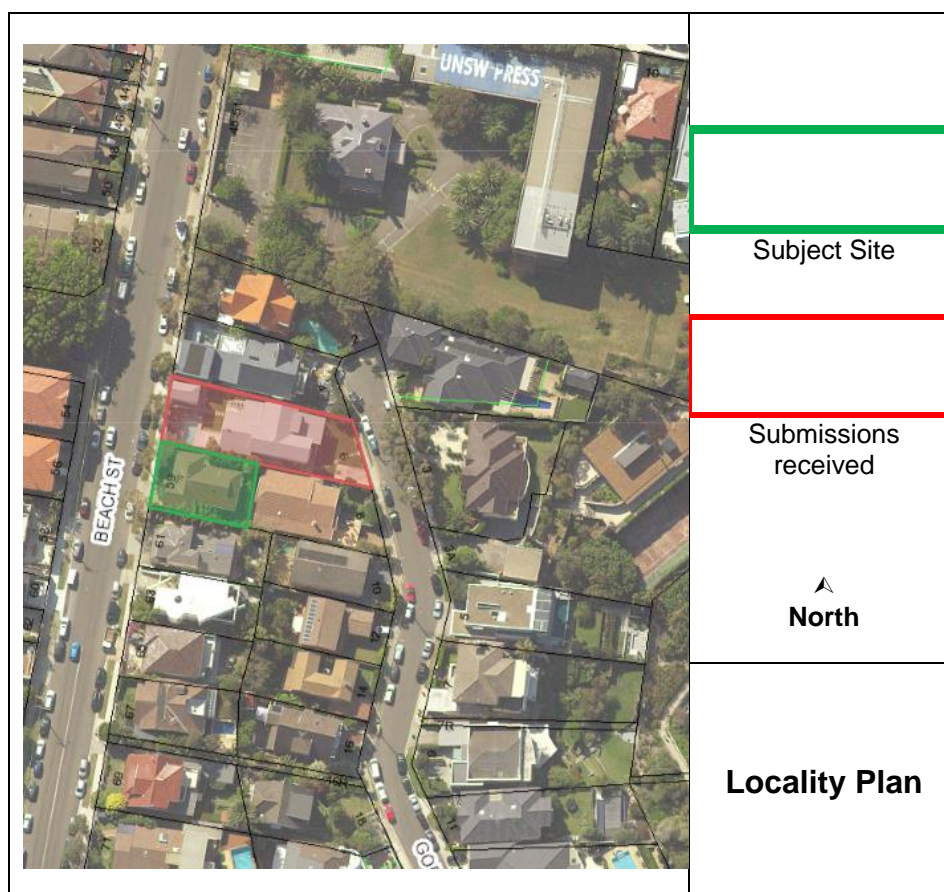
B) Add the following conditions:

2. e. The amended roof above the ground floor balcony is to remain non-trafficable at all times.
2. f. The proposed earthworks, retaining wall and addition of stairs at lower ground floor adjacent to the southern and western sides of the dwelling shall be deleted from the Section 4.55 'B' plans.
4. a. The proposed cladding colours and finishes are to be in compliance with Australian Standards for reflectivity. Details of colours and finishes are to be submitted to and approved by Manager Development Assessment prior to the issue of construction certificate.

Attachment/s:

Nil

D7/22



1. Reason for referral

This application is referred to the Randwick Local Planning Panel (RLPP) because it is made under Section 4.55(2) of the Environmental Planning and Assessment Act (1979) and seeks to modify development conditions previously imposed by the Panel.

The original development application was referred to the Randwick Local Planning Panel (RLPP) as 16 unique submissions by way of objection were received.

2. Site Description and Locality

The subject site is known as 59 Beach Street and is legally described as Lot 12 in DP 847232. The site is 352m², is regular in shape, with a slightly skewed front boundary with a 15.24m frontage to Beach Street to the west and a side boundary depth of 23.35m and 22.865m to the north and south respectively.

The site drops from street level along Beach Street by around 3.4m from 35.52 down to RL32.12 a characteristic of sites along this side of Beach Street. The site contains a two storey dwelling with the lower land level sited below street level.

The adjoining site to the north at No. 6 Gordon Avenue, has its rear yard containing terraced rear yard, a swimming pool and attached pergola adjoining the subject site and the site to the south at No. 61 Beach Street, a three storey dwelling on a similar topography with a lower ground level siting below street level, occurs whereby the neighbouring dwelling presents as a two storey dwelling at street level with a lower ground level that is below and behind street level. This is characteristic of other properties along this side of Beach Street.

3. Details of Current Approval

The original development application was determined by the Randwick Local Planning Panel on 26 November 2020.

The approved development (DA/637/2019) is for alterations and additions to existing dwelling at lower ground, ground and first floor levels.

A Modification Application (DA/637/2019/A) pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 for modification to the approved development to extend the eastern wall on the lower ground floor and ground floor by 800mm and resizing w32 at southwest corner on upper floor from 970mm(w) and 1500mm(h) to 970mm(w) to 2100mm(h) was approved on 26 November 2021.

4. Proposal

Council is in receipt of Modification Application No. DA/634/2019/B pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 seeking modification to the approved development to delete condition 2.a. & 2.b., reduction of skylights, minor revision/relocation of windows, external stair revision, widen garage door, add louvre roof to balcony and repair/rebuild retention wall.

Conditions 2.a. and 2.b. which were amended by the Randwick Local Planning Panel have been reproduced below:

Amendment of Plans & Documentation

2. *The approved plans and documents must be amended, where necessary, in accordance with the following requirements:*

- a. *A privacy screen having a minimum height of 1.6m (measured above the deck or balcony floor level) of the following areas:*
 - *Full length of the southern side of the lower ground level deck connected to the laundry;*
 - *Full length of the northern side ground level balcony connected to the Master Bedroom;*
 - *Full length of the southern and northern sides of the ground level rear balcony connected to the ensuite and retreat; and*
 - *Full length of the southern and northern sides of the upper level rear balcony.*

All 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.*

Privacy treatment shall be provided to W28 to ensure direct overlooking of neighbouring properties does not occur. The privacy screen must be constructed with 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 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:*
 - *W26 & W27 northern facing windows at upper level floor*
 - *W22 south facing retreat window at ground level*

The photos taken from the stairs looking south indicate that the existing fence and privacy screen will be adequate to maintain the existing privacy of the adjoining neighbours and a privacy screen to a height of 1.6m (RL 34.755) is not necessary in this instance and the removal of the condition is supported by Council.

2. Background on Visual Privacy

The existing dwelling at 59 Beach St was already constructed when the current owners of 6 Street purchased their property. The dwelling features four large, unscreened and completely transparent glazing panels, two measuring 1.8MX1.8M each and the other two 2.05MX1.1M, directly overlooking the rear open yard of the northern neighbour. In addition, there is also a 4M wide balcony directly facing the property with a mere 2M setback.

Under DA637/2019, the height of these four windows will be raised to a 1.95M sill on the ground floor and the balcony facing the property replaced with balconies further away with privacy screens installed. These approved changes by themselves have significantly improved visual privacy.

Compliance with Randwick DCP rules

Per Randwick DCP Part C Low Density Residential 5.3(i), these windows do not have any direct viewing of any habitable room windows of the northern neighbour, and as such are not subject to any visual privacy requirement.

Per Randwick DCP Part C Low Density Residential 5.3 (ii), these windows are orientated towards the rear allotment of the northern neighbour where there is an existing bamboo screen of approximately 5M height.

Conclusion

The proposed full length windows provide significant amenity to the occupants via access to greater northern sunlight and distant outlook.

With the current bamboo screen of approximately 5M height along the fence, there is at best a peripheral view into northern open space.

In addition, the visual privacy of the rear private open space of the northern neighbour is already compromised as the low rear boundary wall and low-lying nature of the site allows for a direct view into this area from Beach Street.

All things considered, it would be inequitable to deny the occupants better access to the northern sunlight and distant view based on DCP rules and the site conditions. Notwithstanding the above, the applicants are willing to add a horizontal privacy screen below these windows if Council deems relevant.

Planner's Comment

Below is a snippet of the existing northern elevation shown dashed red on the plan.

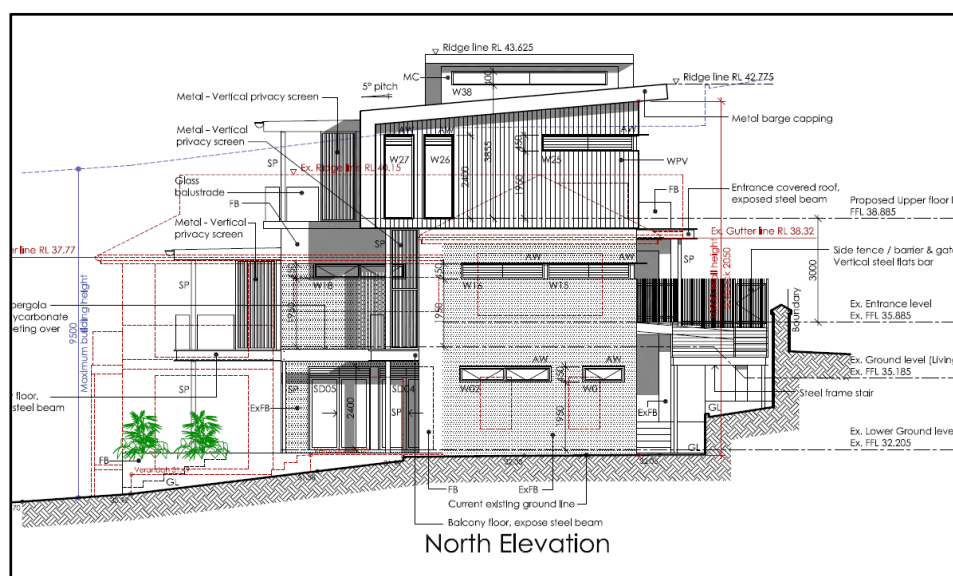


Figure 3: Existing house dashed red on northern elevation (Source: document submitted under DA/637/2019)

D7/22

As can be seen in the **figure 3** above, it is agreed that there are large existing windows and a balcony that may potentially overlook the adjoining properties rear yard. However, these windows and balcony are screened by the existing vegetation along the southern boundary of 6 Gordon Avenue Coogee (see **Photos 1 to 5** below) which assist in the retention of the privacy of the adjoining neighbour.

Although it is agreed that the proposed changes to the condition will not have any direct viewing of any habitable room windows of the northern neighbour and that these windows are orientated towards the rear allotment of the northern neighbour where there is an existing bamboo screen of approximately 5m height, it is not agreed that they are not subject to any visual privacy treatment as it is considered the proposal will have a negative privacy impact on the private open space of the adjoining neighbour.

The applicant has provided further justification below in an email detailed 1 November 2021:

"Further to my email on 29 October 2021, I would like to submit the photos taken on the roof at 1.6M height for windows 26 and 27 on the upper floor for your consideration. See photos attached below.

To advocate my case, I refer to Randwick Council DCP Low Density Residential C1 Clause 5.3 on visual privacy.

*The explanation paragraph states that complete privacy is not practical nor achievable in the urban context and the emphasis of the control is to minimise cross-viewing or overlooking into the **living areas** of adjacent properties.*

The objective paragraph reiterates that we are trying to maintain a reasonable level of privacy, not complete or absolute privacy.

Sub-clause i) stipulates that proposed habitable windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings.

*The DCP also provides a definition of **living area** as "indoor space occupied for an extended period of time such as a living room, lounge room, dining room, family room and/or other open plan living areas".*

Kindly note that there is no direct viewing of any habitable area of the northern property. The only habitable area in the rear yard is the outdoor sitting area underneath the pergola. As evident in the photos, this area is completely covered by an obscured roofed pergola and the entire habitable area underneath is out of sight. In addition, as the definition of "living area" in DCP starts with "indoor space", there is reasonable doubt whether the visual privacy requirements apply to any outdoor area.

Sub-clause iii) refers to upper floor balconies and therefore not applicable to W26 and W27.

Sub-clause iv) refers to balcony, deck and terrace and therefore not applicable to W26 and W27.

Sub-clause v) states that planting or the bamboo screen may be used as a supplementary device for reinforcing privacy protection as long as they are not the sole privacy protection measure. From the photos, it is evident that the bamboo screens will block out almost the entire rear yard when it reaches the current height of some of the higher shoots.

In conclusion, I respectfully submit that the DCP rules stipulate that visual privacy is only necessary for habitable living areas and there is clear and convincing evidence that there is no cross-viewing from W26 and W27 into any habitable living area of the neighbouring property. Therefore, imposing any glazing or screening requirement for these windows is unjust and onerous, especially when they provide significant amenity of greater northern sunlight and district views to the applicant".

The Randwick Development Control Plan 2013, Part C1, Section 5.3 provides the following explanation and objective for the controls:

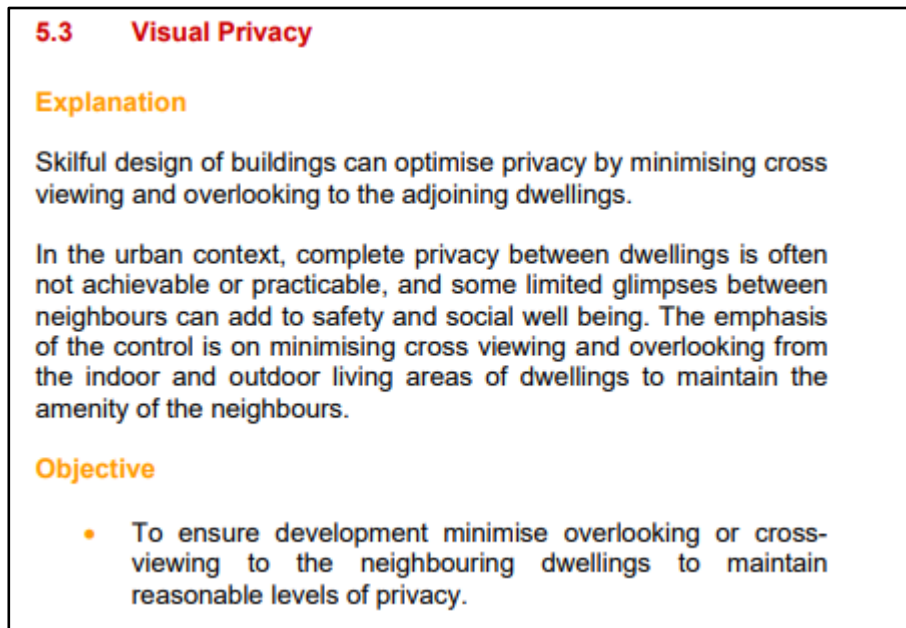


Figure 4: Snippet from the Randwick DCP 2013, Part C1, Section 5.3

The Randwick DCP 2013 also provides for the following numerical controls relating to visual privacy from windows:

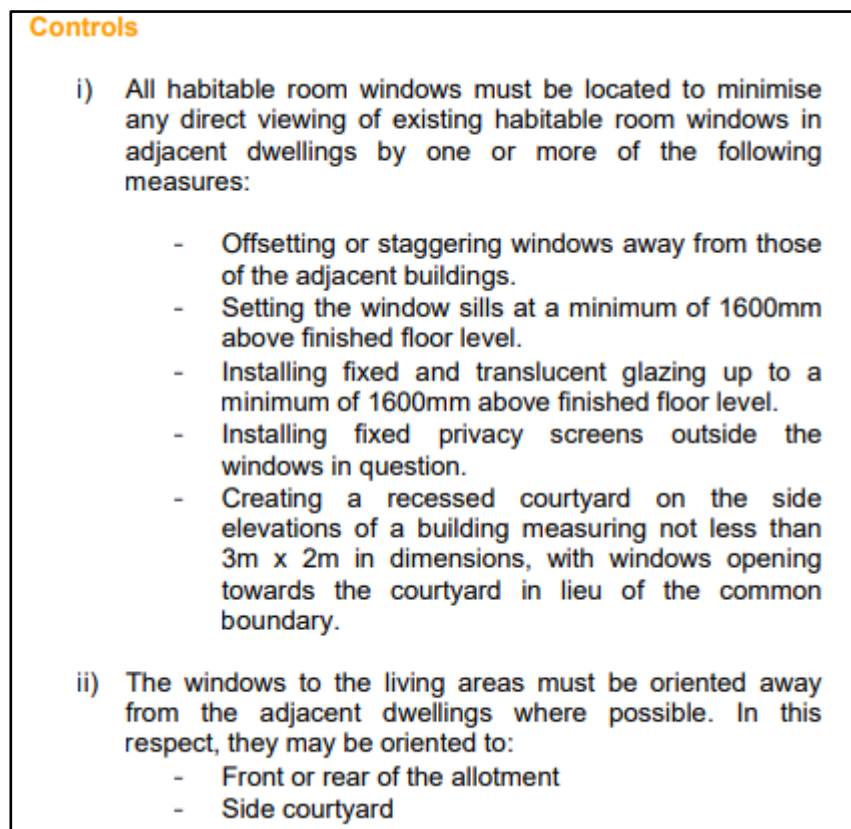


Figure 5: Snippet from the Randwick DCP 2013, Part C1, Section 5.3 - controls relating to windows

Although the proposed windows do not have any direct cross viewing into existing habitable room windows of adjoining neighbours, it is considered that the proposal does not minimise overlooking to maintain the amenity of the neighbours and maintain reasonable levels of privacy. In addition, the proposal does not demonstrate compliance with the Randwick DCP in that windows No. W26 and W27 are not oriented away from the adjacent dwelling's private open space.

D7/22

The explanation and objectives of the control detail the following:

- The emphasis of the control is on minimising cross viewing and **overlooking** from the indoor and outdoor living areas of dwellings **to maintain the amenity of the neighbours** as derived from the explanation.
- To ensure development minimise **overlooking** or cross viewing **to the neighbouring dwellings to maintain reasonable levels of privacy** as derived from the objective of the control.

It is considered that the proposal will result in a significant privacy impact on the private open space of the adjoining neighbour. As can be seen in the photos below, the proposal has the potential to directly overlook the private open space of 6 Gordon Street Coogee. The applicant has also submitted that the use of landscaping is sufficient as a means of privacy retention. However, the landscaping does not exist on the subject site and furthermore does not adequately screen the proposal from No. 6 Gordon Avenue Coogee.

In addition, the Randwick DCP 2013, Part C1, Section 5.3 (v) states that *Screen planting and planter boxes may be used as a supplementary device for reinforcing privacy protection. However, they must not be used as the sole privacy protection measure.*

The applicant's proposal relies on the use of screen planting as the sole privacy protection measure. In addition, the screen planting does not belong to the applicant and is located on the adjoining neighbours property. Furthermore, as can be seen in the photos, the screen planting does not adequately screen the proposal from the private open space of the adjoining properties.

The retention of condition 2b is consistent with the explanation of the controls and the objective aforementioned in **figure 4**. There is a reasonable expectation that a dwelling and some of its private open space will remain private. In addition, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.

The proposed changes to windows no. W26 and W27 belong to living room windows which are considered to be high active rooms where people spend more waking time. It is considered that most of the private open space can be protected from overlooking.

As such, it is considered that the proposal to delete the requirement for obscured glazing to windows No. W26 & W27 northern facing windows at upper level floor is not supported due to the potential privacy implications to the adjoining neighbour's private open space at 6 Gordon Avenue Coogee and that the applicant's justification for the use of landscaping as a sole means of privacy protection should be given minor weight.



Photo 1: photo taken looking north and down from W26 (Source: submitted by applicant)



Photo 2: photo taken looking north and down from W27 (Source: submitted by applicant)

D7/22



Photo 3: photo taken looking north and straight from W26 (Source: submitted by applicant)



Photo 4: photo taken looking north and straight from W27 (Source: submitted by applicant)

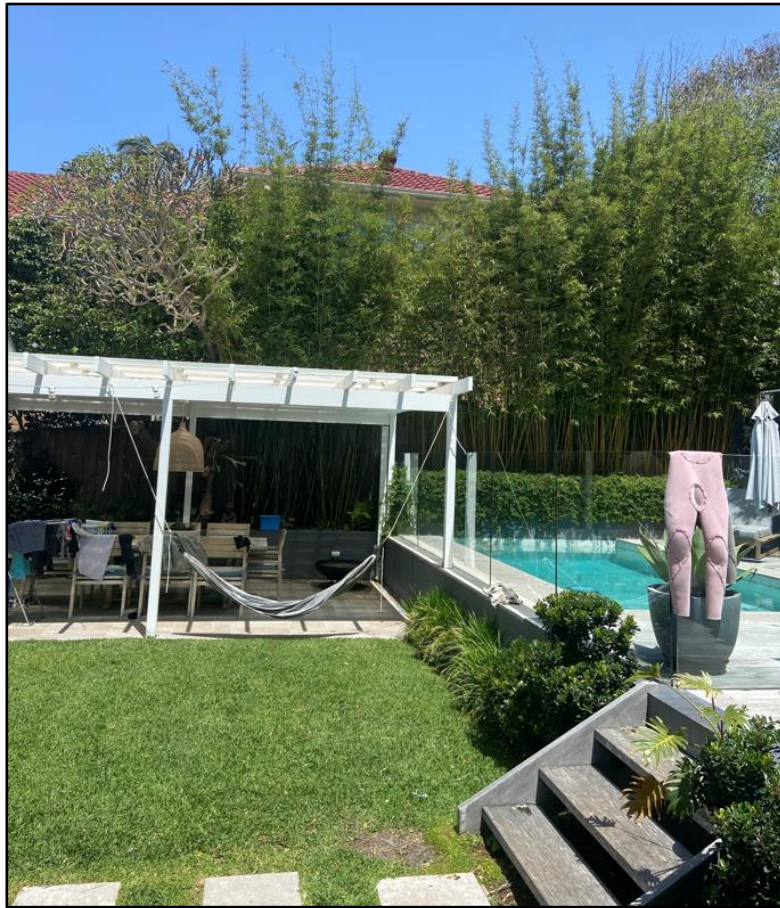


Photo 5: Photo taken from site inspection looking south from the private open space of 6 Gordon Avenue Coogee

3. Widen W04 and W05 at family room at the lower ground floor to 2.4M

This would allow greater access to sunlight. Height of timber paling fence on northern boundary is 1.6M.

Planner's Comment

It is considered that the proposed widening of windows 4 and 5 will have negligible privacy impact on the adjoining neighbour as the windows adjoins an outdoor verandah (see **figure 6** below).

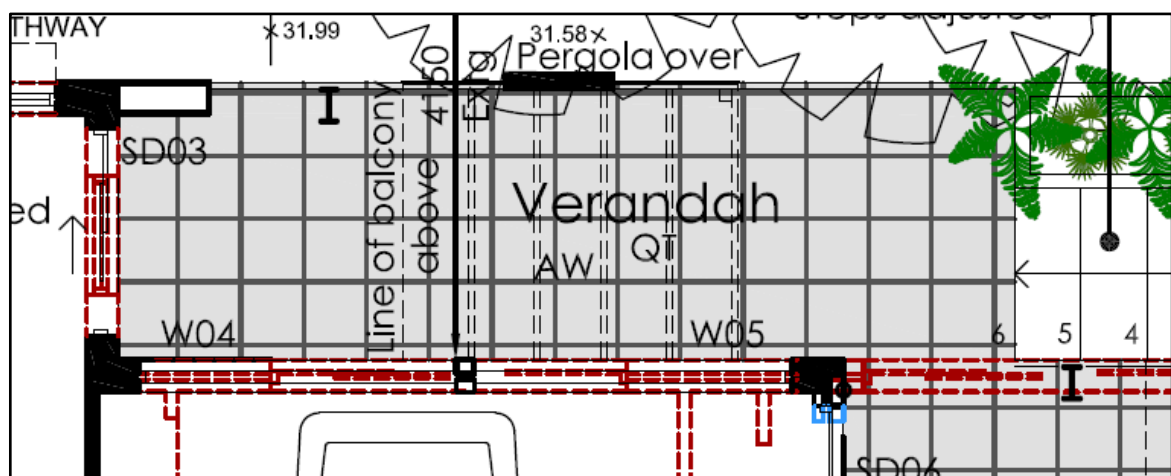


Figure 6: Snippet of lower ground floor plan detailing windows 4 and 5 adjacent to verandah.

