

Randwick Local Planning Panel (Public) Meeting

Thursday 14 July 2022



RANDWICK LOCAL PLANNING PANEL (PUBLIC)

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held in the Microsoft Teams 1pm on Thursday, 14 July 2022 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

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Kerry Kyriacou
DIRECTOR CITY PLANNING

Development Application Report No. D36/22

Subject: 3 Surfside Avenue, Clovelly (DA/774/2021)

Proposal:	Proposed demolition of existing dwelling, construction of dual occupancy with shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision.
Ward:	North Ward
Applicant:	Astra Wu
Owner:	Big Yellow Developments Pty Ltd
Cost of works:	\$3,128,326
Reason for referral:	More than 10 unique submissions in objection

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 774/2021 for proposed demolition of existing dwelling, construction of dual occupancy with shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision at No. 3 Surfside Avenue, Clovelly for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal exceeds the maximum building height development standard in Clause 4.3 - Building Height of Randwick Local Environmental Plan 2012. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.
2. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal exceeds the floor space ratio development standard in Clause 4.4 - Floor Space Ratio of Randwick Local Environmental Plan 2012. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.
3. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives of the R2 Low Density Residential zone established within Randwick Local Environmental Plan 2012 as it will have an adverse impact on the existing streetscape character and built form and it does not protect the amenity of residents.
4. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to satisfy the Aims of the Plan in Clause 1.2(2)(a),(d)&(i) of Randwick Local Environmental Plan 2012.
5. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives in Clause 6.7 – Foreshore Scenic Protection Area of Randwick Local Environmental Plan 2012 as it has not been designed to minimise its visual impact on public areas and does not positively contribute to the scenic quality of the Foreshore Scenic Protection Area.

6. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives and controls of Randwick Development Control Plan 2013:
- 2.1 - Minimum Lot Size and Frontage
 - 3.1 – Floor Space ratio
 - 3.2 – Building Height
 - 3.3 – Setbacks
 - 4.1 – Building Design
 - 4.3 – Additional Provisions for Attached Dual Occupancy
 - 4.4 – Roof Design
 - 4.6 – Earthworks
 - 5.1 – Solar Access and Overshadowing
 - 5.3 – Visual privacy
 - 5.4 – Acoustic Privacy
 - 5.5 – Safety and Security
 - 5.6 – View Sharing
 - 6.1 – Location of Parking Facilities
 - 6.2 – Parking Forward Front Building Alignment
 - 6.3 - Setback of Parking Facilities
 - 6.4 – Driveway Configuration
 - 6.5 – Garage Configuration
 - 7.5 – Swimming Pools
7. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(b) of the Environmental Planning and Assessment Act 1979 in that the proposed development will result in adverse environmental impacts on the existing neighbourhood character and the visual amenity of the street.
8. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(e) of the Environmental Planning and Assessment Act 1979 in that approval of the development will create an undesirable precedent, and the building proposes significant deviations from both the numerical and merit-based controls and is therefore not in the public interest.
9. The information submitted with the application does not provide sufficient detail to enable Council to undertake a proper assessment of the potential view impacts, removal of trees on the site and overshadowing of the adjoining properties.
10. The information submitted with the application is ambiguous as it incorporates a