D7/22

Planner's Comment

This architectural floor plan shows a section of a house. At the top, there is a row of windows labeled W04, W05, W06, W07, and W08. The plan includes a 'Family' room (5.4 x 4.3) with a fireplace (TF) and a 'VOID' above it. A 'Verandah' (3.8 x 7.9) is located to the right of the family room, featuring a fireplace (FPL 32.115) and a 'Line balcony above'. A 'Bed 2' (5.4 x 3.0) with a fireplace (TF) is situated at the bottom left. The plan also shows a 'Proposed new rear set back' and a 'PQS 36sq (6 x 6 m)'. Dimensions for various sections are provided, such as 7791 (COS), 31.73, 31.55, 31.13, and 30.91. A note at the bottom indicates 'Existing hot water unit' and 'SWP'.

This would allow greater access to sunlight. No impact on privacy.

It is considered that the proposed changes to the height of ground floor openings will have minimal impact on adjoining neighbours as the changes from the top of the openings have minimal privacy bearing (see amendments in blue in **figure 8** below).



Figure 8: Snippet of eastern elevation detailing amendments to ground floor openings (SD21,W20 and W19)

6. *Revised non-trafficable balcony roof on ground floor.*

No impact

Planner's Comment

The proposal seeks to increase the height of the roof above the balcony on the ground floor from 3.16m to approximately 3.37m (210mm) measured from the FFL of the balcony to the top of the roof (see **figure 9** below). The minor increase in height will have no significant impact on the solar access of the adjoining neighbours or the subject site.

It is considered that the revised roof above the balcony on the ground floor is acceptable subject to the following condition being added to the consent, no significant planning impacts are anticipated if the roof remains non-trafficable:

2. e. the amended roof above the ground floor balcony is to remain non-trafficable at all times.

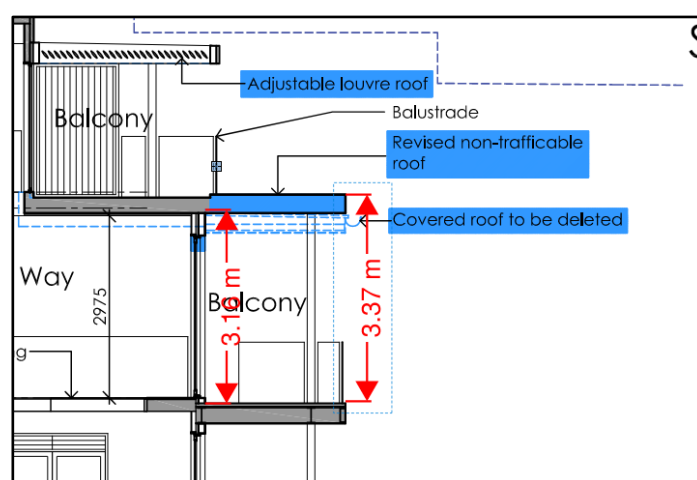


Figure 9: calculation of increase in height of roof above balcony.

7. *Minor internal wall revisions on LG and GF*

No impact

Planner's Comment

It is agreed that the minor internal wall revisions on the lower ground and ground floor will have minimal planning impacts as they are located internally within the development.

8. *Add cladding to GF and LG*

No impact. Style is consistent with and blends in with nearby buildings

Planner's Comment

It is considered that the additional cladding provided to the development is appropriate subject to the cladding complying with any relevant Australian standards for reflectivity.

9. *Reduce number of skylights to 3*

No impact

Planner's Comment

It is considered that the reduction in skylights will have minimal planning impact. The proposal continues to comply with the BASIX SEPP.

10. *Remove soil around garage on the lower ground floor level and north east boundary and rebuild extension wall*

Better water diversion around the building. No impact on neighbours

Planner's Comment

It is noted that the applicant had identified the removal of soil around the garage on the lower ground floor level and north-eastern boundary and the construction of a new extended retaining wall. However, it is considered that the proposal relates to the retaining wall extension is adjacent to the southern and western boundaries of the site and not the north-eastern boundary as specified by the applicant.

It is considered that the proposed earthworks are excessive at approximately 1.6m. The applicant has provided no justification for the non-compliance with the Randwick DCP 2013, Part C1, Section 4.6 which specifies a maximum of 1m cut. The proposal demonstrates a non-compliance with the following controls under Section 4.6 Earthworks:

- I. Any excavation and backfilling within the building footprint 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 dwelling within this extent of site modification. These requirements do not apply to swimming or spa pool structures.
- II. Setback the outer edge of any excavation, piling or subsurface walls a minimum of 900mm from the side and rear boundaries.

In addition, the proposal has not adequately demonstrated compliance with the following objectives of the control:

- To maintain or minimise change to the natural ground levels.
- To ensure earthworks do not result in adverse stormwater impacts on the adjoining properties.

The proposal has failed to demonstrate that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification. No justification has been given for the non-compliance. Furthermore, the proposal does not demonstrate compliance with control 4.6(I) which appears to be less than 900mm from the southern side boundary. In addition, the proposal is seeking to provide a retaining wall adjacent to the southern and western boundaries with no indication of the setback or height of the proposed retaining wall. In addition, the proposal has not demonstrated whether the trees on the adjoining property to the south will be negatively impacted. It is considered that the two palms may potentially be negatively impacted as they do not contain a retaining wall adjacent to them currently (see **figures 10 and 11** below).

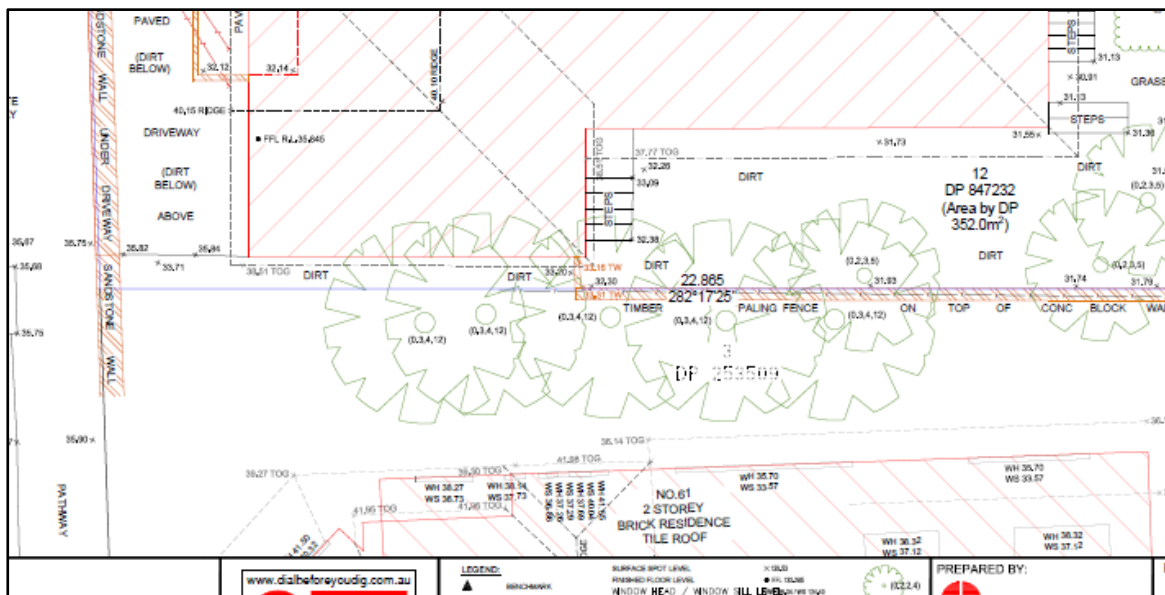


Figure 10: Snippet of survey plan (DA/637/2019)

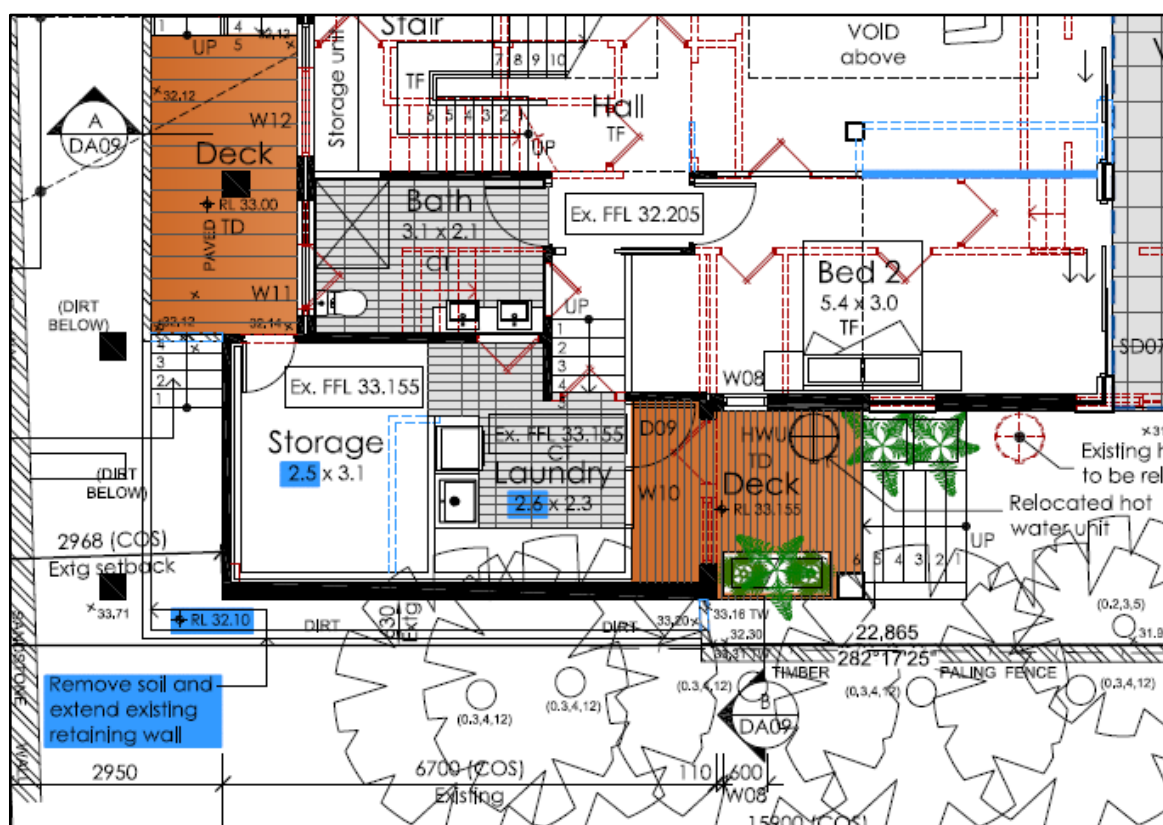


Figure 11: Snippet of proposed lower ground floor plan (DA/637/2019/B)

The proposal has not provided sufficient information to consider the following matters under the Randwick Local Environmental Plan 2012, Clause 6.2 Earthworks (3):

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Therefore, the proposed earthworks is not supported.

11. Revise design of outside staircase along western boundary.

No impact

Planner's Comment

It is considered that the earthworks required to facilitate the staircase is unreasonable and unjustified by the applicant. No justification has been provided for the non-compliance with the Randwick DCP 2013. Therefore, the staircase is not supported. A condition of consent has been imposed to ensure that the retaining wall, earthworks and revised staircase are not supported and removed from the plan prior to the issue of a Construction Certificate.

12. Widen garage door opening to 5.1M Below DCP Low Density Residential 6.5 (ii) maximum of 6.0M.

No impact.

Planner's Comment

The Randwick DCP 2013, Part C1, Section 6.5 (ii) states the following:

- ii) The maximum internal width of a garage (including the garage door and the flanking piers or columns) is as follows:

13. *Reposition W34 on upper floor western side.*

Planner's Comment

Figure 12: proposed western elevation (Source: Edifice Design 2021)

14. *Resize W22 on GF to 800mm height*

Planner's Comment

15. Add louvre roof to UF balcony

Planner's Comment

It is considered that the adjustable louvered roof above the upper floor balcony is substantially the same as was originally approved and will provide for additional sunlight into the balcony. The roof is the same in size and will have no significant impact on solar access and visual bulk to the adjoining neighbours (see **figures 13 and 14** for comparison).

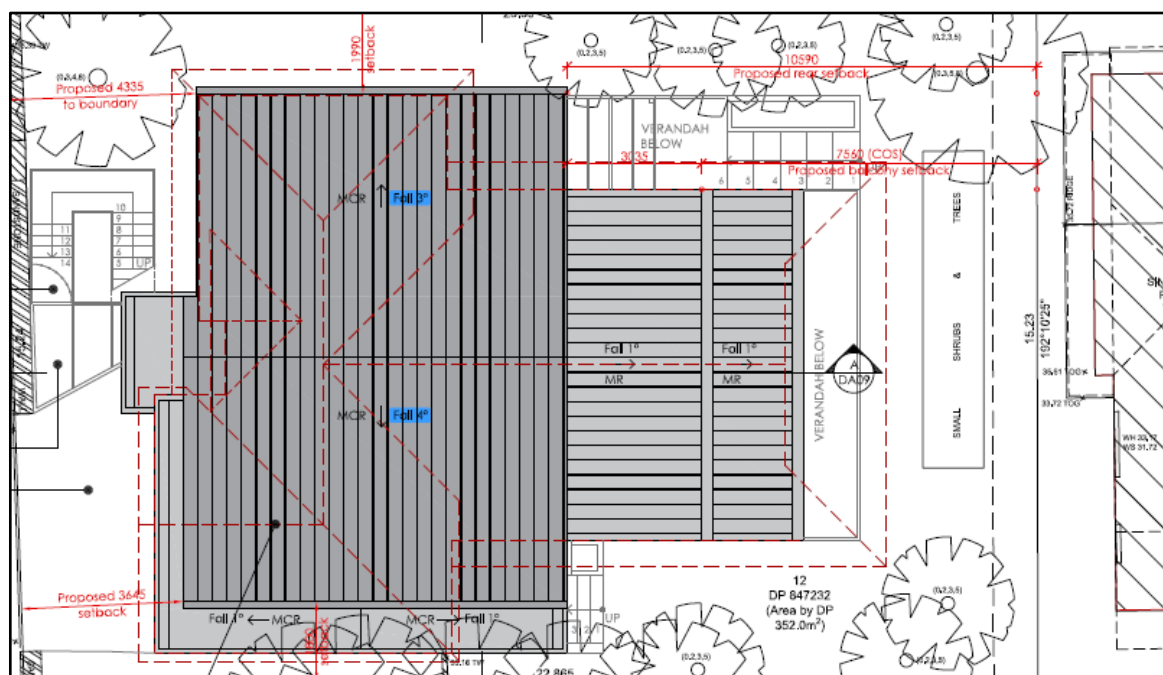


Figure 13: Approved site and roof plan (Source: Edifice Design 2021, DA/637/2019)

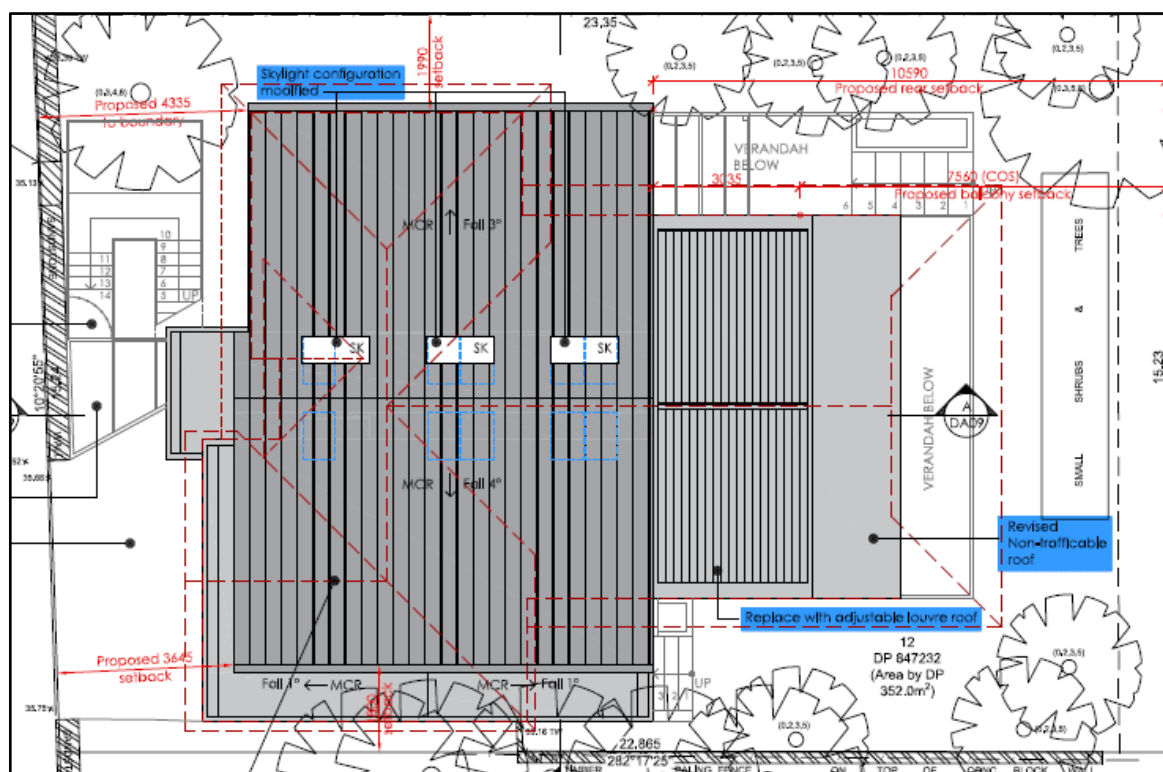


Figure 14: Proposed site and roof plan (Source: Edifice Design 2021, DA/637/2019/B)

5. Section 4.55 Assessment

Under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:-

- (2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

D7/22

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with—*
- (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

An assessment against the above criteria is provided below:

1. Substantially the Same Development

The proposal is seeking minor changes to modify windows and doors, roof style of upper floor balcony, building materials to provide more cladding, garage door width, removal of privacy screen requirement to deck, internal wall revisions and relocation of lower ground stairs which provide access to the ground floor deck within the western front setback.

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development.

2. Consultation with Other Approval Bodies or Public Authorities:

The development is not integrated development or development where the concurrence of another public authority is required.

3. Notification and Consideration of Submissions:

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

- 6 Gordon Avenue Coogee

Note - the submission has been paraphrased and summarised below identifying the specific points of interest.

Issue	Comment
We live at 6 Gordon Ave Coogee, next door to 59 Beach Street Coogee, which is the site of the amended DA. Our property has dual access from both Gordon Ave and Beach Street, and we are located on the Northern side of 59 Beach Street. This letter outlines our objection to the amended DA plans and comments made by the applicant in his letter to RCC.	Noted

<p>We appeal to the compliance and human side as this DA will negatively impact on our family life in many ways. It will impact on our personal space, our privacy and the way we live our lives at our property.</p> <p>We have worked hard and have spent considerable money trying to create a private space that we can enjoy.</p> <p>We ask that Randwick Council reject this amended DA and block the applicant from making any more amendments to this DA.</p> <p>We also request that no works are allowed to commence on the DA site until this issue has been resolved. For reference and historical context, I have included one of my objection letters to the original DA that has already been approved.</p>	<p>It agreed that there will be a negative privacy impact from the proposed deletion of condition 2b which has been addressed above and the removal of the condition is not supported by Council.</p> <p>Noted</p> <p>A thorough assessment has been completed against all the relevant legislation and has deemed the proposal to be part compliant and supportable. (Refer to section 4 of report)</p> <p>There are aspects of the proposal which are considered minor in impact which have been outlined under section 4 of the report. As such, Council has nominated its recommendation for further consideration by the panel. However, as aforementioned, the deletion of condition 2b is not supported by Council.</p>
<p>These windows will have no compliance with Randwick DCP Rules. This is why conditions were put in place for W26 and W27 to make them either translucent, obscured, frosted or sandblasted up to 1.6m in height.</p> <p>To delete this condition would allow the neighbour to look directly into our dining room and backyard areas through floor to ceiling windows. It doesn't matter that they are near the rear allotment of our property.</p> <p>Our bamboo screening can't grow much higher, and it definitely will not grow to screen a 3rd story level. The neighbour even stated this to us! The applicant will be able to see into our yard and into our dining room from both the windows on the 3rd floor. He can see us working at the table and eating meals if he is allowed to have Condition 2b deleted. This cannot be allowed to happen as it is a massive invasion of our privacy.</p> <p>Despite the Independent Panel making Condition 2b a condition of the DA being approved, the applicant has decided to fight this and try to get it overturned anyway. In discussing with the applicant, I asked him why. His response was 'Because I can, and it's within my rights to do so, and it is within RCC DCP Rules'. This is untrue and is not within RCC DCP Rules.</p> <p>I invite anyone to come onto my property and they will see for themselves. As well, the applicant openly admitted to my wife and myself that the current approved DA does</p>	<p>Although the proposal may comply quantitatively it does not comply with the objectives and the intention of the Randwick DCP. See section 4 for further discussion.</p> <p>It is agreed that the deletion of the condition would have a negative privacy impact on the private open space of 6 Gordon Avenue Coogee. See section 4 for further discussion.</p> <p>It is considered that landscaping is not to be relied on as a sole means of privacy. See section 4 for further discussion.</p> <p>The applicant has lodged the application pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 and is therefore within their right to do so. As aforementioned, although the proposal may comply quantitatively it does not comply with the objectives and the intention of the Randwick DCP. See section 4 for further discussion.</p> <p>A site inspection was conducted at 6 Gordon Avenue and it was concluded that the proposal may have a negative impact on the private open space of the adjoining property.</p>

D7/22

significantly impact negatively on our property. Despite this admission, he is trying to get more approved that will adversely impact on us.

This applicant does not seem to care about how he is affecting other people and the community. It seems to be about getting his own way at the expense of others. Where does it end? This is not right. I implore RCC to reject this application.

The Conclusion above states that the windows (because of the screening we have planted) provide the applicant 'at best a peripheral view into northern open space'. This is not true at all. The 3rd storey windows will look directly into our dining room, entertaining areas, and backyard and pool areas.

We have put in bamboo screening which can't grow much higher than it is. Even the applicant has stated it will not grow much higher and it doesn't even cover up the 2nd storey. He knows we have no chance in screening a 3rd floor. If this is the case, then why was a 3rd floor approved? The applicant is using our Bamboo against us. We planted it to provide privacy several years ago. It is on our property.

The applicant has tried to justify his desire to have the windows not frosted by comparing his windows to the people passing by on Beach St. He said we have people looking in all the time from Beach St, why should he not be allowed to do similar he asked us. It says above 'the rear private open space of the northern neighbour is already compromised as the low rear boundary wall and low-lying nature of this site allows for a direct view into this area from Beach Street'. It adds further 'it would be inequitable to deny the applicant access to northern light and district views based on DCP Rules and site conditions'.

So, the applicant is saying that the bamboo we planted provides the applicant a peripheral view at best {this is not true}, and that we are already compromised by being below Beach St and that passers by already look into our property. Therefore, he is saying that he should not be denied the ability to do so because it already happens on this site. That it would be inequitable to deny him. This is ludicrous that he could even mention this to support his request! These conditions were put in place to allow privacy for our family and protect us. We are all for people developing, but not when it comes at the expense of

Noted.

It is considered that landscaping is not to be relied on as a sole means of privacy. See section 4 for further discussion.

It is considered that landscaping is not to be relied on as a sole means of privacy. See section 4 for further discussion.

Noted.

It is considered that although there is the potential for pedestrians to overlook the private open space of 6 Gordon Avenue Coogee, that the pedestrian footpath is not a space which is to be enjoyed by residents. The footpath is used as a means of walking and will not be enjoyed by pedestrians for greater periods of time as opposed to the occupants of the subject site who will be utilizing their living room on the first floor.

<p>others. In this situation we would be severely affected and disadvantaged.</p> <p>This applicant says that to get approval of this amendment he would be 'willing to add horizontal privacy screens below these windows' which he says would satisfy any privacy concerns we have. They would be horizontal in nature (1m wide), come out from the applicant's house to the property line (say about 1.5 metres), under the base of each window 3 stories high. There is absolutely no way these horizontal privacy screens will offer any privacy to us at a 3rd storey level, whether it's for our pool, our backyard, or our dining room. Not to mention the fact they will be extremely ugly protruding out from his house 3 stories high. In discussing this with the applicant we told him we don't like the sound of these horizontal privacy screens. He then threatened us and said that if we did not allow the amendments to this DA then he would not agree to allow the privacy screens he suggested.</p>	<p>It is agreed that the provision of horizontal privacy screens below the windows will serve minimal purpose. There has been no indication in the statement of environmental effects as to the length of the horizontal privacy screens.</p>
<p>Please see attached photos that show the current house next door towering over our property at 2 stories high. Our privacy is impacted at this height. Imagine how much more it will be impacted at 3 stories high where the new windows will be located. Two photos were taken from our dining room and look up to where one of the 3rd storey windows will be located. The applicant will be able to see inside our home and backyard quite easily from several vantage points within his property. You can see the bamboo screening we have planted that will not grow much higher. The applicant has been approved to go up another level and we have no way of screening a 3rd level. Our privacy will be impacted even more so at the 3rd storey height. Approving floor to ceiling non-frosted windows will severely impact on the privacy to our dining room area, back yard, pool area, and entertaining areas as shown in these photos.</p>	<p>Noted – see section 4 for further comment addressing the use of landscaping as a privacy measure in this instance.</p>
<p>We request the following of RCC with regards to this DA amendment:</p> <ul style="list-style-type: none"> • That it be rejected on privacy grounds and not in the best interests of the surrounding community • We request that each and every council planner, panel member, or anyone involved in making the 	<p>There are aspects of the proposal which are considered minor in impact which have been outlined under section 4 of the report. As such, Council has nominated its recommendation for further consideration by the panel. However, as aforementioned, the deletion of condition 2b is not supported by Council.</p> <p>A site inspection was conducted at 6 Gordon Avenue and it was concluded that the proposed removal of condition 2b may have a negative</p>

D7/22

<p>decision for this DA come to our house and view the DA impact from our perspective. We request that they stand in our backyard and sit in our dining room - 3 levels below the proposed structure - and see for themselves the negative impact this DA will have on us. It is essential this happens. I cannot stress how important this is.</p> <ul style="list-style-type: none"> • If this is not allowed due to Covid protocol, then the decision on this amendment must be delayed until such a time that people are allowed to visit our home and see things from our perspective. That way, RCC are making a fully informed decision, and we get to have a fair say and put our entire case forward. It is not enough to visit and look from Beach St level as this does not give a sense of the full impact up there. We do not want a repeat of the situation whereby RCC planners and independent panel make a decision without our case being fully heard, and an uninformed decision is made. As I mentioned 12 months ago, it is essential that decision makers come into our property and see the impact 1st hand from our perspective • Once you view it from our yard and dining room there is no way you will agree to this amendment. • We also request that no works are allowed to commence on the DA site until this issue has been resolved. 	<p>impact on the private open space of the adjoining property as it will cause for overlooking from a high active room (living room).</p> <p>A site inspection was conducted at 6 Gordon Avenue.</p> <p>Noted.</p> <p>It is considered that the applicant is within their rights to commence works in accordance with the DA/637/2019/A. However, they must consider that the current application has yet to be determined.</p>
<p>Finally, due to the nature of how this DA was approved in November 2020, we request that a review be conducted for it's approval, and to have the decision overturned. This is on the grounds that it was a completely unfair process, it is not within LEP guidelines, is non-compliant in several areas, and that we did not get a fair opportunity to put our best case forward by having decision makers inspect from our perspective in our home.</p>	<p>It is considered that Development Application No. DA/637/2019 was assessed based on its merits. A clause 4.6 Variation request was submitted with the original application pursuant to clause 4.6 of the Randwick Local Environmental Plan 2012. The application was assessed based on its merits and presented to the local planning panel for the determination. In addition, the Development Application was notified in accordance with the Randwick Community Participation Plan to provide adjoining neighbours with the opportunity to put in a submission.</p>

6. Referral comments

None applicable.

7. Section 4.15 Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.</p> <p>Clause 55A of the EP & A Regulation requires that a new BASIX certificate be lodged for amended plans or where a section 4.55 modification makes a material change to the BASIX commitments as originally approved.</p> <p>The applicant has submitted a new BASIX certificate. The plans have been checked with regard to this new certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>Randwick Local Environmental Plan 2012</p> <p>The proposed modifications are ancillary to the approved development, which will remain substantially the same. The development remains consistent with the general aims and objectives of the RLEP 2012 subject to appropriate conditions of consent.</p>
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The development remains compliant with the objectives and controls of the Randwick Comprehensive DCP 2013 subject to appropriate conditions of consent.
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 proposed modifications have responded appropriately to the relevant planning controls and will not result in any significant adverse environmental, social or economic impacts on the locality subject to appropriate conditions of consent.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development and is considered to meet the relevant objectives and performance requirements in the RDCP 2013</p>

D7/22

D7/22

Section 4.15 'Matters for Consideration'	Comments
	<p>and RLEP 2012. Further, the proposed modifications will not adversely affect the character or amenity of the locality.</p> <p>Therefore the site remains suitable for the modified development subject to appropriate conditions of consent.</p>
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8. Conclusion

The application is recommended for approval for the following reasons:

- a) The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- b) The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality.

Responsible officer: Joseph Farag, Environmental Planning Officer

File Reference: DA/637/2019/B

Development Application Report No. D8/22

Subject: 46 Adina Avenue La Perouse (DA/104/2021)

Proposal:	Integrated development for demolition of the Manse building and a concrete slab at the La Perouse Mission Church site and addition of a new courtyard with amphitheatre / terraced landscaped feature to be used ancillary to the Church, restoration of fencing, new entry with vehicle crossing from Elaroo Ave, tree removal and associated works (State & Local Heritage Item).
Ward:	South Ward
Applicant:	La Perouse Local Aboriginal Land Council (Mr Chris Ingreys)
Owner:	La Perouse Local Aboriginal Land Council
Cost of works:	\$297,000.00
Reason for referral:	The development involves demolition of a heritage item.

Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 104/2021 for demolition of the Manse building and a concrete slab at the La Perouse Mission Church site and addition of a new courtyard with amphitheatre / terraced landscaped feature to be used ancillary to the Church, restoration of fencing, new entry with vehicle crossing from Elaroo Ave, tree removal and associated works, at No. 46 Adina Avenue, La Perouse, subject to the development consent conditions attached to the assessment report.

D8/22

D8/22



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves demolition of a heritage item.

The site is located at the corner of Adina Avenue and Elaroo Avenue. The site is occupied by a church building which has primary frontage to Adina Avenue, and a two-storey Manse building which is located behind the church, to its immediate southwest.

The La Perouse Mission Church is a State Heritage Item (SHI No. 01893, gazetted in March 2013) pursuant to the NSW Heritage Act 1977. It is also a local heritage item (I164) pursuant to Schedule 5 of the Randwick LEP 2012.

The proposal includes demolition of the Manse building and associated external concrete are and addition of external landscaping works, tree removal, restoration of fencing and new vehicular crossing. The application was review by Council's internal heritage officer and by Heritage NSW as an integrated development application. Council's heritage officer and Heritage NSW supported the proposed works subject to conditions. They provided detailed assessment of significance and recommended conditions for salvage works.

The proposal is part of a three stage restoration works for this site including the church building. Stage one through DA/622/2018 approved restoration works to the church building including Conservation Management Plan (CMP) for the whole site. This application is for Stage 2 and a subsequent development application will be lodged as Stage 3 for an additional community hall as

shown in the following concept plan for the site. The proposal is generally consistent with the approved CMP.

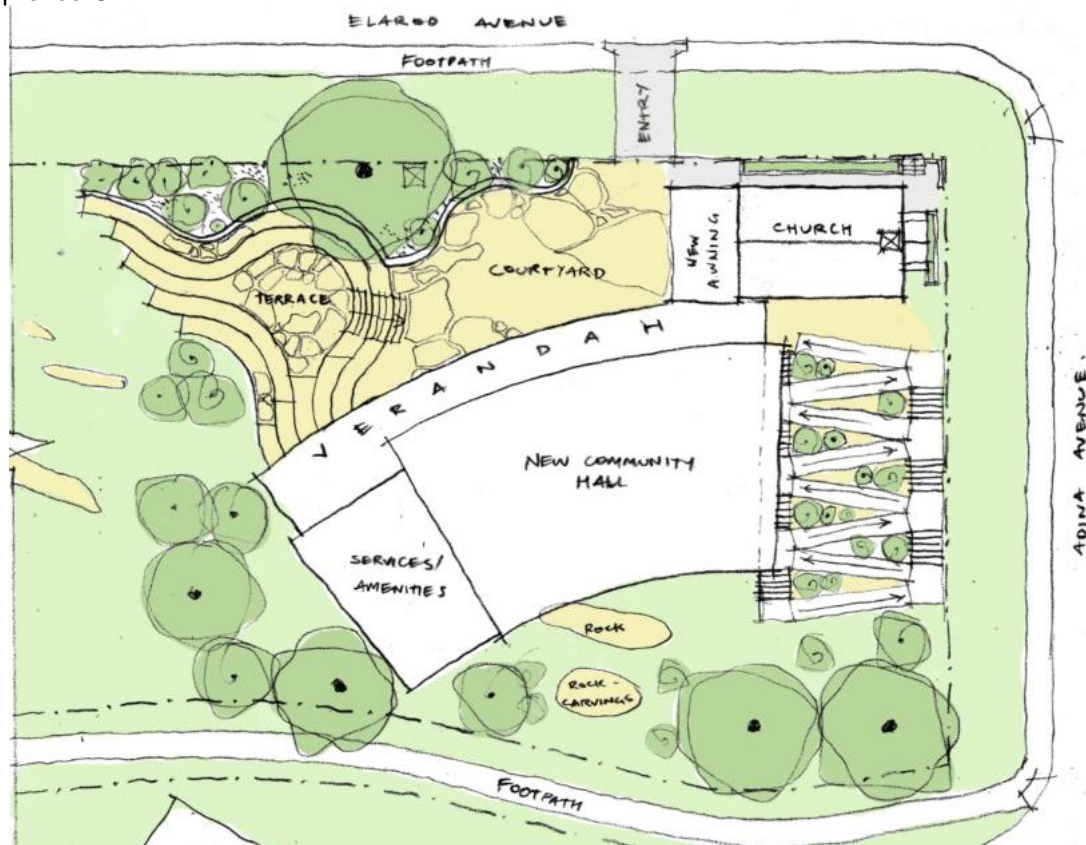


Image 1. Concept Plan for the Subject Site – Source Stage 3 Concept Plan, Design 5 Architects.

The application was notified in accordance with Council's Community Participation Plan and one (1) submission was received raising concern mainly on proposed tree planting.

The proposal was referred to Council's Design Excellence Advisory Panel who supported the proposed demolition and raised concerns on the proposed landscaping works. The applicant provided a response to those concerns which are discussed later in this report.

The proposal is recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is located at the corner of Elaroo Avenue and Adina Avenue and known as 46 Adina Avenue, La Perouse. It has a legal description of part Lot 5195 in DP 752015 and measures an approximate area of 5,900m². The site is irregular in shape and has a 160m frontage to Elaroo Avenue (northeastern boundary) and 30m frontage to Adina Avenue (southeastern boundary).

The site currently accommodates a church building, a detached manse building, paved areas and landscaped areas all of which are located within the northeastern corner of the site. The remainder of the site is vacant and has a steep slope in southwestern direction.

The surrounding improvements are predominately low density residential with free standing single and two storey dwelling houses.

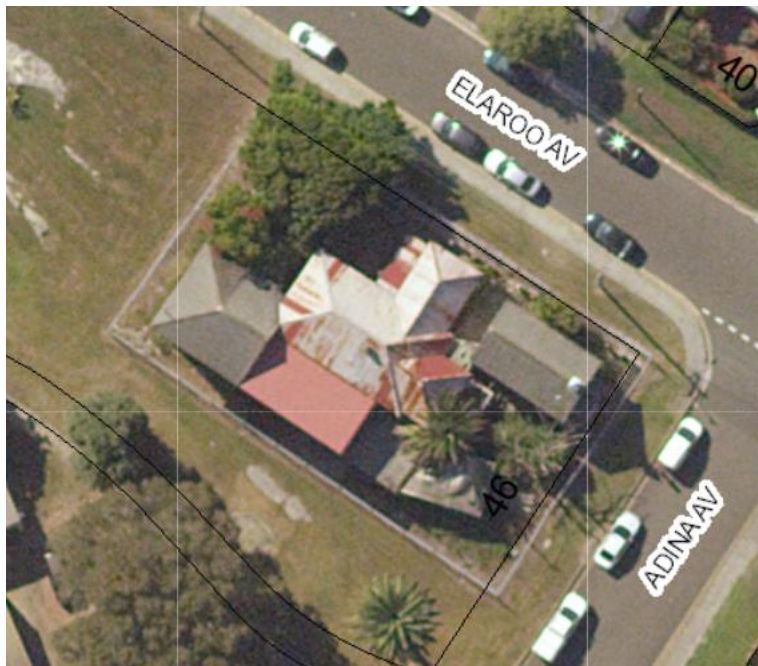


Image 2. Aerial View of Manse Building and Church Building on the Subject site.

3. Site Photo



Image 3. Subject site as seen from Adina Avenue. Building on the left hand is the Manse building proposed to be demolished and the right-hand side building is the Church building.

4. Relevant history

DA/622/2018

Integrated development for restoration works to La Perouse Mission Church, demolition of Manse garage, landscape works on southern side of church, removal of cyclone fence around church and installation of new temporary fencing was approved by Randwick Local Planning Panel on 11 April 2019. Concurrence was obtained from the NSW Office of Environment and Heritage.

Conservation Management Plan titled La Perouse Mission Church Conservation Management Plan, prepared by Design 5 Architects, July 2018 was also approved as part of this development consent.

5. Proposal

The proposal seeks development consent for demolition of the Manse building and a concrete slab at the subject site and addition of a new courtyard with amphitheater/terraced landscaped feature to be used as an ancillary area to the Church, restoration of fencing, new entry with vehicle crossing from Elaroo Ave, tree removal and associated works.

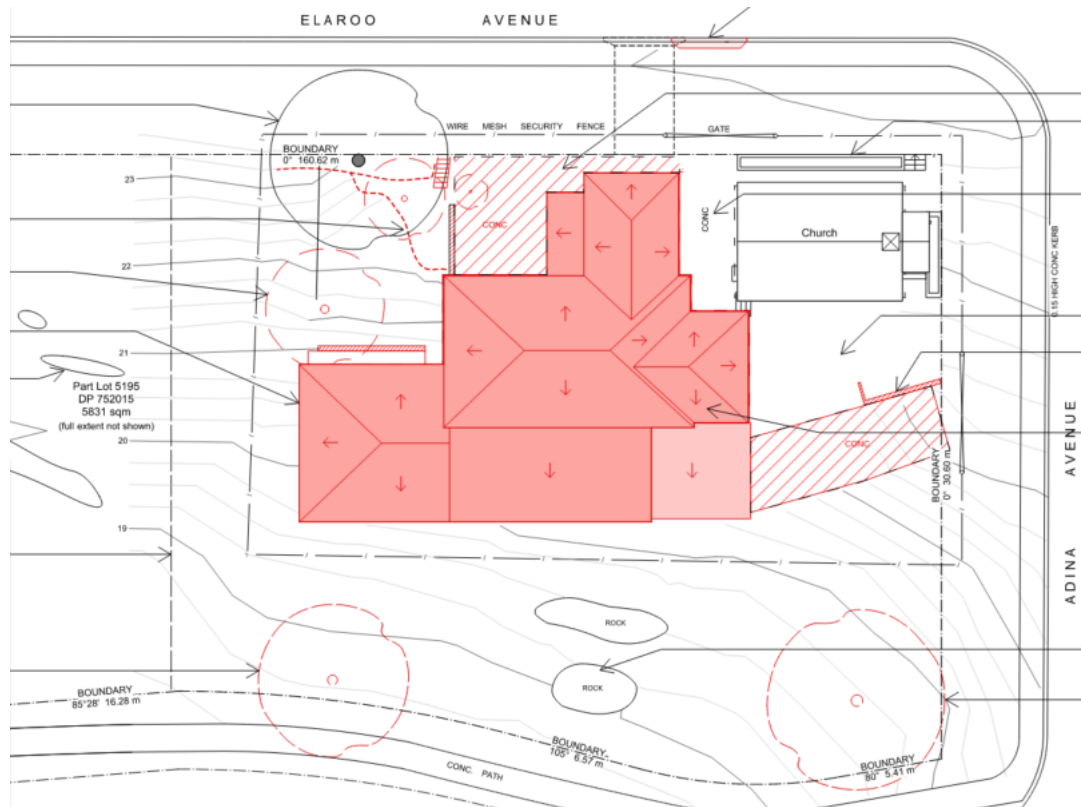


Image 4. Proposed demolition and tree removal plan. Everything coloured pink or with a pink outline is to be removed – Source Drawing No. DA01.

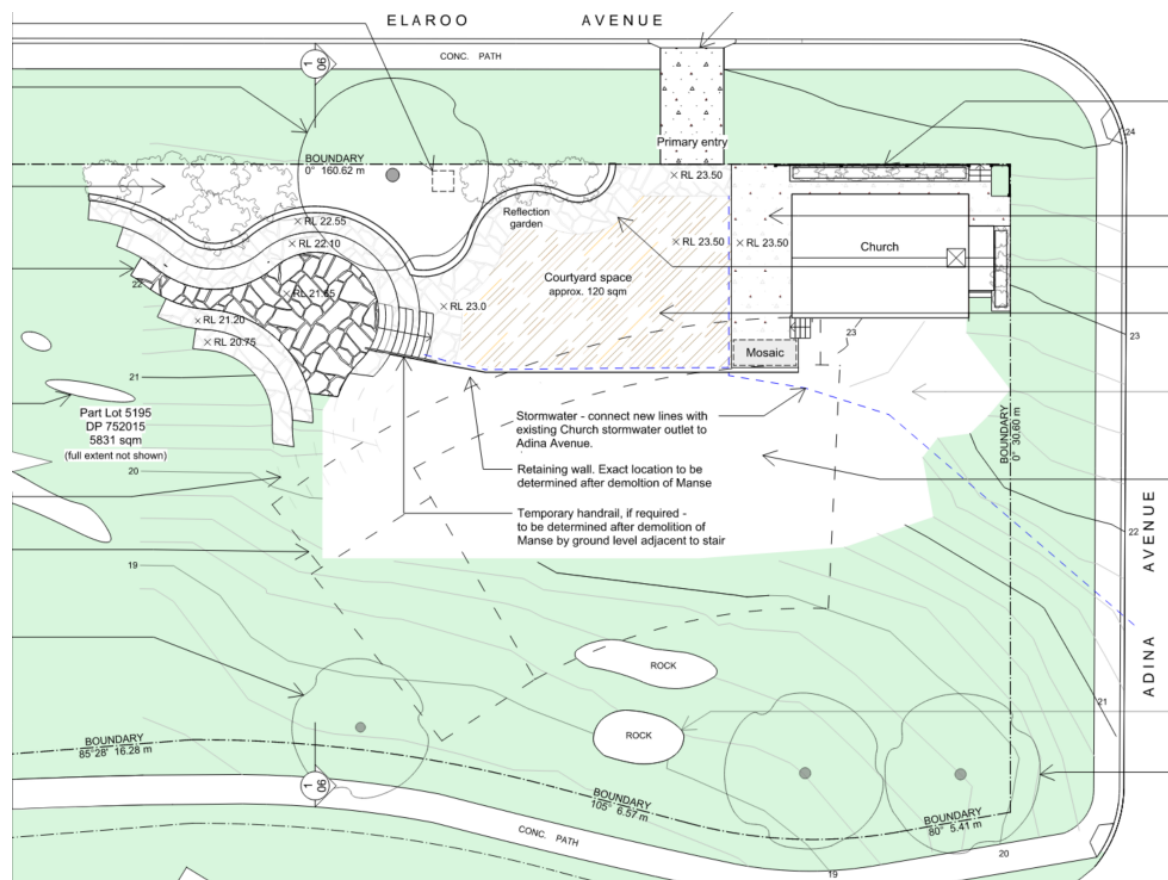


Image 5. Proposed Site Plan – Source Drawing No. DA05.

D8/22

6. Notification

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

- 40 Elaroo Avenue, La Perouse

Issue	Comment
The proposed replacement trees, that can attain a height of 15m will block water views from the first floor level.	<p>This issue was referred to Council's Landscape Technician who provided the following comments:</p> <ul style="list-style-type: none"> • <i>The survey & plans show the existing ridge at RL29.20, with the ground level at the southern boundary, where the Banksia's are intended to be planted, being RL20.13.</i> • <i>Coastal Banksias generally get to about 10-12m at maturity (over many decades), which would only see them roughly at the finished height of the existing/proposed building anyway. Even if they did get larger, (to 15m), Council is supportive of the planting of such native coastal species, especially when they are similar in scale to new development, as they would assist in minimising impacts on the streetscape, offsetting any visual impacts etc.</i> • <i>They are naturally occurring species in the area that are suitable for the coastal exposure, they directly benefit the local environment by providing food and habitat source for native fauna and are also recommended for use in our own Street Tree Masterplan.</i> • <i>Even if something smaller was planted here, there are already other groups of larger trees further to the south, such as a Canary Island Date Palms, Paperbarks, Figs etc, many of which are included in our Significant Tree Register, and will still get larger/taller with time.</i> • <i>The complainant at no.40 is about 50m uphill from the subject site, with many other dwellings and vegetation already in the line of sight between these two sites. Any water views are distant at best, and are already partially obscured by the Significant listed vegetation referred to above. I just can't see how a few of these native trees would pose a big problem for this type of thing. We should be encouraging their use given how much vegetation is lost to development across the LGA.</i>

7. Relevant Environment Planning Instruments

7.1. Heritage Act 1977

Pursuant to Section 4.46 of the Environmental Planning & Assessment Act the proposed development is a 'nominated integrated development' that would require concurrence under Section 58 of the Heritage Act 1977. The application was referred to Heritage NSW for concurrence. The concurrence along with General Terms of Approval (GTA) were granted by Heritage NSW on 21 February 2022. The GTA is included in the development consent conditions attached to this report.

7.2. SEPP 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The site is not identified in Council's records as being contaminated and no indication of any potentially contaminating activities can be derived from the historical uses on site. Therefore, the site may be considered suitable for the proposed development. In the event of any unexpected find, an appropriate condition is recommended to be imposed on any consent granted.

The applicant also submitted a 'hazardous material survey'. The submitted information together with the hazardous material survey report was reviewed by Council's Environmental Health Officer and found acceptable subject to conditions. The recommended conditions are included in the development consent conditions attached to this report.

7.3. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R3 Medium Density Residential zone 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 demolition of a dilapidated structure and landscaping works will enhance the internal and external uses associated with the existing place of public worship.

The relevant provisions of the LEP are discussed in the following section:

7.3.1. Clause 5.10 - Heritage conservation

The site accommodates La Perouse Mission Church which is a State Heritage Item (SHI No. 01893, gazetted March 2013) pursuant to the NSW Heritage Act 1977. It is also a local heritage item (Mission Church - I164) pursuant to Schedule 5 of the Randwick LEP 2012.

Pursuant to Section 4.46 of the Environmental Planning & Assessment Act the proposed development is a 'nominated integrated development' that would require concurrence under Section 58 of the Heritage Act 1977. The application was referred to Heritage NSW for concurrence. The concurrence along with General Terms of Approval (GTA) were granted by Heritage NSW on 21 February 2022 (see Appendix 1).

The applicant submitted a heritage Impact Assessment report that has been reviewed and found acceptable by Council's heritage planner subject to imposition of appropriate condition for interpretation strategy and salvage of useable materials. Those conditions are recommended to be imposed on any consent granted.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013 (RDCP)

The RDCP 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.

Part B, Section B2 provides objectives and controls for heritage listed buildings, new additions and buildings in the vicinity of heritage item or within a heritage conservation area.

The proposal is for demolition of a heritage listed building which is in a poor and unrestorable condition. This has been thoroughly reviewed by Council's internal heritage advisor as well as Heritage NSW. These experts found the proposed demolition as supportable. The proposal also includes removal of several trees within the heritage curtilage and restoration of boundary fencing. These aspects were also reviewed by heritage experts and found acceptable subject to conditions.

The application was further assessed by Council's Landscape Technician who found the proposed removal of trees and landscape treatment as acceptable with the exception of a *Phoenix canariensis* (Canary Island Date Palm). Appropriate conditions are recommended for the protection that palm tree. Council's development engineer also reviewed this application and found it acceptable for the new vehicular crossing.

The proposal does not include any significant building works that would require detailed assessment against the provisions of Section B2 of RDCP.

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 7 & 8 of this report and this report in general.
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.
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 will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site will continue to be used as a place of public worship. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submission have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

10. Conclusion

That the Integrated development application for demolition of the Manse building and a concrete slab at the La Perouse Mission Church site and addition of a new courtyard with amphitheater/

terraced landscaped feature to be used ancillary to the Church, restoration of fencing, new entry with vehicle crossing from Elaroo Ave, tree removal and associated works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that:
 - it continues to provide services to meet the day to day needs of the local community;
 - it recognizes the desirable elements of the subject site and surrounds; and
 - it protects the amenity of adjoining resident.
- The development will enhance the visual quality of the public domain/streetscape.

D8/22

Appendix 1: Referrals

1. External referral comments:

1.1. Heritage NSW

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

APPROVED DEVELOPMENT

1. Development must be in accordance with:

- a) Architectural drawings, prepared by Design 5 Architects as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: La Perouse Mission Church – Record Drawings			
001	Site Plan	4/8/20	A
002	South and West Elevation	4/8/20	A
003	North and East Elevation	4/8/20	A

- b) Architectural drawings, prepared by Design 5 Architects as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: La Perouse Mission Church – Church Restoration – Development Application: Stage 2 – Manse Demolition			
DA01	Site Plan – Demolition	19/2/21	A
DA02	Ground Floor Plan – Demolition	19/2/21	A
DA03	Elevations – Demolition	19/2/21	A
DA04	Elevations – Demolition	19/2/21	A

DA05	Site Plan – Proposed	19/2/21	A
DA06	Section – Proposed	19/2/21	A

- c) Survey drawing, prepared by Stuart De Nett Land Surveyors as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: La Perouse Mission Church			
-	Survey	28/8/18	-

- d) *La Perouse Mission Church: Development Application – Demolition of Manse, Assessment of Heritage Impact*, prepared by Design 5 Architects, dated 19 February 2021
- e) *La Perouse Mission Church: Development Application – Stage 2 – Manse Demolition and Landscape Plan – Outline Schedule of Works*, prepared by Design 5 Architects, dated 19 February 2021
- f) *La Perouse Mission Church: Development Application – Demolition of Manse – Statement of Environmental Effects*, prepared by Design 5 Architects, dated 19 February 2021
- g) *Due Diligence Aboriginal Heritage Assessment – La Perouse Mission Church*, prepared by La Perouse Local Aboriginal Land Council, undated.
- h) Letter to Heritage NSW re: *IDA La Perouse Mission Church – Stage 2 Demolition of Manse*, prepared by Design 5 Architects, dated 21 December 2021
- i) Letter to Gavin Lester re: *Existing Manse Building at 46 Adina Ave, La Perouse*, prepared by Astroc Structural Engineering, dated 20 December 2021

EXCEPT AS AMENDED by the following general terms of approval:

FUTURE BUILDING

2. The concept plan for the new community hall building is not included as part of this approval and should form part of a future application.

Reason: To ensure that any impacts on the heritage significance of the SHR item can be holistically assessed.

HERITAGE CONSULTANT

3. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

SPECIALIST TRADESPERSONS

4. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials and construction methods.

Reason: So that the construction, conservation and repair of significant fabric follows best heritage practice.

SITE PROTECTION

5. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.
6. Moveable heritage (Manse plaques) proposed for temporary removal should be labelled and stored securely on site. Details about the incorporation of these items should form part of the future application.

Reason: To ensure significant fabric including vegetation is protected during construction.

HERITAGE INTERPRETATION PLAN

7. An interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) in consultation with the nominated heritage consultant prior to the issue of the occupation certificate.
8. The interpretation plan must detail how information on the history and significance of La Perouse Mission Church will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
9. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate.

Reason: Interpretation is an important part of every proposal for works at heritage places.

PHOTOGRAPHIC ARCHIVAL RECORDING

10. A photographic archival recording of the Manse must be prepared prior to the commencement of works, during works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Heritage NSW, Department of Premier and Cabinet.

Reason: To capture the condition and appearance of the place prior to, during, and after modification of the site which impacts significant fabric.

UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS

11. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.

ABORIGINAL OBJECTS

12. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974* (as amended). Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

COMPLIANCE

13. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

SECTION 60 APPLICATION

14. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Aboriginal cultural heritage advice

Heritage NSW previously requested further information be provided to inform any Aboriginal cultural heritage constraints of the proposed development. It is noted that a Due Diligence Aboriginal Heritage Assessment, undertaken by the La Perouse Local Aboriginal Land Council, has now been provided in line with Heritage NSW's previous advice.

As Heritage NSW does not have a role in certifying or approving how an applicant addresses the due diligence process, comment on the accuracy of the assessment cannot be provided. However, it is noted that the recommendations of the due diligence assessment appear to be sound.

Council and the applicant are reminded that all Aboriginal objects are protected under the National Parks and Wildlife Act 1974 and it is an offence to harm any object without a valid defence. If harm to Aboriginal objects cannot be avoided, an Aboriginal Heritage Impact Permit (AHIP) will need to be approved by Heritage NSW before work may proceed.

If Council decides to approve the development, it is suggested the recommendations contained in Due Diligence Aboriginal Heritage Assessment be included as conditions of consent, with the following modifications.

To ensure that impacts to known Aboriginal sites are avoided and that any buried Aboriginal sites will be detected and managed appropriately the applicant must:

- 1. Maintain the temporary safety fencing around the engraving site #45-6-0873 for the duration of the site works*
- 2. Include the following unexpected finds protocol in the Construction Management Plan for the works:*

All works are to operate under the following unexpected finds protocol. In the event that any Aboriginal objects or bones suspected of being human are identified during installation, site workers must:

- a) Not further disturb or move these objects or remains.*
- b) Immediately cease all work at the location.*
- c) In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify the Heritage NSW Environment Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. If not already onsite and aware of the discovery, the La Perouse Local Aboriginal Land Council should also be notified to assist in the determination of appropriate management for the objects or remains.*
- d) Not recommence any work at the location unless authorised in writing by Heritage NSW.*

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Right of Appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

2. Internal referral comments:**2.1. Heritage planner****The Site**

The site is located on the elevated corner block site at the intersection of Adina Avenue and Elaroo Avenue. The site is occupied by a church building which has primary frontage to Adina Avenue, and a two-storey manse building which is located behind the church, to its immediate southwest. The church was originally constructed on Frenchman's Beach, however, was relocated and re-constructed in current location c.1932/33.

The La Perouse Mission Church (formerly known as the Colebrook Memorial Aboriginal Evangelical Church) is a small Victorian gothic style painted timber weatherboard church (c.1894) with a gabled roof clad in corrugated asbestos sheeting. The eastern elevation comprises a timber gable vent, and a gabled entry porch with an arched window. A timber louvered bell-cote with copper spire is located on the eastern end of the roof and photo documentation shows the arched windows with

along the site elevations comprise coloured glass panes. The windows have external painted timber covers. A gable vent and rear entrance door is also located on the western elevation.

A two-storey fibro and weatherboard Manse building (c.1934) is located immediately southwest of the church building. The building is a fibro weatherboard construction with asbestos sheeting. The 2018 CMP prepared by Design 5 Architects provides the following description of the Manse building:

'Immediately to the west and south of the church is the two-storey Manse building that was constructed c.1934. This building is clad with fibro and weatherboard and has corrugated asbestos roofing. The Manse has undergone a number of additions and alterations over time, including the infill of its original verandah and the establishment of a lower ground floor level below. The Manse building is currently vacant, and many of the windows have been boarded up. The entry porch to the Manse building retains a tiled mosaic step that is inlaid with the initials "U.A.M", and a commemorative plaque on the door to the church office (Refer to Figure 2.2.8).'

Heritage Status

The La Perouse Mission Church a State Heritage Item (SHI No. 01893, gazetted March 2013) pursuant to the NSW Heritage Act 1977. It is a local heritage item (HI.164) pursuant to Schedule 5 of the Randwick LEP 2012.

The site has historical, aesthetic, associative, social, rare and representative significance. The NSW State Heritage Register provides the following Statement of Significance for the site:

'La Perouse Mission Church is significant in the history of the Aboriginal Christian movement in NSW. It is an important antecedent to the Indigenous Christian organisation that exists today, such as Australian Indigenous Ministries.

As an early church establishment, the La Perouse Mission Church was held to be the mother church of the United Aborigines Mission, from which centre the Mission spread to all parts of Australia.

Within the Aboriginal Christian movement, the La Perouse Church demonstrates the critical and successful role of female missionaries, both Aboriginal and European, in evangelising the Aboriginal people. The church has strong associations with two significant missionary figures of its early period: one European and one Aboriginal. Retta Long, the church's first and highly successful resident missionary, was an important figure of state significance in Aboriginal missionary work who left the La Perouse Mission Church to found one of the largest missionary societies that worked exclusively for the Aboriginal people. 'Queen' Emma Timberly, an Aboriginal woman and 'matriarch' of the La Perouse community who lived on the reserve, was one of the earliest Aboriginal converts to be involved in mission work. Emma worked and travelled with Retta throughout her period as resident missionary at La Perouse. Emma's evangelical work extended beyond her missionary assistance to include leadership of the La Perouse Aboriginal Christians.

The La Perouse Aboriginal community has exceptional historic significance in the context of Aboriginal survival of European settlement. Some of the Aboriginal community of La Perouse have an unbroken connection to the land for over 7500 years. Members of the Timberly family living in La Perouse today can trace their ancestors back to pre-contact times.

Many current La Perouse residents have strong connections with the Aboriginal community at Wreck Bay on the NSW South Coast. These connections fostered the growth of the La Perouse community in the 1870s when La Perouse became an informal refuge for many from the South Coast who were forced off their lands by the spread of dairy farming.

The church demonstrates the historical significance of the Aboriginal community of La Perouse in the post-contact era as the only community in Sydney that held on to its territory in the face of repeated threats of relocation. The church, located on the Aboriginal reserve, demonstrates the robustness and resilience of the La Perouse Aboriginal community to official threats to the community's existence over time.

Additionally, the church demonstrates the capacity of the La Perouse Aboriginal community to adapt to and establish changed living conditions and relationships with Europeans from a wide variety of backgrounds and ethnicities who populated the La Perouse area during and after the Depression era. Many relationships, partnerships and families grew from the interaction of the Aboriginal and non-Aboriginal communities on the La Perouse reserve and in the Happy Valley, Frog Hollow and Hill 60 camps in the period when the La Perouse Mission Church was still active in worship.

D8/22

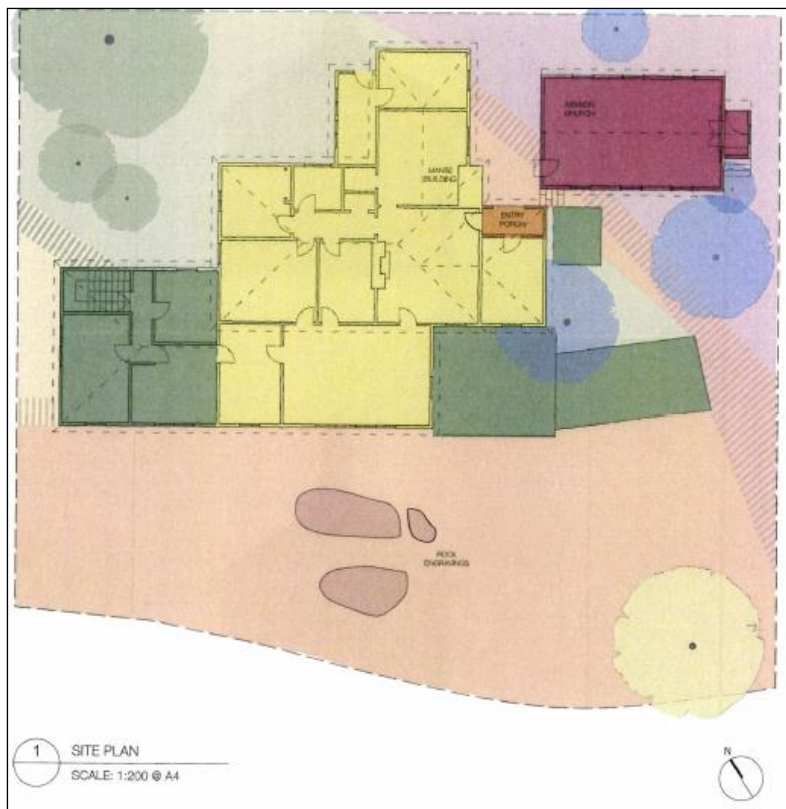
The La Perouse Mission Church has social and spiritual significance to the past, present and dispersed Aboriginal community of La Perouse. For virtually all the 20th century (and earlier) the La Perouse Mission Church was an important spiritual, cultural and social focus of the life of the Aboriginal community of the La Perouse reserve (and later the Local Aboriginal Land Council landholding). Church services and activities were willingly and well-supported by all ages of the community. They are remembered as enriching the life of the community and were seen by the community as a safe and happy environment where its children and young people would be beyond the reach of the government and safe from its policy of Aboriginal child-taking. The missionary leaders are remembered with affection by the present community.

The Aboriginal rock engravings on the site that were created in connection with the opening of the Sydney Harbour Bridge in 1932 are an important demonstration of the continued cultural practice of engraving on sandstone by Aboriginal people. In this instance the engravings also demonstrate Aboriginal engagement with European historical processes and events of state significance.

The La Perouse Mission Church may be a rare example of a surviving early timber missionary church in Sydney or NSW that is still held in high esteem by the local Aboriginal community.'

The CMP identifies that a large proportion of the Manse building has '*Moderate significance*', with a proportion of the later additions to the building identified as having '*low significance*'. Elements within the entry porch comprising a '*high*' level of significance being the mosaic tiles with the lettering UAM (United Aborigines Mission) flooring, and the 1934 memorial plaque on the exterior wall near the porch and commemorative plaque on the door to the church office.

As previously noted for the IDA in relation to Stage 1, the original church building has retained its '*Exceptional significance for its historical, social and spiritual values to the local La Perouse Aboriginal community and the broader community*'¹.



Extract of figure 3.8.1 from the CMP prepared by Design 5 Architects 2018. (Brown is 'high', yellow is 'Moderate' and green is 'low')

Background

The La Perouse LALC have envisaged a staged process of development for the site to return its position as a focal point for the local community. The staged process is to involve restoration of the

¹ Design 5 Architects, CMP, July 2018

existing Church with the development of additional spaces for overflow church events and community uses.

An Integrated DA for Stage 1 of the restoration works to the La Perouse Mission Church involving the demolition of the existing garage and conservation works to the church building was approved in April 2019. Minor additional works were approved in July 2020 as part of a Section 4.55 modifications were subsequently approved which included the removal of asbestos. A partial CC was approved in October 2020

Proposal

The current proposal forms part of Stage 2 and seeks consent for the demolition of the manse building and proposed landscaping in its place to provide a new courtyard, and outdoor overflow space for the church, connecting to a small outdoor amphitheatre space which follows on to the surrounding open space. The HIS indicates that the landscaping scheme is designed to integrate into the future development for the community centre. Specifically, the proposed works for the current DA include:

- The removal and storage/protection of the significant trees.
- Demolition of the Manse building including the concrete slab fronting Elaroo Avenue and the concrete driveway accessed via Adina Avenue.
- Demolition of the low height retaining walls.
- Removal of the 6m high Umbrella tree within the western portion of the site and unmaintained vegetation.
- Repair and extension of existing low height brick and timber paling fence to along northern boundary fronting Elaroo Avenue with new main vehicle entry formed and vehicle crossing.
- Construction of new landscaped courtyard (crushed sandstone) space for Church overflow area, west of the original church building.
- Construction of an amphitheatre/terraced landscape (sandstone blockwork) feature further west to be used for cultural gatherings within the broader landscape.

Submission

- Drawings prepared by Design 5 Architects Pty Ltd, dated February 2021
- Heritage Impact Statement (Revision A), prepared by Design 5 Architects Pty Ltd, dated 19 February 2021
- Outline Schedule of Works, prepared by Design 5 Architects, dated 19 February 2021.

Controls

As the site is listed on the State Heritage Register the Heritage Council is consent authority for the application and Council cannot issue approval until the Heritage Council has provided conditions of consent. The NSW Heritage Council will advise of any required approvals under the Heritage Act in relation to any potential archaeological material.

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

The relevant policies of the CMP dated 2018 have also been considered.

Comments

Demolition of the Manse building

As indicated, the proposal involves the demolition of the Manse building which has been identified within the CMP as having a 'moderate' level of significance. It is demonstrated that the structure retains its overall form and some integrity, however over time there has been substantial loss of fabric and deterioration. The Manse building is noted as forming a contributory element to supporting the significance of the Church site as a whole, rather than providing a contribution to its

historical significance individually. It is noted however that the mosaic floor within the entry porch is considered to be of high significance, as well as the commemorative plaques near the entrance.

The HIS also indicates that findings from community consultation carried out in 2016 regarding the Mission Church site outlined that there was a diversity of opinions regarding its future use, however 60% supported its demolition to build a new community facility, and that there was the need for new landscaping.

The removal of the manse building structure would see the removal of a contributory building within the context of the site, however its moderate grading of significance and described loss of integrity would mean the impact of its removal is likely to have a minor impact on the overall significance of the site. Its removal would also provide for an opportunity to enhance the social, cultural and aesthetic significance of the Mission Church building and its longer term viability, through enhancement of views to and from the church and providing an opportunity for the landscaped area proposed for community use and the construction of a future community facility building.

The proposal also includes the appropriate treatment of the three features identified as high significance (1934 memorial plaque, commemorative plaque and tiled mosaic) as detailed within the Outline Schedule of Conservation Works submitted with the application. It includes their careful removal and preservation from demolition. The proposal drawings show the reinstatement of the mosaic within the proposed landscaping and the HIS indicates that that the plaques will be used within the future community centre which is which is supported.

It is recommended that a Photographic Archival Recording of the Manse building, and its surrounds is prepared and submitted to Council. A condition regarding salvage of materials for re-use and conservation is also recommended, and an opportunity should be sought for future interpretation of the Manse building within the site.

Removal of trees and landscaping

The proposed removal of the concrete slabs on the northwestern portion of the site, and the removal of the concrete brick walls and low height stone retaining wall and paling fence within the western portion of the site is also supported.

Works also include the removal of several trees within the site including an Umbrella tree, mature hibiscus and 12-metre-high palm tree. The removal of these trees would allow for the architecturally designed landscape scheme across the western portion of the site as well as conserve the significant landscape elements including the significant fig tree, rock outcrops and rock carving within the wider curtilage. The removal of the trees would also enhance viewing opportunities across the site, provide space for the new landscaping and the incorporation of native species.

New landscaping and amphitheatre

Proposed new landscaping courtyard and amphitheatre has been designed to respond to the topography of the site and incorporates a large courtyard space to the rear of the church and a new terraced amphitheatre which follows the contours of the land to the west.

The new landscaping would use of sympathetic materials such as crushed sandstone for the courtyard and sandstone blockwork for the amphitheatre as well incorporate new garden beds with native species and tree plantings further within the curtilage. The plans also indicate the relaying of the highly significant mosaic tiles to the east of the courtyard. The proposed landscaping would enhance the aesthetics and usability of the site. It would increase opportunities for to enhance the church's social significance as well and increase view lines across the site and would have a positive impact on its historical significance.

Archaeology

The CMP indicates that there is high potential for uncovering archaeological evidence and deposits relating to human occupation of the site. The HIS indicates that the engaged heritage consultants will continue to be involved prior and during the demolition and construction works that the appropriate procedures and protocols are implemented upon the discovery of potential evidence. The relevant conditions are included.

2.2. Development Engineer & Landscape Technician

An application has been received for demolition of the house behind the existing Mission Church and replace it with a landscaped courtyard/amphitheatre above site.

This report is based on the following plans and documentation:

- Architectural Plans by Design 5 Architects and dated 19.02.2021;
- Statement of Environmental Effects by Design 5 Architects;
- Detail & Level Survey by Stuart De Nett Land Surveyors dated 22.08.2018.

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 power pole on the same side of the street hence the above clause **is** applicable. A suitable condition has been included in this report.

Tree Management & Landscape Comments

Along the northern boundary, fronting Elaroo Avenue, around the northwest site corner, is a mature 6m x 6m *Ficus benjamina* (Weeping Fig) of good health but fair condition due to its multiple competing leaders, whose southern aspect has been 'wind-pruned' by persistent coastal breezes, with its northern aspect also having to be repeatedly cleared away from the overhead service wires by service authorities.

While presenting an established canopy to the streetscape, as well as being protected by the DCP, this species is well known as being problematic due to a combination of its large size at maturity and aggressive root system, which is regularly responsible for causing damage to both private and public infrastructure, so is completely unsuitable in any sort of confined situation.

It is not an endemic (naturally occurring) species in this area, LGA or even any part of greater Sydney, and has not yet even reached its mature dimensions, meaning that both the size of its crown and the area required for its root system will only increase with time, along with the need for ongoing clearance pruning to modify its size and shape away from the wires.

The plans show that the existing low brick wall/fence across the northern site boundary (against its trunk) will be both repaired and extended, with the low sandstone rock walls and entire 'Manse' structure to both its south and west to be completely demolished, which are then to be replaced by a new crushed gravel courtyard and reflection garden, paths, and terraced landscape seating that steps down the natural topography to the west.

A notation on both the Site Plan – Demolition, dwg DA01 and Site Plan – Proposed, dwg DA05, states that while the intention is to retain this tree as a site feature, it also indicates if roots end up posing a problem, it will be replaced with 'suitable local shade trees if necessary'.

The shallow and restricted soil profile resulting from the presence of bedrock is inferior for this species and not conducive to its future success, with root disturbance during works being a major concern given its elevated and exposed position to strong southerly winds, with formal gathering spaces proposed directly beneath it. Future structural damage of the new walls and similar is also another consideration, and as Council does not select or endorse this species in any of our own projects or street tree plantings, it would be unethical for us to then impose a different criteria and outcome on a private property owner.

For these reasons, it is seen as an appropriate time (while the whole site is being re-landscaped), to replace this tree with more desirable local coastal species, as this will provide a stronger

association with themes that are already established in the area, as well as be more beneficial to native fauna and the cultural heritage of this site, with conditions provided on this basis.

It is also important to note that this tree is a much smaller and more recently planted specimen than the other enormous Moreton Bay Figs that are further to the west, which hold a strong connection to the local community and are referred to as 'Dreaming Trees'.

No objections are raised to removing those smaller shrubs immediately to its southwest, as well as the *Schefflera actinophylla* (Umbrella Tree) further to the south again, as it is an invasive weed that is exempt from the DCP, with their removal actively sought in all instances so as to eliminate this weed source from the local environment.

Past the existing building and proposed works, on lower ground further to the southwest again, adjacent the existing concrete pedestrian pathway, is a mature, 9-10m tall *Lagunaria patersonii* (Norfolk Island Hibiscus), which while presenting in good health and condition, is also exempt from the DCP, as after flowering, its seed pods release fine, fibreglass like hairs that are extremely irritable to both humans and animals, making them unsuitable in virtually all situations.

So while this tree is not directly affected by the works, and could actually remain in-situ at least in the short term (Stage 2 footprint will necessitate its removal anyway), it is not possible for Council to formally require this of the applicant, as it's exemption means it can already be removed at anytime, without consent, irrespective of these works, and as such, conditions allow this, with native coastal trees to be provided in its place to ensure there is no 'net loss' from the site.

To its east, in the southeast site corner is a mature, 10-12m tall *Phoenix canariensis* (Canary Island Date Palm), of good health and condition, which is protected by the DCP, but more importantly, is also noted as forming part of a group of this species that are identified in **Volume 3 of Council's Register of Significant Trees, as items 47 a-s**, due to their cultural, historic and aesthetic attributes, and are estimated to date from the Inter-War Period, c.1915-1940.

This Palm is particularly important as a landmark, highlighting the entry/exit of the La Perouse Local Aboriginal Land Council, being the most eastern and elevated specimen in this whole group.

Despite no physical works being shown in this area of the site at all, either for this application or the future Stage 2, this palm has strangely been shown for removal; however, this is strongly opposed by Council, and cannot be supported given its inclusion on the Register as detailed above, as well as the fact it can be easily retained without impacting the proposal in anyway, so is no reasonable justification for this, and as such, protection conditions have been imposed.

Objections from neighbours uphill to the east over the potential loss of water views arising from the planting of Coastal Banksias are noted; however, as their mature height will be similar to that of the existing/future structures, this does not seem warranted, especially given the presence of other existing larger trees further to the south and west, with Council supportive of the use of native coastal species in development projects. Rather than planting two new trees in the southeast corner as shown, these can simply be relocated further to the west.

It is noted that the other self-seeded Canary Island Date Palm and a dead tree in the overgrown area between the weather board Church building and garage have recently been removed from site.

2.3. Environmental Health

Proposed Development:

The current proposal is for the demolition of the Manse structure and landscaping works located at 46 Adina Avenue, La Perouse. The application is part of a three stage strategy to enable the Mission Church to be returned to community use. Works during the construction phase will include the erection of hoarding and scaffold, demolition works, deliveries, landscaping works and waste management.

Comments:

Hazardous Waste and Contamination

A hazardous materials survey assessment prepared by GHD Pty Ltd dated May 2013 was submitted with the application. The report identified high risk of asbestos, polychlorinated biphenyls and lead paint on site and provided recommendations for handling.

A clearance inspection was carried out for asbestos removal work and clearance certificate prepared by Airsafe dated 5 March 2020 (Job No: 50157) was provided with the application.

The SEE states the proposed works are zoned class 5 Acid Sulfate Soils but are not within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian height Datum. However, as a preliminary site investigation has not been carried out and submitted with the application, it is recommended that an acid sulfate soil preliminary investigation is undertaken prior to the construction certificate being issued for the works.

The risk associated with contamination and pollution has been considered and appropriate conditions have been included in this referral.

2.4. Excellence Advisory Panel

INTRODUCTION

The application is for the demolition of a secondary building at the La Perouse Mission Church. The application also includes a proposed site plan, which indicates a landscape design and the notional location of a future community centre, to be designed in a subsequent stage.

1. Context and Neighbourhood Character

The site is located within the former Aboriginal reserve established in 1895. The La Perouse Mission Church overlooks Frenchman's Bay, on an elevated corner block.

The church building (to remain) is a distinctive feature in the neighbourhood, and significant to the local community. The site falls to the south, exposing sandstone outcrops on the park area, with engravings made by members of the local community in 1931.

2. Built Form and Scale

As this application deals with site layout, with the future building indicated only in outline, there are no built form issues to consider. However, as the Mission Church, an iconic structure (and institution) is to remain, more consideration in the overall site planning needs to be given to how this structure will be framed, supported and enhanced by both the landscape design and the architecture of the future community hall.

3. Density

As above.

4. Sustainability

The site plan indicates stormwater drainage from a paved courtyard area to an existing stormwater outlet to the street. Given the location, status and sensitivity of the site, and its intended future uses, much more attention should be paid to the overall site performance, including both buildings and landscape. An integrated design incorporating comprehensive water management should be

developed as part of any site and landscape strategy. This should include water harvesting, storage and re-use across the site and landscape, for irrigation, servicing and for ceremonial use.

5. Landscape

The landscape design as indicated on the site plan is diagrammatic, and not based on a considered analysis of contextual conditions, or of the future uses of the site and the expected community centre. The proximity of the Bay and the sensitive Banksia Scrub coastal ecology, the long-term inhabitation of the Aboriginal community and the sandstone outcrops throughout the site are all major considerations to take into account. These elements and other site conditions will inform site disposition, landscape and public domain design, the resolution of the architecture and its integration within this landscape.

A detailed landscape study should be undertaken, incorporating landform, hydrology, habitat, access, spatial fabric, built form, cultural interpretations and anticipated social activations (including programmed users and surrounding neighbourhood residents).

The site plan and landscape concept design should not be undertaken without a much clearer understanding and appreciation for the nature of the future community centre, its architectonic relationship to the site, its environmental performance, and its spatial role in the events and activities of its constituent communities, human and natural.

6. Amenity

The proposed courtyard/function space faces north – in some seasons this will require some shading in order to ensure its continued comfortable use. More consideration needs to be given to achieving this with a combination of landscape elements, planting and parts of the architecture. Again, this requires a more detailed understanding of the future building. The ramp and stair indicated in the concept plan needs much more refinement and development, to integrate it into the site landscape.

7. Safety

No safety issues can be identified.

8. Housing diversity and Social Interaction

As potentially a major social and cultural space for the community in which it is set, the public domain design needs to be based on a more detailed analysis and understanding of that community, and those anticipated uses.

9. Aesthetics

The design of particular landscape elements as set out in the concept plan repeats clichéd motifs often intended to indicate Indigeneity (snaking curves, radial circles). Given the site, clients and the deep interrelated history of both, the landscape design should emerge from a process of consultation and engagement with the stakeholders, and a much deeper understanding of the Country in which the project resides.

SUMMARY AND RECOMMENDATIONS

The Panel has no issues with the removal of the secondary structure to the Church. The diagrammatic concept plan and landscape design cannot be supported, though, as it requires a much more considered and comprehensive study of the entire project in order to realise the full potentials of this site, and this project opportunity.

Planner's Comments

The applicant submitted following response to the above comments:

Sustainability

The site plan indicates stormwater drainage from a paved courtyard area to an existing stormwater outlet to the street. Given the location, status and sensitivity of the site, and its intended future uses, much more attention should be paid to the overall site performance, including both buildings and landscape. An integrated design incorporating comprehensive water management should be developed as part of any site and landscape strategy. This

should include water harvesting, storage and re-use across the site and landscape, for irrigation, servicing and for ceremonial use.

Response

This would be addressed with the new Community Centre (rainwater harvesting, storage, sun-shading etc). There will be no detrimental effects on stormwater drainage and water management after the manse is demolished and prior to the building of the Community Centre.

Landscape

The landscape design as indicated on the site plan is diagrammatic, and not based on a considered analysis of contextual conditions, or of the future uses of the site and the expected community centre. The proximity of the Bay and the sensitive Banksia Scrub coastal ecology, the long-term inhabitation of the Aboriginal community and the sandstone outcrops throughout the site are all major considerations to take into account. These elements and other site conditions will inform site disposition, landscape and public domain design, the resolution of the architecture and its integration within this landscape.

A detailed landscape study should be undertaken, incorporating landform, hydrology, habitat, access, spatial fabric, built form, cultural interpretations and anticipated social activations (including programmed users and surrounding neighbourhood residents).


The site plan and landscape concept design should not be undertaken without a much clearer understanding and appreciation for the nature of the future community centre, its architectonic relationship to the site, its environmental performance, and its spatial role in the events and activities of its constituent communities, human and natural.

Response

We intend to undertake a detailed landscape study once the building is demolished. Access to the area for community input, studies and detailed investigations of the natural landform and its relationship with the broader landscape context, particularly in the area below the Manse, can only happen once the building is removed. Currently the landscaping details are intended to be loose to allow La Perouse Local Aboriginal Land Council to resolve in more detail once the condition of the surface, location of the sandstone etc is known.

The above comments are considered to adequately address the issues raised by DEAP. The application was not considered to be referred back to DEAP for further review.

Attachment/s:

1.  RLPP Dev Consent Conditions (DA 104 2021 - 46 Adina Ave La Perouse)

Responsible officer: Sohail Faridy, Environmental Planning Officer

File Reference: DA/104/2021

D8/22

Development Consent Conditions



Folder /DA No:	DA/104/2021
Property:	46 Adina Avenue, La Perouse
Proposal:	Integrated development for demolition of the Manse building and a concrete slab at the La Perouse Mission Church site and addition of a new courtyard with amphitheatre / terraced landscaped feature to be used ancillary to the Church, restoration of fencing, new entry with vehicle crossing from Elaroo Ave, tree removal and associated works (State & Local Heritage Item).
Recommendation:	Approval

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
DA01 Rev A	Design 5 Architects	19/02/2021	04/03/2021
DA02 Rev A		19/02/2021	04/03/2021
DA03 Rev A		19/02/2021	04/03/2021
DA04 Rev A		19/02/2021	04/03/2021
DA05 Rev A		19/02/2021	04/03/2021
DA06 Rev A		19/02/2021	04/03/2021
i. Hazardous Materials Survey Assessment, prepared by GHD Pty Ltd, dated May 2013 and received by Council on 4 March 2021.			
ii. Asbestos Clearance Certificate, prepared by Airsafe OHC Pty Ltd, Job No. 50157 dated March 5, 2020 and received by Council on 4 March 2021.			
iii. Assessment of Heritage Impact, prepared by Design 5 Architects, Revision A, dated 19 February 2021 and received by Council on 4 March 2021.			
iv. Stage 2 – Outline Schedule of Works, Revision A, dated 19 February 2021 and received by Council on 4 March 2021.			
v. Heritage Council of NSW – General Terms of Approval, HMS Application ID 29, dated 21 February 2022.			

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

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

Heritage Council of NSW – General Terms of Approval

3. The development must be carried out in accordance with the general terms of approval provided by the Heritage Council of NSW dated 21 February 2022.

Heritage Conservation

4. The conservation and maintenance program outlined in the Outline Schedule of Works, prepared by Design 5 Architects Pty Ltd and dated 19 February 2021 are to be implemented in conjunction with the proposed development. An architect suitably qualified and experienced in heritage conservation shall be engaged to oversee the implementation to ensure the use of technically sound and appropriate techniques. All work shall be carried out in accordance with the principles of the Australia ICOMOS Burra Charter and to the satisfaction of the Director City Planning.
5. A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture. Two digital copies (DVD or USB) of the archival recording is to be submitted to Council for deposit in the Local History Collection of Randwick City Library and Council's own records incorporating the following:
 - i. A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs;
 - ii. Digital copies of the archival photographs in JPEG and TIFF formats.
6. A comprehensive Interpretation Strategy and Plan for the site is to be prepared including identification of Historical Themes, Audiences and Resources, and Interpretative Recommendations. Full details of the Interpretation Strategy and Plan shall be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. The recommendations of the Interpretative Strategy and Plan are to be implemented in conjunction with the proposed development.
7. A salvage plan 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. The salvage plan is required to ensure that materials including fireplaces, architraves, skirtings, windows, doors and remnant components of significant heritage fabric are carefully removed and stored, sold or donated to a heritage salvaging yard to facilitate the conservation of other buildings of a similar period.

D8/22

Aboriginal Archaeology

8. Should Aboriginal objects be found, the Department of Environment and Conservation (DEC) is to be informed (as required by the provisions of the NSW National Parks and Wildlife Act 1974). Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the National Parks and Wildlife Act may be required before works resumes.
9. Prior to the commencement of the proposed works, all contractors and relevant personnel involved are to be made aware of the existence of Aboriginal archaeological remains at the Prince Henry site by way of an induction process and of the possibility that more as yet undiscovered Aboriginal cultural material may exist there.
10. Site contractors are to be advised of their obligations under the National Parks and Wildlife Act 1974 (NSW) and notification procedures in the event that any Aboriginal cultural material is disturbed or exposed during site works.

Historical Archaeology

11. Prior to the commencement of any subsurface disturbance (excavation), all those involved are to be made aware of the potential for historical archaeological relics to survive within the area. This is to be done through a site induction, which also notifies all involved of their obligations under the Heritage Act 1977 (NSW).
12. In the event that historical archaeological remains or deposits are exposed during the works, the excavation works shall cease immediately and an evaluation of their potential extent and significance should be undertaken and the Heritage Council of NSW be notified under the requirements of the Heritage Act.

Section 7.12 Development Contributions

13. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$297,000.00 the following applicable monetary levy must be paid to Council: \$2,970.00.

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 6000** or **1300 722 542** for the indexed contribution amount prior to payment.

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Compliance Fee

14. A development compliance and enforcement fee of \$623.70 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

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

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

Security Deposits

16. 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*:

- \$1000.00 - 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.

Stormwater Drainage

17. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of any proposed stormwater drainage system are to be included in the construction certificate details for the development.

Palm Protection

18. In order to ensure retention of the mature *Phoenix canariensis* (Canary Island Date Palm) that is located in the southeast site corner, and which is included in the group of **Items 47 a-s, in Volume 3 of Council's Register of Significant Trees** in good health, the following measures are to be undertaken:

- a. **Removal of this palm as is currently shown is not supported**, with all documentation submitted for the Construction Certificate application to show its retention, along with the position and diameter of both its trunk and crown in relation to all new works.
- b. All Construction Certificate plans must show that the extent of levelling, re-grading, terracing and similar works that are proposed between the existing buildings and southeast site corner will be consistent with what is shown on the Site Plan – Proposed, dwg DA05, and must not extend any closer to this Palm.
- c. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels, which shall be located a minimum distance of **4 metres** to its east, north and west (measured off the outside edge of its trunk at ground level), matching up with the footpath to its south, in order to completely enclose/exclude this Palm 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

D8/22

- attached: "TREE PROTECTION ZONE (TPZ), 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 to comply with these requirements.
 - f. In order to prevent soil/sediment being washed over its root system, erosion control measures must be provided at ground level around the perimeter of the TPZ.
 - g. The Principal Certifier must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.

19. A preliminary acid sulphate soil investigation is to be undertaken by a suitably qualified consultant to confirm that the land is not affected by acid sulfate soils. The report is to be submitted to council prior to the issue of the construction certificate.

Should the assessment determine that the land is affected by acid sulfate soils, an acid sulfate soils management plan is to be prepared for the development prior to the commencement of excavation to outline necessary management and mitigation measures to the satisfaction of Council.

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

20. 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).
21. 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 Certifier.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

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

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

24. The following conditions must be complied with in relation to any works involving the demolition, removal, handling, storage or disposal of any hazardous materials (including asbestos):

- i. All work must be carried out in accordance with the following requirements (as applicable):
 - *Work Health and Safety Act 2011*;
 - *Work Health and Safety Regulation 2017*;
 - SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
 - Australian Standard 2601 (2001) – Demolition of Structures;
 - *Protection of the Environment Operations Act 1997*;
 - *Protection of the Environment Operations (Waste) Regulation 2014*; and
 - Randwick City Council Asbestos Policy.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.
- ii. A Demolition Work Plan must be prepared for the development in accordance with Work Health and Safety Regulation 2017, SafeWork NSW Code of Practice for the safe removal of asbestos and Australian Standard AS 2601 (2001), Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition and removal of hazardous materials
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne hazardous materials
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in any Hazardous Materials Survey
- Date the demolition and removal of asbestos will commence

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

Note it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits.

Public Utilities

25. 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.
26. 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.

NOTE: The existing overhead power feed between the mains distribution pole in Elaroo Avenue and the development site shall remain or be relocated to an underground (UGOH) connection. No Permanent Private Poles are to be installed. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out any required works to the requirements and satisfaction of Ausgrid and at no cost to Council.

Amended Landscape Treatment

27. The Site Plan – Proposed, dwg DA05, rev A, dated 19/02/21, must be amended to now include the following additional details and requirements, with this revised scheme to then be submitted to, and be approved by, the Principal Certifier, prior to the commencement of site works:
 - a. 2 x 45 litre (pot size at the time of planting) replacement evergreen native coastal trees (not palms) must be planted within the new garden bed fronting Elaroo Avenue, selecting species which will attain a minimum height of 6 metres at maturity, and are to be strategically located so as to maximise amenity and shading for future users of the facility;
 - b. The 2 x Coastal Banksia that are currently shown for the southeast site corner, must be relocated further to the west, given that the Significant Listed Date Palm in this area must be retained;
 - c. 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;

- d. A predominance of species that can withstand salt laden winds and are not reliant on high quantities of moisture and fertilizer for survival;
- e. A dense, high-quality selection and arrangement of decorative species throughout the newly created garden bed fronting Elaroo Avenue, so as to assist with presentation of the development to the streetscape.

Council's Community Nursery (9093-6250) should be contacted as to the selection and sourcing of suitable native coastal species.

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

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

Building & Demolition Work Requirements

29. Any hazardous and/or intractable wastes arising from any demolition, excavation, building and any remediation works are to be managed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority (EPA), including the provisions of:
 - Work Health and Safety Act 2011
 - Protection of the Environment Operations Act 1997 (NSW)
 - Protection of the Environment Operations (Waste) Regulation 2014
 - NSW EPA Waste Classification Guidelines 2014
 - Randwick City Council's Asbestos Policy

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

30. The applicant is to engage the services of a suitably qualified environmental consultant to respond to enquiries and complaints made by the community or Council in relation to contamination, remediation and construction site management matters.

A specific contact number is to be made available for such enquiries and complaints (including an after-hours emergency contact number) and a complaints register is to be maintained to record all such enquiries, complaints and actions taken in response to same, which is to be made available to Council officers upon request.

Excavations, Back-filling & Retaining Walls

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

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

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

Support of Adjoining Land

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

Sediment & Erosion Control

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

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

Dust Control

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

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

Dust control measures and practices may include:-

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

Temporary Site Fencing

35. Temporary site safety fencing or site hoarding must be provided 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 *Principal Certifier*.

Notes:

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

Public Safety & Site Management

36. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with to the satisfaction of Council:

- 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

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

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,

- a statement stating that “unauthorised entry to the work site is prohibited”.

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • 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 3.00pm 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

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

- prior to construction (pouring of concrete) of footings and boundary retaining structures,
- 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 *Principal Certifier*.

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

Building Encroachments

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

Tree Management

41. Approval is granted for removal of the following vegetation from within this development site, subject to implementation of the Amended Landscape Treatment, including the requirement for replacement trees:
- a. The *Ficus benjamina* (Weeping Fig) along the northern boundary, fronting Elaroo Avenue, adjacent the northwest corner of the existing Manse Building and around the northwest site corner, given its large size at maturity, invasive and aggressive root system, as well as to allow more desirable native coastal feature species to be provided in its place;
 - b. Those smaller shrubs immediately to its southwest, including the *Schefflera actinophylla* (Umbrella Tree) further to the south again, which is an invasive weed that

is exempt from the DCP, and whose removal is actively sought in all instances so as to eliminate this weed source from the local environment;

- c. Past the existing building and proposed works, on lower ground further to the southwest again, adjacent the existing pedestrian pathway, a *Lagunaria patersonii* (Norfolk Island Hibiscus), as this species is also exempt from the DCP, as the fibres released from its seed pods after flowering are highly allergenic to both humans and animals.

Road / Asset Opening Permit

42. 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.

Ausgrid Power Feed Connection

43. Should the existing overhead power feed from the Ausgrid Power Pole need to be reconnected to the site during any stage of building works it is to comply with either of the following methods:

- a) From the power pole directly to the façade of the building, similar to the existing connection, to the satisfaction of Ausgrid. **OR**
- b) Relocate the existing overhead power feed from the distribution pole in Elaroo Avenue to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements.

Note: A Private Power Pole at the front of the site is not permitted. The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

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

Fire Safety Certificates

45. Prior to issuing an interim or 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

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

Sydney Water Certification

47. 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 Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

Noise Control Requirements & Certification

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

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

49. A report or correspondence must be obtained from a qualified Acoustic Consultant if new plant and equipment is installed to the building which is located within 15m of a dwelling. The report/correspondence is required to demonstrate that noise emissions satisfy the relevant noise criteria specified in Council's conditions of consent and the NSW Environment Protection Authority (EPA) Industrial Noise Policy.

Hazardous Material

50. A report or statement shall be provided to Council which confirms that any hazardous materials (including materials containing asbestos) have been managed, removed and disposed of in accordance with relevant requirements of SafeWork NSW and conditions of development consent.

Council's Infrastructure, Vehicular Crossings, street verge

51. The applicant must meet the full cost for a Council approved contractor to:
- 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 specifications and requirements.

Note: Council vehicular crossings/driveways can only be provided where an approved off-street car space is provided within a development site.

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

53. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
- Landscaping/Replacement Tree Planting**
54. The Principal Certifier must ensure that landscaping at this site has been installed in accordance with the amended/approved plan and relevant conditions of consent, specifically referencing the requirements around replacement tree planting, prior to any Occupation Certificate, with the owners to then ensure it is maintained in a healthy and vigorous state until maturity.
55. That part of the nature-strip upon Council's footway which is damaged during works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

OPERATIONAL CONDITIONS

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

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

Environmental Amenity

56. The use and operation of the land shall not give rise to an environmental health or public nuisance.
57. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.

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 Certifier* for the development,
 - Council and the Principal Certifier have been given at least 2 days notice (in writing) prior to commencing any works.
- A3 Council can issue your *Construction Certificate* and be your *Principal Certifier* for the development, to undertake inspections and ensure compliance with the development consent and relevant building regulations. For further details contact Council on 9093 6944.
- A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), 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).

D8/22

- 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 The necessary development consent and a construction certificate or a complying development certificate (as applicable) must be obtained for any proposed *cooling towers* and external plant and equipment, if not included in this consent.
- A12 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
- A13 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au 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. D9/22

Subject: 9 Lucas Avenue Malabar (DA/247/2020/A)

Proposal:	S4.55(2) application to modify the approved development including ground and first floor extension, internal reconfiguration, new windows and associated works. Original consent: Demolition of the existing structures, removal of trees and construction of a two storey attached dual occupancy.
Ward:	South Ward
Applicant:	Mr M Zhang
Owner:	Mr A Azadi & Ms M Saadet
Cost of works:	\$1,169,607.00
Reason for referral:	The GFA breach arising from the proposal is 31.1% leading to an FSR of 0.62:1 instead of the approved 0.5:1.

Recommendation

That the RLPP, as the consent authority, refuse the application made under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. DA/247/2020/A for S4.55(2) Modification application to modify the approved development including ground and first floor extension, internal reconfiguration, new windows and associated works. Original consent: Demolition of the existing structures, removal of trees and construction of a two storey attached dual occupancy, at No. 9 Lucas Avenue, Malabar, for the following reasons:

1. The proposal is inconsistent with the objectives of the R2 Low Density Residential zone in that the proposal does not protect the amenity of the residents and does not recognise the desirable elements of the existing streetscape and built form.
2. The proposal is inconsistent with the objectives of Clause 4.4 of Randwick Local Environmental Plan 2012, in that the size and scale of the development is not compatible with the desired future character of the locality. The application seeks a large exceedance of the FSR control of 25.5% leading to an FSR of 0.63:1 instead of the approved 0.5:1.
3. The proposal is inconsistent with the objectives of Clause 4.4 of Randwick Local Environmental Plan 2012, in that the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk.
4. Section 4.55(3) of the Environmental Planning and Assessment Act 1979 requires consideration of the reasons given for the grant of consent. It is concluded that consent for the voids was granted for the specific purpose of improving the amenity to the living areas. The modification proposes to remove the very amenity which underpinned the original consent for the voids and is therefore not supportable.

D9/22



1. Reason for referral

This application is referred to the Randwick Local Planning Panel (RLPP) because:

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

2. Site Description and Locality

The site is located in an area that was developed and originally subdivided in the post war era. As a consequence, the housing stock is newer, but has already substantially been redeveloped with many lots being further subdivided. The immediately surrounding area contains such housing.

To the north of the site at Nos 7 and 7A Lucas Avenue is a contemporary two-storey semi-detached development. In the rear of 7a Lucas Avenue which adjoins the site is a large garage and an awning. Adjoining the site to the south at No 11 Lucas Avenue is a single storey dwelling house. Adjoining the site to the east is a single storey brick dwelling house at No 8 Nix Avenue, and two dwelling houses at Nos 10A and 10B Nix Avenue with one having a being a battle axe access from Nix Avenue.

Opposite the site at Nos 20 and 22 Lucas Avenue are two modern two-storey dwelling houses.

Apart from low and medium density housing, the broader area contains a number of schools in the greater vicinity, the Long Bay Correctional Complex, and facilities including shops, and recreational facilities such as the golf courses, the coastal walk and national park on the Malabar Headland.

The site itself is an irregular shaped lot of 733.5m² in area, situated on the eastern side of Lucas Avenue. Currently on site is a single storey dwelling house, which is approved to be demolished under DA/247/2020, to enable the construction of a two storey dual occupancy (attached) dwellings.

3. Details of Current Approval

The original development application was determined by Council under delegation on the 10 February 2021.

The approved development is for demolition of the existing structures, removal of trees and construction of a two storey attached dual occupancy. The approval includes condition 2(a) as follows:

- a) *To ensure that the amenity of the dwellings are maintained, the void areas within the dwellings shall not be converted into gross floor area.*

4. Proposal

The application seeks alterations to the original proposal by filling in the voids which were approved in the building, filling in the undercroft at ground level adjacent to the garages, internal reconfiguration, expansion of the front and rear into the first floor balconies, new windows and a spa in the rear yard of each dwelling.

On 21 December 2021 a request for further information was issued by the assessing town planners with respect to the plans originally lodged with the application. The request sought deletion of parts of the proposal which added additional floor space at the ground floor front of the dwellings, and increased details on the plans including dimensions.

Revised plans were provided on 4 February 2022 which sought to address some of the issues identified in the request for further information. The rear balcony on the first floor was reduced in width by 1 metre from the approved width to reduce the bulk. The parapet level was also reduced by 200mm for the same reason. A revised BASIX certificate was provided on 15 February 2022. Those amended plans are now the proposed modification.

The amended modification application proposes to amend the consent to DA/247/2020 for 9 Lucas Avenue, Malabar by seeking the following modifications:

Ground Level

- Extension of the ground floor level adjacent to the garage to provide a new office /playroom, bathroom and laundry to both dwellings
- Extension of the ground floor level living area for both dwellings
- Internal reconfiguration to both dwellings within the approved building footprint
- Extension of the rear deck, addition of spa to the rear and landscaping works to both dwellings.

First Level

- Internal reconfiguration to both dwellings
- Extension of the front, south-western elevation and the rear, north-eastern elevation by increasing the floor area into the approved balconies
- Reduction in the depth of the rear balcony by one metre
- New main bathroom, walk-in-robe and study in the area of the previously approved void in Dwelling 1
- New bedroom within the area of the previously approved void in Dwelling 2
- Revised windows and openings for both dwellings
- New skylights above the stairs and the retained stairwell voids.

As a result of the proposed modifications, the application also seeks the following changes to the conditions of consent:

Condition 1: Approved Plans and Supporting Documentation

- It is sought to amend this condition to reflect the new plans.

Condition 2(a): Amendment of Plans and Documentation

- This condition currently states:
“To ensure that the amenity of the dwellings are maintained, the void areas within the dwellings shall not be converted into gross floor area.”
- It is now proposed to fill in the voids with floor space and the applicants state that this is needed due to change of circumstances.
- This condition is sought to be deleted.

5. Section 4.55 Assessment

(a) Section 4.55(2)

Under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:-

1. it is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
2. it has consulted with any relevant public authorities or approval bodies, and
3. it has notified the application & considered any submissions made concerning the proposed modification

An assessment against the above criteria is provided below:

1. *Substantially the Same Development*

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development.

2. *Consultation with Other Approval Bodies or Public Authorities:*

The development is not integrated development or development where the concurrence of another public authority is required.

3. *Notification and Consideration of Submissions:*

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

(b) Section 4.55(3)

Section 4.55(3) of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, states as follows:

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The last sentence of section 4.55(3) requires the Consent Authority to take into consideration the reasons given by the consent authority for the original grant of consent. Consideration of this matter is set out in Key Issues (amenity) below. Having taken into consideration the reasons given for the grant of consent, it is concluded that consent for the voids was granted for the specific purpose of improving the amenity to the living areas. The modification proposes to remove the very amenity which underpinned the original consent for the voids and is therefore not supportable.

6. Key Issues

Key issues considered in the assessment relate to the apparent over development of the site as against the current planning requirements, most particularly the increase in the FSR and the impact on the amenity of the dwellings.

(a) FSR Exceedance

The originally lodged modification plans provided for an increase in the GFA from the approved 366m² (and FSR of 0.5:1) to a proposed GFA of 482m² of a GFA of 0.66:1. This is an exceedance of 115.25m² or a 31.4% exceedance to the control. The site area is 733.5m² and the LEP control is an FSR of 0.5:1 (allowing for a GFA of 366.75m²).

The amended modification plans which are now the subject of the application, do not set out clearly the actual GFA proposed. From the original modification plans there is a reduction:

- at the front of the dwellings at ground level of an area of about 2m x 4.2m in each dwelling (a total of 16.8m²); and
- to the laundry area for Dwelling 1 by about 1.2 x 4.8m² (5.7m²).

The total reduction from the original modification proposal is about 22.5m². The currently proposed GFA is therefore approximately 459.5m². This provides for an FSR of approximately 0.63:1. There is an exceedance of approximately 92.75m² or an exceedance of the FSR control by approximately 25.3%.

The amended modification plans generally indicate that the proposal will have an increased GFA of 983.5m² over the approved plans – increasing the GFA by 25.5%.

The increase in the GFA at the ground level is inconsistent with the objective of the R2 Low Density Residential zone in that the proposal does not recognize the desirable elements of the existing streetscape.

It is considered that the exceedance of the FSR control is inconsistent with the objective in clause 4.4(1)(a) of RLEP 2012, being "*to ensure that the size and scale of development is compatible with the desired future character of the locality*". The level of exceedance at 25.3% is excessive. The site is in the R2 Low Density Residential zone and approved exceedances of this extent is extremely unusual in that zone because of the difficulty in attaining compatibility with the size and scale of the desired future character. Nothing in Council's planning documents would support an envisaged exceedance of controls by this level.

The proposal is also inconsistent with objective 4.4(1)(d) of RLEP 2012 being "*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 amended plans include a side wall and front screening in the undercroft areas of both dwellings which add to bulk as perceived by the neighbours and from the street. The infill of the undercroft areas (even in their somewhat reduced form in the amended modification plans), will still add to visual bulk of the building when viewed from the streetscape. That bulk arises because of the exceedance of the FSR control.

(b) Amenity

The external envelope was approved under DA/247/2020 notwithstanding Council's reservations about the possible future filling in of the voids which contribute to the bulk of the proposal, and the visible waste of space.

The assessment report for the original application included the following as the only key issue discussed:

Key Issues and areas of non-compliance

Randwick LEP 2012

Clause 4.4 - Floor Space Ratio

D9/22

Whilst the proposed development complies with the FSR control, Council has concerns that the void areas which are meant to provide better amenity to the dwellings will be converted into floor area in the future. The applicant justified that the void area is necessary for the following reasons:

- *Our plan is to make the level 1 bedroom wall an internal feature wall matching it with the stairs material which will go all the way to the roof. This will create a very pleasant and light living area.*
- *By reducing the roof height for the void areas not only we exposed to additional cost due to different roof levels but more importantly it will completely change our plan for living/dining area with internal feature wall as well as the lighting.*
- *I know your concern was around Section 4.55 modification but I can assure you we have no intention to extend our floor or using such a section.*

It is agreed that the void areas would provide increased amenity and for this reason a condition is included within the consent to ensure the void areas are maintained and are not converted into floor area in the future.

Based on the provision of voids creating better amenity for the dwellings, approval was granted and a condition of consent (condition 2(a)) stipulated that the void areas within the dwellings shall not be converted into gross floor area. The applicants had warranted that this would not happen, yet the modification application seeks to do just that. The modification application also seeks to further expand the floor space into the undercroft areas at ground level and into the balconies at first floor level.

Condition 2(a) was designed to preserve the very amenity of the dwellings which was put forward by the applicant as justification to approve the voids in the original application. In granting consent, Council clearly considered the spatial amenity provided by the voids, including the increased ceiling height, and the increased light to the living areas, all of which could be beneficial for amenity for the residents. It was the improvement in amenity which was clearly the basis upon which Council was prepared to approve the voids in the original application.

The Statement of Environmental Effects now states that that amenity will be enhanced by removing those voids to provide additional floor space and improve the internal layout. The applicant now seeks to delete the very reason for which consent was granted for the voids in the original consent.

The Statement of Environmental Effects in the modification application relies on the 'Newbury Principles' and states that the condition (2(a)) is unreasonable and does not serve a planning purpose beyond numerical compliance while it inhibits the orderly and economic use of the proposed development.

It is considered that Condition 2(a) which specifically identifies amenity as the reason for protection of the voids, is clearly a planning purpose. Given that amenity was both the justification for the voids by the applicant, and a reason for approval by Council of those voids, it is a reasonable condition as it seeks to preserve the amenity which underpinned the original consent. It is noted that the Applicant has not lodged legal proceedings stating that condition 2(a) breaches the Newbury principles.

The objectives of the R2 Low Density Residential zone include to protect the amenity of residents. The proposal to remove the voids which were originally approved for the very purpose of providing improved amenity to the living areas of the dwellings is inconsistent with the attainment of the objective of protecting the amenity of residents.

7. Referral comments

No referrals were sought.

8. Section 4.15 Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.</p> <p>Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>The applicant has submitted a new BASIX certificate. The plans have been checked with regard to this new certificate and they are consistent with the requirements indicated for DA stage. Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>Randwick Local Environmental Plan 2012</p> <p>The proposal now exceeds the FSR control under the LEP by approximately 25.5% . No clause 4.6 request is required for a modification application. The proposal is inconsistent with the objectives of the R2 zone and Clause 4.4.</p>
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The development remains mostly compliant with the objectives and controls of the Randwick Comprehensive DCP 2013, however is inconsistent with the FSR control in the Building Envelope controls.
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 proposed modifications will have an adverse impact on the built environment. The proposal is inconsistent with the residential character of the locality.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development, however is not considered to meet the relevant objectives and performance requirements in the RDCP 2013 and RLEP 2012. The proposed modifications will</p>

D9/22

D9/22

Section 4.15 'Matters for Consideration'	Comments
	adversely affect the character or amenity of the locality and the amenity of the residents.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received in relation to this modification application in the course of the notification period.
Section 4.15(1)(e) – The public interest	The proposal to modify the original consent will result in adverse environmental impacts on the locality and the deletion of the amenity features which underpinned the original consent. Accordingly, the proposal is considered not to be in the public interest.

9. Conclusion

The proposed modifications are not supported for the following reasons:

1. The proposal is inconsistent with the objectives of the R2 Low Density Residential zone in that the proposal does not protect the amenity of the residents and does not recognise the desirable elements of the existing streetscape and built form.
2. The proposal is inconsistent with the objectives of Clause 4.4 of Randwick Local Environmental Plan 2012, in that the size and scale of the development is not compatible with the desired future character of the locality. The application seeks a large exceedance of the FSR control of 25.5% leading to an FSR of 0.63:1 instead of the approved 0.5:1.
3. The proposal is inconsistent with the objectives of Clause 4.4 of Randwick Local Environmental Plan 2012, in that the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk.
4. Section 4.55(3) of the Environmental Planning and Assessment Act 1979 requires consideration of the reasons given for the grant of consent. It is concluded that consent for the voids was granted for the specific purpose of improving the amenity to the living areas. The modification proposes to remove the very amenity which underpinned the original consent for the voids and is therefore not supportable.

Attachment/s:

Nil

<MainSection>

Responsible officer: Urban Perspectives, Town Planners (Ros Read)

File Reference: DA/247/2020/A

Development Application Report No. D10/22


Subject: 1 Dick Street Randwick (DA/279/2021)

Proposal:	Enclosure of a portion of existing verandah and lower ground level undercroft space to accommodate a bedroom and plant room, minor internal works, new landscape works including reshaping the swimming pool and a new glasshouse (Heritage item).
Ward:	North Ward
Applicant:	Adele McNab Architects Pty Ltd
Owner:	Mr S Lister and Mrs A K Lister
Cost of works:	\$150,000
Reason for referral:	Demolition works to a heritage item

Recommendation

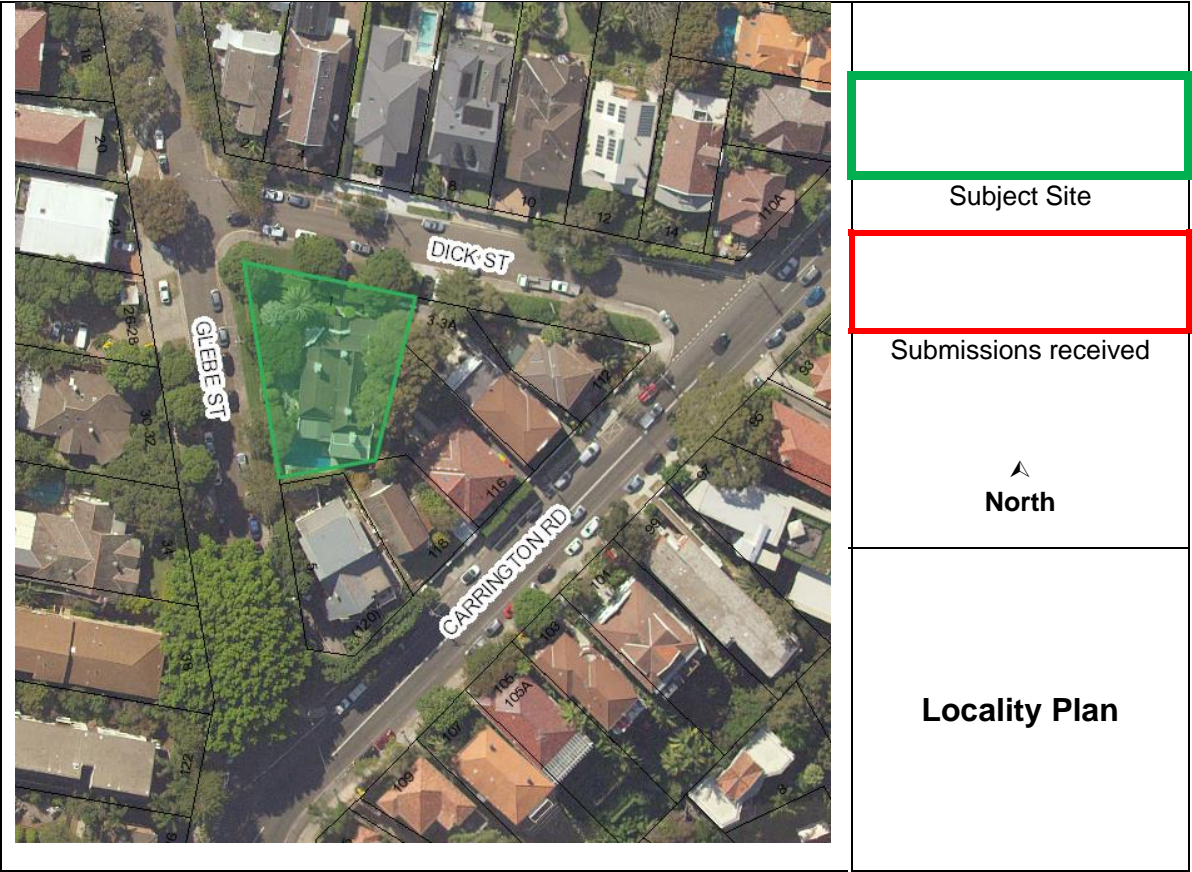
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/279/20201 for the enclosure of a portion of existing verandah and lower ground level undercroft space to accommodate a bedroom and plant room, minor internal works, new landscape works including reshaping the swimming pool and a new glasshouse, at No. 1 Dick Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  RLPP Dev Consent Conditions (dwellings dual occ) - DA/279/2021 - 1 Dick Street, RANDWICK NSW 2031 - Development - Adele McNab Architects Pty Ltd

D10/22

D10/22



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves demolition works to a heritage item.

The proposal seeks development consent for the enclosure of a portion of existing verandah and lower ground level undercroft space to accommodate a bedroom and plant room, minor internal works, new landscape works including reshaping the swimming pool and a new glasshouse.

The key issues associated with the proposal relate to the proposed enclosure of the existing verandah and the heritage impact of the proposed alterations and additions. Council's external Heritage Officer has confirmed that the proposal is satisfactory and as such, the application is recommended for approval.

2. Site Description and Locality

The site is occupied by a single storey rendered brick dwelling with a tiled roof. The site is identified as an item of local heritage significance under the RLEP 2012. A rendered style garage with a tiled roof is located at the northeastern corner of the site and is accessed from Dick Street. The site has extensive landscaped areas surrounding the building, comprising a mix of trees and smaller shrubs, lawn and paved areas.

The site is an irregular shaped parcel of land, with a northern frontage to Dick Street of 34.365 metres, an eastern boundary of 33.155 metres, a southern boundary of 19.20 metres, and a western frontage to Glebe Street of 42.90 metres, providing a total site area of 980.1m2. The site has a west to east fall of 3.78m along the Dick Street frontage (RL 69.88 AHD to RL 66.10 AHD) and a north to south fall of 4.94 metres (RL 69.88 AHD to RL 64.94 AHD) along the Glebe Street frontage. The site also has a west to east fall of approximately 1.92 metres through the centre of the site (RL 67.32 AHD to RL 65.40 AHD).



Figure 1 – Existing verandah

3. Relevant history

Nil.

4. Proposal

During the course of the assessment of the application, amendments were made to the proposed development which involved the reduction to the verandah enclosure, and the replacement of the timber framed verandah windows with frameless glass bifold doors as requested by Council's external Heritage Officer. Refer to **Figure 2** below.

The proposal seeks development consent for the enclosure of a portion of existing verandah and lower ground level undercroft space to accommodate a bedroom and plant room; minor internal works, new landscape works including reshaping the swimming pool and a new glasshouse.

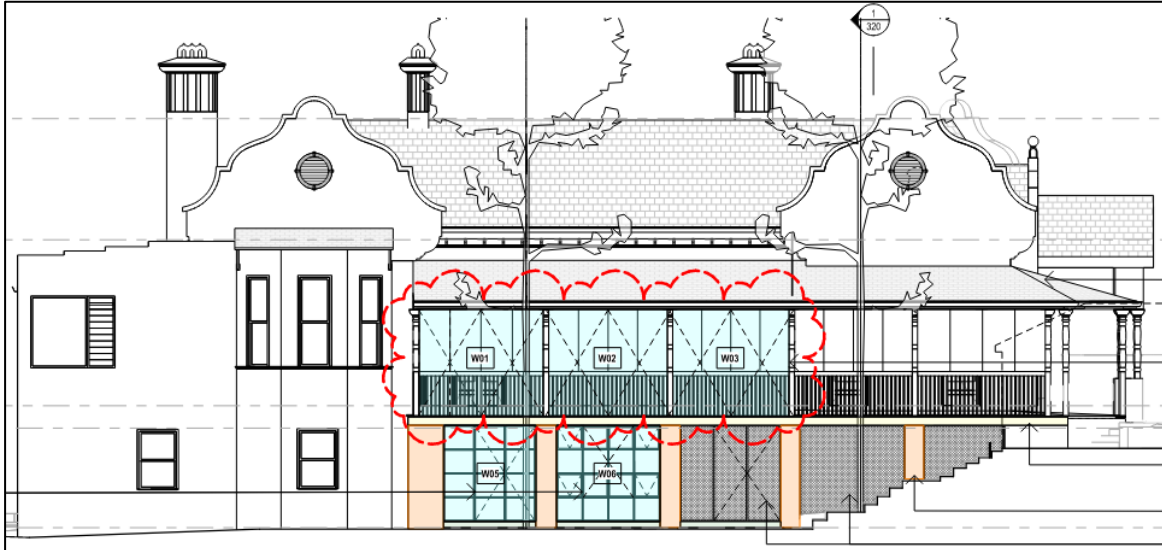


Figure 2 – Eastern Side Elevation

5. Notification

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

The amended plans noted in Section 4 were renotified to the neighbouring properties in accordance with the Randwick Community Participation Plan. No additional submissions were received.

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

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

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent. The Vegetation SEPP applies to clearing of:

- a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
- b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*

The objectives of the SEPP aim to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and

other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Randwick City Council and the R3 Medium Density Residential zone.

The applicant submitted an Arborist report, prepared by Martin Peacock Tree Care, dated 6 May 2021. Council's Landscape Officer has confirmed the proposed development is satisfactory and provided the comments in Appendix 1.

6.3. SEPP 55 – Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. Accordingly, nothing restricts Council, under SEPP 55, from consenting to the carrying out of the development.

6.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 Low Density Residential and is also listed as a heritage item (No. I352) under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.6:1	0.37:1	Yes
CI 4.3: Building height (max)	9.5m	4.71m	Yes

6.4.1. Clause 5.10 - Heritage conservation

Clause 5.10 of the RLEP 2012 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.

The proposed application was referred to Council's external Heritage Officer for review as the subject site is identified as an item of local heritage significance. Refer to the comments within Appendix 1. The proposal is considered satisfactory.

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**.

D10/22

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.
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 .
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9. Conclusion

That the application to enclosure of an existing verandah and lower ground level undercroft space to accommodate a bedroom and plant room; minor internal works, new landscape works including reshaping the swimming pool and a new glasshouse be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone.
- 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 maintains the visual quality of the public domain/streetscape.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Council's external heritage planner

Heritage Referral Response

From:	Liz Gorman
Date:	27 January 2022
DA number:	DA/279/2021
Address:	1 Dick Street Randwick NSW 2031
Description:	<i>Addition of frameless glazed bi-fold doors to part of existing verandah, enclosure of the lower ground level verandah undercroft space to accommodate a bedroom & plant room. Minor internal works. New landscape works including reshaping pool & a new glasshouse. (Heritage Item)</i>

Documentation used in this assessment

Randwick LEP 2012

Randwick DCP 2013

Documentation available in the Randwick DA Tracker submitted for DA/279/2021

Heritage NSW: State Heritage Inventory for 1 Dick Street Randwick

Six Maps

realestate.com.au: 1 Dick Street Randwick (2011)

NSW Land Registry Services

City of Sydney Archives – Sands Directory

Trove

The site is locally-listed heritage item I352 'Federation Residence'. It is not located in a Heritage Conservation Area, nor in the immediate vicinity of other heritage items. The State Heritage Inventory contains the following information for the property:

Statement of significance

An unusual turn-of-the-century style featuring extensive timber decoration. Let down by some inauthentic reconstruction but still of streetscape value.

Physical description

Outstanding Federation house. Probably about 1895. Currently being reconstructed. Reconstruction is sympathetic but not authentic. Imitation slate concrete roof tiles. A noteworthy building nevertheless. Unusual turned timber posts and spindles. A large house with a complex plan and roof arrangement. Gables running at different angles with hipped verandah roof. Flemish style gable parapets with feature, rounded bay window on corner. Excellent decorative timberwork over front entry. Original style picket fence reinforces dominance of timberwork, containing streetscape appeal. Good moulded chimneys.

The land parcel was Crown Land until its sale by auction in January 1897.¹ The first private owner, Stephen B. Burge, is recorded as residing at 'Nevola' on the western side of Carrington Road Randwick in the 1900 Sands Directory (relating to 1899).² After its subdivision and sale in the mid-1920s, the house was used as the "Neeola" Private Rest Hospital in the 1930s; prized for its 'clear health-restoring air...glorious panoramic ocean view, high position, spacious sun-filled lawns...'³

¹ NSWLRS: CT Vol.1269 Fol.76

² City of Sydney Archives: Sands Directory, 1900 Part 5 - Suburban Directory - North Botany to Redfern (01/01/1900 - 31/12/1900), [A-01137277].

³ The bulletin, Vol.54 No 2774 (12 April 1933)

Background

This is the second and final assessment of the proposal for alterations and additions under DA/279/2021.

The original assessment contained works that would adversely impact the heritage significance of the dwelling; the applicant was encouraged to amend the plans accordingly. The original September 2021 assessment and advice is appended.

Since then, the applicant has;

1. Provided advice from a structural engineer as to the structural adequacy of the dwelling's verandah
2. Hosted a site visit for Council to inspect the affected areas
3. Provided an amended proposal; and
4. Adopted recommendations to further mitigate adverse heritage impact

The final proposal (January 2022) includes:

Basement	Ground	Landscape
<ul style="list-style-type: none"> • Sandstone cladding to eastern verandah support columns. • Enclosure of part of undercroft of the northern porch into a guest bedroom & plant/storage room. • Remove brick floor. Replace with concrete slab. • New steel framed doors and windows to exterior. 	<ul style="list-style-type: none"> • Install of E-W running stackable frameless glazed bi-fold doors to part of the E verandah: <ul style="list-style-type: none"> • Installed inside of existing timber verandah support posts and balustrade; • N-S glazed bi-fold return • New timber flooring and frame to verandah per engineer's specs 	<ul style="list-style-type: none"> • Removal and replacement of 7 trees. • Removal of existing inground pool. Replace with an oval shaped inground pool. • Install glass house. • Install outdoor fireplace. • New landscaping across the site.

Assessment

1. The retractable frameless glazed bi-fold doors are considered a reversible solution to creating a sheltered outdoor sitting area – as opposed to rigidly enclosing the verandah in a permanent fashion.

The N-S return is made up of a bank of doors that will stack behind the alcove provided by the existing form of the house. This ensures that the glazed doors will not be able to be seen when the house is viewed front-on.

The siting of the doors inside the line of the turned timber posts and balustrading means that there is now no impact on detailing that contributes to the aesthetic significance of the property.

2. The remaining issues raised in the September 2021 assessment have been addressed through additional documentation, inspection at the site visit, and appropriate amendment of the proposed plans.

Recommendation

I am satisfied that the January 2022 proposal has adequately addressed all heritage concerns raised and should be considered for approval by Council.

Liz Gorman BA, MA, M.ICOMOS
Heritage Consultant
Sue Rosen Associates

1.2. Development Engineer

Undergrounding of power lines to site

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

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

It is noted that the proposed works are located towards the rear and there are no alterations or additions proposed at the front of the dwelling where the existing electricity supply connects. It is therefore considered a nexus cannot be established between the council resolution and the proposed works and subsequently the condition has not been recommended in this instance.

1.3. Landscaping Technician

Tree Management Comments

The SEE confirms that this property is identified as a Heritage Item with local significance, with the submitted Arborist Report assessing a total of 13 trees for this application, and while two groups (9 specimens in total) are proposed for removal, these are small, insignificance specimens, with 10 replacements to be installed as part of the landscape works and improvements.

Despite the survey showing two street trees (Willow Myrtles) on the Glebe Street verge, around the southern site boundary, these no longer exist, having been removed by Council as part of routine maintenance activities, irrespective of this proposal.

While the two mature Jacaranda's (Tree's A & B) on the Dick Street verge, on either side of the existing pedestrian access path and gate would not be directly affected given an absence of any external works here, protection measures have still been imposed so as to avoid secondary impacts, and if minimal clearance pruning is needed, so as to facilitate access, deliveries or similar, conditions require that it can only be performed by Council, wholly at the applicant's cost.

Within the site, in and around the northwest corner, is a group comprising a mature and prominent 14m tall *Phoenix canariensis* (Canary Island Date Palm, T1), a smaller 7m tall *Phoenix dactylifera* (Date Palm, T2), then two similarly sized *Jacaranda mimosifolia* (Jacaranda's, T3 & T5) and an even smaller *Frangipani* (T4), with only T4-5 to have their TPZ's encroached by the proposed paving, new free-standing glass house, and re-configured steps/stairs.

However, providing that the tree sensitive construction techniques recommended in the Arborist Report are adhered to during works, including the requirement for new surfacing and structures to be installed at or above current levels, as well as retaining the existing sub-surface layers in-situ as a form of ground protection, which the plans comply with as the glass house level just north of T5 will be provided 220mm higher (68.14 – RL68.36), any impacts should be minimised, particularly as these works comprise an upgrade of existing features in the same areas, with relevant protection conditions included.

It is also noted that the existing stone retaining wall between T5 & T3 will be demolished and then re-constructed further to the north, requiring excavations and the lowering of ground levels closer to T3, with conditions requiring that the Arborist have direct involvement on-site with this component.

Group 6, in the planter bed just to the south of those described above, being 5 x small, clipped 3m x 1m Robinia's, as well as Group 9 to the east, adjacent the pedestrian entry, comprising two, 4m x 1m clipped Ficus, are all identified for removal so as to accommodate the new outdoor entertaining area and associated works, and as they are exempt (too small to be protected by the DCP), no objections are raised to this, with the relevant consent provided.

Whilst Group 7, being two 4m x 1m Magnolia's along the western site boundary, adjacent the pool; as well as Group 8, which are two 4m x 1m Cypress against the southwest corner of the dwelling,

D10/22

and T10, a single 4m tall Magnolia around the northeast corner of the dwelling are all recommended for retention in the Arborist Report, their small size means they do not meet the criteria for formal protection in the DCP, and as such, conditions relating to them cannot and have not been imposed, with their status to be at the discretion of the applicant.

This sites most established specimens are two mature and prominent *Corymbia maculata* (Spotted Gums, T1-2), of 20m in height with crown spreads of 6-7m, halfway along the length of the eastern side setback, of good health and condition, which are protected by the DCP, and have both assigned a High Landscape Value and High Priority for retention.

While conversion of the lower/basement level into a new guest bedroom and plant room would not directly impact either tree as it will be contained within the footprint of the existing dwelling, trunk protection against secondary impacts needs to be applied, with re-configuring the side access path as well as replacing the existing low brick retaining wall brick wall with a new curved feature wall immediately to their west identified as the main threats.

The same as what was described earlier applies here as well, in that the sandstone path must be provided at or above the existing surface level, and the new wall and stairs be supported on isolated pier footings only, rather than continuous strip footings, with relevant conditions included in this report.

Lastly, page 14 of the Arborist Report recommends minor crown lifting via the pruning of two branches of between 100-200mm in diameter from both T11 & T12, and as this will reduce future maintenance and safety issues given that they are held directly above the dwelling, without adversely affecting the trees in anyway, conditions allow this, only by the Project Arborist.

The same as what was described for Groups 7 & 8 earlier in this report also applies to Group 13, being a 5m tall Cypress hedge along the southern boundary, in the southwest corner, adjacent the pool, in that whilst listed for retention the Arborist Report, they do not meet the minimum size requirement for formal protection in the DCP, so conditions requiring this are unable to be imposed."

Appendix 2: DCP Compliance Table

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

The relevant provisions of the DCP are addressed below.

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

3.1 Section B2: Heritage

The relevant provisions under Section 2 of the RDCP have been addressed by the external heritage consultant as provided in Appendix 1 above.

3.2 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	601 sqm or above = 45%	Site = 980.1m ² Proposed = 34%	Yes
2.4	Landscaping and permeable surfaces		
	i) 601 sqm or above = 35% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Existing = 29% Proposed = 31.1%	Satisfactory as it improves the existing non-compliance.
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	601 sqm or above = 8m x 8m	Proposed = >8m x 8m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 =	Proposed FSR = 0.37:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 =	Proposed = 4.71m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m)	Proposed = 4.71m	Yes
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites	No change	Yes

D10/22

DCP Clause	Controls	Proposal	Compliance
	iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front		
3.3.2	Side setbacks: Dwellings: <ul style="list-style-type: none"> Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Dwelling = no change Glass house = 1.755m	Yes
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Proposed = no change	Yes
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	The proposed alterations and additions respond specifically to the site characteristics and the surrounding natural and built context. The subject site is a Local Heritage item and Council's Heritage Officer is satisfied that the proposal is in keeping with the character of the area.	Satisfactory
4.4	Roof Design and Features		
	<i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.	The new plant room is located at the basement level.	Yes
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone	Council's Heritage Officer has confirmed the proposed colours, materials and finishes are satisfactory.	Yes

DCP Clause	Controls	Proposal	Compliance
	(See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	The proposed extension of the basement utilises the existing under croft area and requires minimal excavation.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The proposed modifications are within the existing building envelope and thereby no changes to the solar access are envisaged.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on 	The proposed modifications are within the existing building envelope and thereby no changes to the solar access are envisaged.	Yes

D10/22

D10/22

DCP Clause	Controls	Proposal	Compliance
	the neighbouring allotments.		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	A BASIX Certificate has been provided.	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	The new windows to the eastern side elevation would not be associated with significant adverse privacy impacts beyond that associated with the existing verandah. Significant screen landscaping and trees are proposed to be retained and the separation distance to the rear elevation at 116 Carrington Road is approximately 13.4m.	Yes
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposed works are not considered to result in any significant acoustic privacy impacts beyond that associated with the existing dwelling-house.	Yes
5.5	Safety and Security		
	i) Dwelling's main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place.	No changes to the dwelling entry are proposed.	Yes

DCP Clause	Controls	Proposal	Compliance
	iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)		
7	Fencing and Ancillary Development		
7.4	Outbuildings		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> - finished external walls (not requiring maintenance; - no openings facing neighbours lots and - maintain adequate solar access to the neighbours dwelling 	The proposed greenhouse is located in line with the front façade of the existing building. The greenhouse complies with Council's outbuilding wall height (2.4m), maximum height (3.5m) and side setback (1.2m) control.	Yes
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	The proposed remodelling of the swimming pool complies with the relevant controls, would not result in any significant adverse amenity or visual impacts beyond that associated with the existing pool and is setback 1.8m from the boundary.	Yes

Responsible officer: Tegan Ward, Senior Environmental Planning Officer

File Reference: DA/279/2021

D10/22

D10/22

**Development Consent Conditions
(dwellings and dual occupancies)**

Folder /DA No:	DA/279/2021
Property:	1 Dick Street, RANDWICK NSW 2031
Proposal:	Enclosure of an existing verandah and lower ground level undercroft space to accommodate a bedroom & plant room. Minor internal works. New landscape works including reshaping pool & a new glasshouse. (Heritage Item)
Recommendation:	Approval

Development Consent Conditions**GENERAL CONDITIONS**

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Site Plan (Drawing No. 100 – Rev A)	Adele McNab Architecture	13/05/2021	19/01/2022
Proposed Ground Floor (Drawing No. 120 – Rev D)	Adele McNab Architecture	19/01/2022	19/01/2022
Proposed Basement Level (Drawing No. 121 – Rev B)	Adele McNab Architecture	19/01/2022	19/01/2022
North & South Elevation (Drawing No. 310 – Rev B)	Adele McNab Architecture	19/01/2022	19/01/2022
East & West Elevation (Drawing No. 311 – Rev D)	Adele McNab Architecture	19/01/2022	19/01/2022
Proposed Section (Drawing No. 320 – Rev B)	Adele McNab Architecture	28/02/2022	28/02/2022
Cover Page (Drawing No. 513_DA_01 – Issue B)	Myles Baldwin Design	09/04/2021	19/05/2021

Plant Schedule (Drawing No. 513_DA_02 – Issue B)	Myles Baldwin Design	09/04/2021	19/05/2021
Landscape Plan (Drawing No. 513_DA_10 – Issue C)	Myles Baldwin Design	15/04/2021	19/05/2021
Details and Sections (Drawing No. 513_DA_30 – Issue B)	Myles Baldwin Design	09/04/2021	19/05/2021
Typical Details (Drawing No. 513_DA_35 – Issue A)	Myles Baldwin Design	31/03/2021	19/05/2021
General Specification (Drawing No. 513_DA_50 – Issue A)	Myles Baldwin Design	31/03/2021	19/05/2021

BASIX Certificate No.	Dated	Received by Council
A416915_03	19/01/2022	19/01/2022

2. No solid fuels allowed to be used in the fireplace at any time.

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. Details of the design, height, materials and structure of the front fence and gates are to be submitted to and approved by Council's Director City Planning, prior to a construction certificate being issued for the development. Fencing and gates are to be compatible with the style of the dwelling and the streetscape character.
5. Details The colours, materials and finishes of the external surfaces of 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 colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director City Planning, prior to a construction certificate being issued for the development.

Section 7.12 Development Contributions

6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$150,000 the following applicable monetary levy must be paid to Council: \$750.

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

7. A development compliance and enforcement fee of \$315 shall be paid to Council in accordance with Council's adopted Fees & Charges Pricing Policy, prior to the issue of a Construction Certificate for development.

Long Service Levy Payments

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

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

Security Deposits

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

- \$600 - Damage / Civil Works Security Deposit

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

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

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

Sydney Water Requirements

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

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

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

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

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

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia & Relevant Standards

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).

BASIX Requirements

12. 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.

Stormwater Drainage

13. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
 - The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - 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 the adjoining premises;
 - Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
 - A certificate, from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

14. Prior to the commencement of any building works, the following requirements must be complied with:
- a 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.
 - a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with

the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council are to be notified accordingly; and

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

Home Building Act 1989

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

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

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

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

Demolition & Construction Waste Plan

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

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

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

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

Public Utilities

19. 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 Certifier 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.

Landscape Plans

20. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Myles Baldwin Design, dwg's 513_DA_01 – 50, issue A, dated 31/03/21 & issue B, dated 09/04/21, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier

Street Tree Protection Measures

21. In order to ensure retention of the two *Jacaranda mimosifolia* (Jacaranda's, Trees A-B in the Arboricultural Impact Assessment Report by Martin Peacock Tree Care, dated 06/05/21, 'the Arborist Report') which are located on Council's Dick Street verge, being one each on either side of the existing pedestrian access path and gate in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention, together with the position and diameter of their trunks, canopies, SRZ, TPZ and tree identification numbers in relation to all new work.
- b. Both trees are to be physically protected by installing evenly spaced star pickets at a setback of **2 metres** to their east, north and west (measured off the outside edge of their trunks at ground level), returning back against the front property boundary, to which, safety tape/para-webbing/shade cloth or similar shall be permanently attached so as to completely enclose both trees for the duration of works.
- c. 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".

- d. If additional trunk or branch protection is required, this can be provided by way of wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then 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.
- e. Within the TPZ's, 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 to comply with these requirements.
- f. 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 **clearance pruning** or similar 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 pruning, and prior to any Occupation Certificate.
- g. The Principal Certifier and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.

Tree Protection Measures

22. In order to also ensure retention of the group within this site, being firstly, in and around the northwest corner, a mature *Phoenix canariensis* (Canary Island Date Palm, T1), a *Phoenix dactylifera* (Date Palm, T2), two *Jacaranda mimosifolia* (Jacaranda's, T3-5) and a *Frangipani* (T4), then two mature and prominent *Corymbia maculata* (Spotted Gums, T1-2) halfway along the length of the eastern side setback in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show their retention, together with the position and diameter of their trunks, canopies, SRZ, TPZ and tree identification numbers in relation to all new works.
 - b. Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as 'the Project Arborist' for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, section 9.0, Recommendations of the Arborist Report, and any other instructions issued on-site.
 - c. The Project Arborist must be present on-site at the relevant stages of works and must keep a log of the dates of attendance and works performed, which is to be presented as a Final Compliance Report, for the approval of the Principal Certifier, prior to any Occupation Certificate.
 - d. All Construction Certificate plans must show that:
 - i. Existing paved pathways and sub-base layers will be retained in-situ wherever possible as a form of ground protection during works;
 - ii. The new sandstone paths, glass house footing/slab and any other associated works must be provided at or above the existing surface levels referred to in point 'a' above, with detailed RL's to be included to confirm compliance;
 - iii. The location, layout, finished levels and offset of the works to these trees must be consistent with what is shown on the Landscape Plan, dwg no 513_DA_10, with distances in millimetres to also be included.

- e. Demolition of the existing sandstone wall in the western side setback, between T3 & T5, as well as all initial excavations associated with changing existing ground levels or footings for new steps/stairs, the glass house or new retaining walls within their TPZ's can only be performed using a combination of hand tools, hand-held breakers and compact machinery (<1.5t), under the direct supervision of the Project Arborist, and in accordance with Sections 9.3 & 9.5 of the Arborist Report.
- f. Prior to the commencement of any site works, construction/engineering details must be submitted to, and be approved in writing by, the Project Arborist, confirming that the new steps/stairs, retaining walls and feature walls will all be supported on isolated pier footings only, with the approved system to then be implemented on-site as part of works, consistent with Section 9.4 of the Arborist Report.
- g. Any excavations associated with the installation of new services, pipes, stormwater systems or similar within their TPZ's will firstly require the specific written approval of the Project Arborist, who must then directly supervise these works on-site to ensure that any tree sensitive construction methods that need to be implemented are fully complied with during this component, as per Section 9.7 of the Arborist Report.
- h. Where major roots with a diameter of 50mm or more are encountered they must be retained, with the footings or works to be re-positioned or locally re-designed/modified so as to allow their preservation.
- i. The Project Arborist must certify that Tree Protection measures have been implemented in accordance with Appendix D of the Arborist Report, and to the extent shown on Appendix C, Tree Protection Plan, and must be maintained throughout the course of works.
- j. Where the Project Arborist gives approval for root pruning, it can only be performed by hand, with time-stamped photos to then form part of the Final Compliance Report, showing the size and quantity involved.
- k. The Project Arborist and Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Inspections during Construction

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

Site Signage

24. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
 - name, address and telephone number of the Principal Certifier,

- a statement stating that “unauthorised entry to the work site is prohibited”.

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • 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 5.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

Removal of Asbestos Materials

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

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

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

D10/22

Excavations, Back-filling & Retaining Walls

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

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

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

Support of Adjoining Land

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

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

Sediment & Erosion Control

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

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

Public Safety & Site Management

31. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a) Public access to the building site and materials must be restricted by existing boundary fencing or temporary site fencing having a minimum height of 1.5m, to Council's satisfaction.

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

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

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

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

Site Signage

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

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

Survey Requirements

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

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

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

Building Encroachments

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

Tree Management

35. Consent is granted for removal of the following trees from within this development site, subject to full implementation of the approved Landscape Plans, including the requirement for replacement trees:

- a. Group 6, in the existing planter bed halfway along the western side setback, being 5 x small *Robinia*'s, as well as Group 9 to the east, adjacent the pedestrian entry, comprising two clipped *Ficus*, so as to accommodate the new outdoor entertaining area, free-standing glass house and associated works in these same areas, as all are exempt from the DCP due to their small size;
- b. Whilst Group 7, being two *Magnolia*'s along the western site boundary, adjacent the pool, as well as Group 8, which are two *Cypress* against the southwest corner of the dwelling, and T10, a single *Magnolia* around the northeast corner of the dwelling are all recommended for retention in the Arborist Report, their small size means they do not meet the minimum criteria for formal protection in the DCP, so their status is at the discretion of the applicant;
- c. Group 13 for the same reason given in point 'b' above, being a *Cypress* hedge along the southern boundary, in the southwest corner, adjacent the pool, in that whilst listed for retention the Arborist Report, they do not meet the minimum size requirement for formal protection in the DCP, so their status is also at the discretion of the applicant.

Pruning

36. Permission is granted for the following minimal and selective pruning as detailed on page 14 of the Arborist Report:

- a. From **T11**, 1 x 200mm diameter, 1st order branch, north side of crown, at a height of 5m above ground level, and 1 x 200mm diameter, 1st order branch on southern side, at a height of 4 m.
- b. From **T12**, 1 x 100mm diameter, 4th order branch, western side, at a height of 9m, and 1 x 100mm diameter, 3rd order branch, southern side, at a height of 7m.

37. All pruning can only be undertaken by the Project Arborist, or, 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).

Road / Asset Opening Permit

38. 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.

D10/22

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

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

BASIX Requirements & Certification

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

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

Swimming Pool Safety

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

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

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

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

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

Swimming Pool Requirements

42. Swimming pools (and spa pools) are to be designed, installed and operated in accordance with the following general requirements:

- a) Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
- b) All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
- c) Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2010: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
- d) Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

Notification of Swimming Pools

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

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

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

Council's Infrastructure & Vehicular Crossings

44. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
45. 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.
46. That part of the nature-strips on either of Council's footways which are damaged during works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

Landscape Certification

47. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date

D10/22

that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Myles Baldwin Design, dwg's 513_DA_01 – 50, issue A, dated 31/03/21 & issue B, dated 09/04/21.

48. Suitable strategies shall be implemented to ensure that this landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

Site Arborist Certification

49. Prior to any Occupation Certificate, the Project Arborist must submit to, and have approved by, the Principal Certifier, a Final Compliance Report certifying compliance with the conditions of consent and Arborists Report Recommendations, the dates of attendance and works performed/supervised relating to retention of **T1-5 & T11-12**.

OPERATIONAL CONDITIONS

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

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

External Lighting

50. 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

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

Plant & Equipment – Noise Levels

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

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

Swimming Pools

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

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

Air Conditioners

54. 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.

D10/22

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

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

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

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

For further information please contact Council on 9093 6971.

- A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

- A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

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

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

- A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground
- A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.
- A11 An application must be submitted to an approved by Council prior to the installation and operation of any proposed greywater or wastewater treatment systems, in accordance with the *Local Government Act 1993*.
- Greywater/Wastewater treatment systems must comply with the relevant requirements and guidelines produced by NSW Health, NSW Office of Environment and Heritage and other relevant regulatory requirements.
- A12 Council's assessment of this application does not include an assessment of compliance with the *Swimming Pool Act 1992*. All pool barriers, fences and structures within properties containing a swimming pool must comply with the requirements of the *Swimming Pool Act 1992*, BCA and relevant Australian Standards.
- Details of compliance with the *Swimming Pool Act 1992*, Building Code of Australia and relevant Standards must be included in the Construction Certificate to the satisfaction of the Certifying Authority.
- A13 Underground assets (eg pipes, cables etc) may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au 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. D11/22


Subject: 258 Carrington Road Randwick (DA/575/2021)

Proposal: Alterations and additions to the existing dwelling including rear addition
Ward: East Ward
Applicant: Mr I D Nunn
Owner: Mr I D Nunn & Mrs C J Nunn
Cost of works: \$250,000
Reason for referral: The development involves demolition of a heritage item.

Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/575/2021 for construction single storey additions to rear of premises at No. 258 Carrington Road, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  RLPP Dev Consent Conditions (dwellings dual occ) - DA/575/2021 - 258 Carrington Road, RANDWICK

D11/22

D11/22



1. Executive summary

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

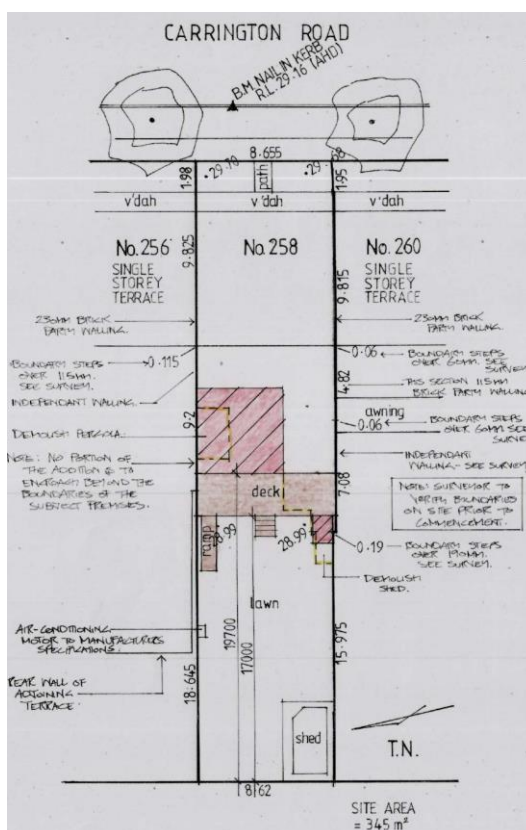
- The development involves demolition of a heritage item

The proposal seeks development consent to construct single storey additions to rear of existing dwelling.

The key issues associated with the proposal relate to the impact that the development may have upon the heritage significance of the site. The Heritage Planner has reviewed the application and has found the proposal to be acceptable, with conditions to minimise streetscape impact.

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

- Original fabric must be reused to reconstruct the door jambs and surrounds of the front entry doorway.
- Original fireplaces and chimneys are to remain in place. Changes to the original fabric in the four rooms off the internal hallway in the original floorplan should be minimal and original fabric should be used where possible when widening or moving the door jambs.



(a) **Figure 1.** Proposed site plan – 258 Carrington Road, Randwick

2. Site Description and Locality

The subject site is known as 258 Carrington Road, Randwick and is legally described as Lot 10 in DP 873718. The site is located on the western side of Carrington Street, between Chatham Street to the north and Queen Street to the south. The site is 345m², is regular in shape and has an 8.655m frontage to Carrington Street to the east. The site slopes approximately 1.4m from the front boundary to the rear boundary.

The site contains an attached, single storey dwelling. It forms part of a row of attached single storey Italianate terraces built in the mid-1890s. The rear of the site is landscaped with lawn and contains a shed and pergola.

The locality is residential in nature, comprising a mixture of attached dwellings, semi-detached dwellings and dwelling houses, of 1-2 storeys height, as well as residential flat buildings up to 4 storeys height.

D11/22



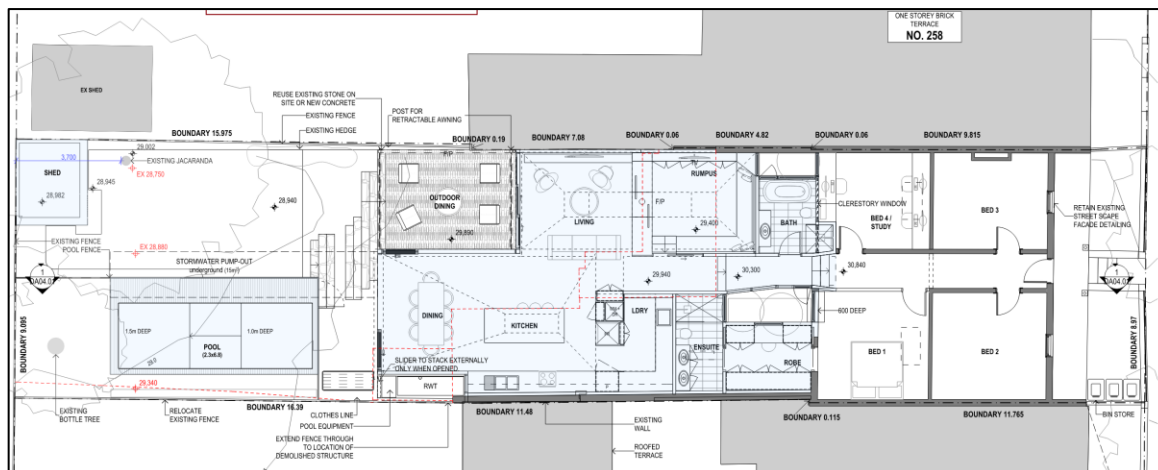
(b) **Figure 2.** Streetscape view – 258 Carrington Road, Randwick (Source: Google Street View, October 2020)



(c) **Figure 3.** Existing rear façade – 258 Carrington Road, Randwick (Source: Mr I D Nunn)

3. Relevant history

260 Carrington Road, Randwick (adjoining property): Development application No. DA/246/2020 was approved on 11 March 2021 for alterations & additions to residential dwelling including demolition, in-ground swimming pool and associated works.



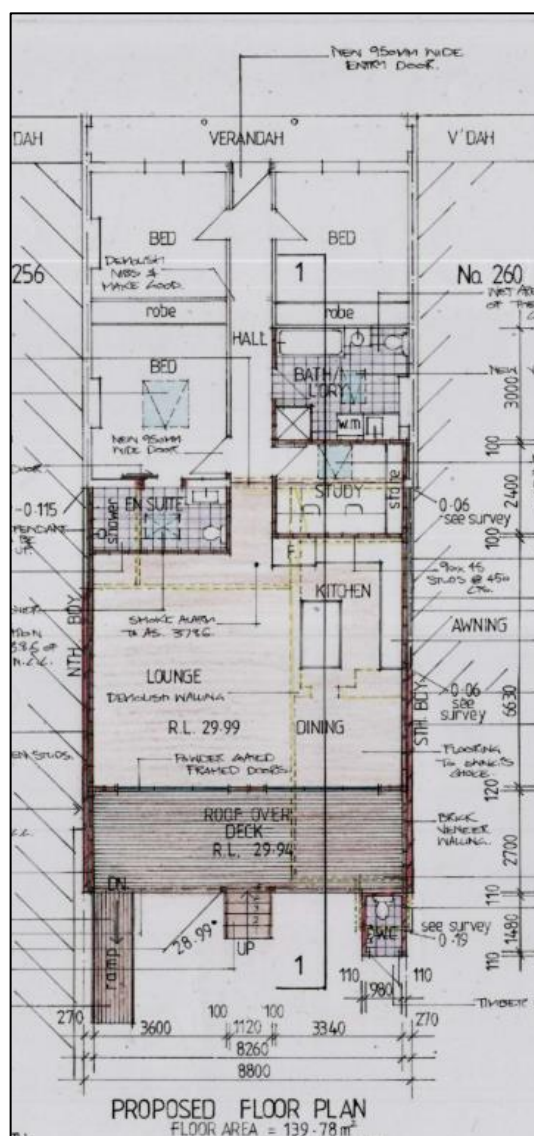
(d) **Figure 4.** Approved DA/246/2020 floor plan – 260 Carrington Road, Randwick (south-adjointing property)

4. Proposal

The proposal seeks development consent for construction of single storey additions to rear of premises. Specifically, the proposed development comprises:

- Demolition of rear wing comprising dining, kitchen, laundry, sunroom, bathrooms; pergola and shed;
- Reconfiguration of existing dwelling and new rear extension –
 - Retention of 3 existing bedrooms at front of dwelling;
 - Addition of lounge, dining, kitchen, study, bathroom/laundry and ensuite;
 - Widening of entrance to accommodate 950mm wide entry door;
 - Addition of skylights above bedroom, ensuite, bathroom.
- Addition of rear deck with roof over; with ramp and stairs to rear garden
- Addition of external toilet.

D11/22



(e) **Figure 5.** Proposed floor plan – 258 Carrington Road, Randwick

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan 2019. No submissions were received.

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.405:1	Yes
Cl 4.3: Building height (max)	9.5m	4.81m	Yes

6.2.1. Clause 5.10 - Heritage conservation

Clause 5.10 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item. The site is listed as a local heritage item, *Single storey attached row* (I315), under Schedule 5 of RLEP. The application has been reviewed by Council's Heritage Planner. The heritage referral comments are included in **Appendix 1**.

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	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant residential character in the locality.

D11/22

Section 4.15 'Matters for Consideration'	Comments
and economic impacts in the locality	The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Heritage

The site is listed as a local heritage item, *Single storey attached row* (I315), under Schedule 5 of RLEP. The application has been reviewed by Council's Heritage Planner, who has provided the following comments in relation to the alterations to the front door opening:

The proposal works require the removal of significant heritage fabric on the front facade to widen the front door to accommodate a wheelchair. This impact would not usually be supported in a heritage building, but provisions in Disability legislation might take precedence in this case since no other entry point is available. This is a decision that the planning officer will have responsibility to determine. Should planning approval be granted for expansion of the original doorway, original fabric must be reused to reconstruct the door jambs and surrounds. Please ensure that all side setback requirements are met on merit as per the relevant width of the lot frontage.

The proposed dwelling, as a Class 1a building and private residence, does not fall under the access to premises provisions of the Disability Discrimination Act or Disability (Access to Premises — Buildings) Standards 2010.

However, the applicant has submitted a letter from an Occupational Therapist, emphasizing the necessity of the proposed alterations and additions for the health and safety for one of the owners and residents of the dwelling:

(The dwelling) is currently a safety concern as it has a number of features which attribute to falls risk and jeopardise (the owner/resident's) ability to remain safe. These include; internal and external steps (such as threshold steps between rooms), narrow doorways and hallways, inaccessible bathroom and uneven flooring. Interventions including threshold ramps and floor lighting have been put in place as interim solutions to reduce (the owner/resident's) falls risk, however these are not sustainable solutions long term. (The owner/resident) requires the use of a mobility aid to assist with her mobility, however due to the narrow doorways and narrow hallways, this results in reduced circulation space impacting her ability to turn safely without bumping into the wall, doorway or herself.

As (the owner/resident's) condition is progressive in nature, it is anticipated that her function will continue to decline and her needs will increase. As a result, it can be expected that her need for further assistive equipment such as a mobility walker, wheelchair, lifting hoist and other aids will be required in the future. (The owner/resident's) current home set up is limiting and will not facilitate the safe and appropriate use of this equipment should it be required. It is therefore necessary for modifications to be completed to ensure accessibility for (the owner/resident), and to allow her to continue living at home with her family, as independently as possible.

(The owners) have advised that they have plans to renovate and make changes to the internal areas of the home to improve accessibility and safety for (the owner/resident) as she continues to age and her condition progresses. The undersigned is a qualified Home Modifications Occupational Therapist, and has been working alongside (the owner/resident) and her builder to plan the home layout and design, to ensure it meets disability standards and is functional for (the owner/resident) indefinitely. Please refer to the builder's specifications, letter and diagrams for further information.

As (the owner/resident's) condition is expected to worsen over time, modifications to her existing home are imperative to ensure ongoing independence and safety. Should the proposed plans be rejected, (the owner/resident) is at serious risk of recurring falls, which may result in serious injury and this will impact her overall functioning, level of independence and overall wellbeing.

In light of the Occupational Therapist's letter, the proposed development is warranted for the accessibility needs of the residents of the dwelling.

As such, conditions of consent shall be imposed to minimise heritage impact, including requiring the reuse of original fabric to reconstruct the door jambs and surrounds.

9. Conclusion

That the application to construct single storey additions to rear of premises be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- External works do not add any significant bulk or detract from the heritage significance of the building or the streetscape

Non standard conditions have been included to minimise heritage impact :

- Original fabric must be reused to reconstruct the door jambs and surrounds of the front entry doorway.
- Original fireplaces and chimneys are to remain in place. Changes to the original fabric in the four rooms off the internal hallway in the original floorplan should be minimal and original fabric should be used where possible when widening or moving the door jambs.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The dwelling at 258 Carrington Road, Randwick, is heritage listed on RLEP 2012 Schedule 5 as part of a good row of attached, single-storey Italianate terraces built in the mid-1890s. Despite alterations, they retain original form and some detailing. Of the terrace row, No. 258 is the least altered in terms of detailing. Like the other terraces in the row, No 258 retains its cast iron verandah posts, but only No. 258 and 262 have original lace fringes and brackets.

Background

The group of four terraces were built with parapet side walls and chimneys, cast iron verandah posts and friezes, separate bullnose iron verandah roofs and slate-clad pitched roof. Externally, original features include double external brick chimneys, sandstone foundations to front verandahs, and original doors and window frames. They also retain symmetrical facades, front verandahs and gardens.

Internally, original floor plans remain partly intact, with a central hallway and rooms on either side. Some original internal joinery survives, as well as some original fireplaces. The original rear service wing have been heavily modified.

The cottages are still recognisable as a row and make a positive contribution to the streetscape

Proposal

The proposed extension retains the original cottage floor plan but involved impact on original heritage fabric, particularly on the front door, which is to be widened to accommodate wheelchair access, resulting in the loss of heritage detailing. The proposal will require the removal of original fabric in a row of terraces noted for their intactness.

Internally, the proposal involves changes to the locations of some door locations. It also seeks to remove original internal fabric to widen door jambs to accommodate a wheelchair.

The proposed rear extension continues along the existing party wall, providing very limited separation from the neighbouring building at 256 Carrington Rd, which underwent a renovation in 2009.

The proposed master bedroom will be lit by skylights.

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 also provided Objectives and Controls in relation to heritage properties.

Recommendation

The significance of the cottages at 256-262 Carrington Road largely derives from their surviving external form and details, their visibility as a recognisable row of early cottages and the positive contribution they make to the streetscape and the history of Randwick.

The proposal works require the removal of significant heritage fabric on the front facade to widen the front door to accommodate a wheelchair. This impact would not usually be supported in a heritage building, but provisions in Disability legislation might take precedence in this case since no other entry point is available. This is a decision that the planning officer will have responsibility to determine. Should planning approval be granted for expansion of the original doorway, original fabric must be reused to reconstruct the door jambs and surrounds. Please ensure that all side setback requirements are met on merit as per the relevant width of the lot frontage.

Original fireplaces and chimneys are to remain in place. Changes to the original fabric in the four rooms off the internal hallway in the original floorplan should be minimal and original fabric should be used where possible when widening or moving the door jambs.

1.2. Development Engineer

An application has been received for alterations and additions at the rear ground floor level at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by P Banfield;
- Statement of Environmental Effects by P Banfield...
- Detail & Level Survey by Paul A Lawson.

Landscape Comments

A site inspection (10.1.22) by Council's Development Engineer revealed that there are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

Appendix 2: DCP Compliance Table**3.1 Section B2: Heritage**

The relevant heritage provisions have been assessed by the Heritage Planner as provided in Appendix 1 above.

3.2 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	For multi dwelling housing and attached dwellings, a minimum of 50% of the site area (172.5m ²) is to be landscaped open space. A minimum width of 2m of landscaped open space is to be provided. For attached dwellings, this refers to each allotment individually.	Site = 345m ² Proposed site coverage = 45% (157m ²) Proposed landscaped open space = 55% Width exceeds 2m.	Yes
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (86.25m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Site = 345m ² Proposed = 36% (124m ²)	Yes
	(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.	Deep soil located at ground level. Due to limited lot width and size, large trees cannot be accommodated on site.	Yes
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and under storey planting.		
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Deep soil area is contiguous with adjoining property.	Yes
2.3	Private and communal open space		
2.3.1	Private open space		
	For attached dwellings and multi dwelling housing – A minimum area of 20 square metres of private open space should be provided at ground and/or podium level capable of containing a rectangle with minimum dimensions of 3m x 4m with minimal or no level changes.	Private open space area exceed 20m ² and dimensions of 3m, by 4m.	Yes

DCP Clause	Control	Proposal	Compliance
3. Building Envelope			
3.1	Floor space ratio		
	Maximum floor space ratio development standard: 0.75:1	Proposed = 0.405:1	Yes
3.2	Building height		
	Maximum building height development standard: 9.5m	Proposed = 4.81m	Yes
3.4	Setbacks		
3.4.2	Side setback		
	Attached dwellings should comply with the minimum side setback requirements for dwelling houses and dual occupancies (attached and detached) (see Section C1 Low Density Residential: 3.3.2 Side Setbacks). Notwithstanding the above, side setbacks do not need to comply where they attach to another dwelling within the same development.	Minimum = Nil Proposed = Existing attached dwelling is constructed to each side boundary. It is attached to another dwelling within the terrace group on each side.	Yes
3.4.3	Rear setback		
	For attached dwellings, provide a minimum rear setback of 25% of the allotment depth or 8m, whichever is the lesser.	Minimum = 8m Proposed = 15.3m	Yes
4. Building Design			
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	Proposed = 4.4m	Yes
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	Proposed = 3m	Yes
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: - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged.	The submitted schedule of colours, materials and finishes is satisfactory.	Yes

D11/22

D11/22

DCP Clause	Control	Proposal	Compliance
	<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>		
4.10	Alterations and additions to attached dwellings		
	<p>(i) Additional storeys to the main building or street frontage are generally not supported where:</p> <ul style="list-style-type: none"> (a) A building is part of an intact group or streetscape; (b) The existing building is comparable to a consistent or predominant building height in the streetscape; (c) The predominant height of development in the vicinity of the site is single storey; <p>(ii) Additional storeys should respect the parapet or ridge line of immediately adjoining buildings</p> <p>(iii) Rear additions to terraces must not alter the parapet, ridgeline, chimneys and profile of party walls projecting above the roof of the terrace, as perceived from the front streetscape.</p> <p>(iv) Where the rear of a group of attached dwellings (terraces) displays a consistent form that is visible from a public space, alterations and additions are to be restricted to the ground floor.</p> <p>(v) Lean-to additions are the most traditional form of rear extension, and are suitable for most buildings.</p>	<p>Proposed rear additions are single storey, with a low pitch skillion roof. The proposed additions are not visible from the street, with the exception of the proposed widening of the front entrance door opening for improved accessibility. The proposed development does not have an adverse impact on streetscape presentation of the group.</p>	Yes

DCP Clause	Control	Proposal	Compliance
	<p>Generally, lean-to additions are to have a skillion roof with a low pitch that pitches away from the building or a flat roof may be acceptable at rear (as shown in the figure above).</p> <p>(v) Lean-to additions are the most traditional form of rear extension, and are suitable for most buildings. Generally, lean-to additions are to have a skillion roof with a low pitch that pitches away from the building or a flat roof may be acceptable at rear (as shown in the figure above).</p> <p>(vi) A detached pavilion can be located at the rear boundary, limited to single storey where the allotment is long enough to provide adequate private open space and where the new structure will not adversely affect the amenity of neighbours. This may be extended to two storeys, on rear laneways.</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>Solar access to the dwelling is constrained by the existing site and attached dwelling configuration. The terrace row is orientated on an east-west axis. The existing and proposed living areas have a westerly aspect. The proposed development maximises solar access through expansive glazing on the eastern façade, and skylights.</p>	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>Solar access is constrained by the existing site and attached dwelling configuration. The terrace row is orientated on an east-west axis.</p> <p>The proposed alterations and additions maintain a single storey built form,</p>	Yes

D11/22

D11/22

DCP Clause	Control	Proposal	Compliance
	(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	<p>minimising overshadowing on neighbouring properties.</p> <p>The rear extension does not extend beyond the rear alignment of the adjoining neighbours to the north and south.</p>	
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling (for example hallways and stairwells) and any poorly lit habitable rooms (that is living rooms, dining rooms, rumpus rooms, kitchens and bedrooms) via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	<p>An existing bedroom and lounge is internalized with no windows or skylights connecting to outdoor areas.</p> <p>Operable skylights are proposed above the proposed internalized bedroom, bathroom/laundry and study. Non-operable skylight is provided to the ensuite.</p>	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.	<p>A study and bedroom are internalized, without windows opening to outdoor areas. These rooms are an existing bedroom and lounge which do not have windows to outdoor areas.</p> <p>The proposal improves the solar access and natural ventilation of these room with operable skylights.</p> <p>Compliance is constrained by the terrace configuration of the dwelling.</p>	Acceptable on merit.
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>	New windows are orientated to the rear of the single storey dwelling.	Yes

DCP Clause	Control	Proposal	Compliance
	<p>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 		
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 locates the living areas at the rear of the dwelling; commensurate with the existing dwelling and neighbouring properties.	Yes

Responsible officer: Eunice Huang, Environmental Planning Officer

File Reference: DA/575/2021

D11/22

Development Consent Conditions



Folder /DA No:	DA/575/2021
Property:	258 Carrington Road, RANDWICK NSW 2031
Proposal:	Construct single storey additions to rear of premises (Heritage Item).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
DWG. No. 36/21	Peter Banfield	30 July 2021	21 September 2021
External Colour and Materials Specifications	Peter Banfield	No date	21 September 2021

BASIX Certificate No.	Dated
A430701	7 September 2021

Heritage

- The approved plans and documents must be amended in accordance with the following requirements:
 - Original fabric must be reused to reconstruct the door jambs and surrounds of the front entry doorway.
 - Original fireplaces and chimneys are to remain in place. Changes to the original fabric in the four rooms off the internal hallway in the original floorplan should be minimal and original fabric should be used where possible when widening or moving the door jambs.

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 surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.
5. 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 any changes to the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

Section 7.12 Development Contributions

6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$250,000 the following applicable monetary levy must be paid to Council: \$2,500.00

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Compliance Fee

7. A development compliance and enforcement fee of \$525.00 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

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the

Council, in accordance with Section 6.8 of the *Environmental Planning & Assessment Act 1979*.

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

Sydney Water Requirements

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

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

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

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

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

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

Compliance with the Building Code of Australia & Relevant Standards

10. 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

11. 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.

Stormwater Drainage

12. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
 - The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - 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 the adjoining premises;
 - Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
 - A certificate, from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS

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

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

Certification and Building Inspection Requirements

13. Prior to the commencement of any building works, the following requirements must be complied with:
- a Construction Certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979*.
- A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

- b) a *Principal Certifier* must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an *owner-builder* permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the *Principal Certifier* and Council are to be notified accordingly; and
- d) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifier*; and
- e) at least two days notice must be given to the Council, in writing, prior to commencing any works.

Home Building Act 1989

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

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

Dilapidation Reports

15. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified independent person, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the *zone of influence* of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - new dwellings or additions to dwellings sited up to shared property boundaries (e.g. additions to a semi-detached dwelling or terraced dwellings);
 - excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises;
 - as otherwise may be required by the *Principal Certifier*.

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

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

Construction Noise & Vibration Management Plan

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

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

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

Construction Site Management Plan

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

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

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

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

Demolition Work

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

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

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

Demolition & Construction Waste Plan

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

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

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

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

Public Utilities

20. 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.
21. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Inspections during Construction

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

Site Signage

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

Restriction on Working Hours

24. 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 5.00pm • Saturday - No work permitted • Sunday & public holidays - No work permitted

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the

standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Removal of Asbestos Materials

25. 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 Certifier.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifier.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person), must be provided to Council and the Principal Certifier upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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

Excavations, Back-filling & Retaining Walls

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

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

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

Support of Adjoining Land

27. 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.

28. Prior to undertaking any demolition, excavation or building work in the following circumstances, a report must be obtained from a *professional engineer* which details the methods of support for the dwelling or associated structure on the adjoining land, to the satisfaction of the *Principal Certifier*:

- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or associated structure that is located on the adjoining land;
- when undertaking demolition work to a wall of a dwelling that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land;
- as may be required by the *Principal Certifier*.

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

Sediment & Erosion Control

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

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

Public Safety & Site Management

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

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

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

- b) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.

- c) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

- d) All building and site activities (including storage or placement of materials or waste and concrete mixing/pouring/pumping activities) must not cause or be likely to cause 'pollution' of any waters, including any stormwater drainage systems, street gutters or roadways.

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

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

Site Signage

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

Survey Requirements

32. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building to the satisfaction of the Principal Certifier:
- prior to construction (pouring of concrete) of the footings or first completed floor slab,
 - upon completion of the building, prior to issuing an occupation certificate,
 - as otherwise may be required by the Principal Certifier.

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

Building Encroachments

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

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

BASIX Requirements & Certification

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

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

Council's Infrastructure, Vehicular Crossings, street verge

36. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
37. 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.
38. That part of the nature strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.

OPERATIONAL CONDITIONS

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

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

External Lighting

39. 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.

D11/22

Waste Management

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

Plant & Equipment – Noise Levels

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

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

GENERAL ADVISORY NOTES

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

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

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

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

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

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

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

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

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

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

For further information please contact Council on 9093 6971.

A7 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place.

A8 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

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

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

A9 The finished ground levels external to the building must be consistent with the development consent and are not to be raised, other than for the provision of approved paving or the like on the ground

A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au 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.

- 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.

D11/22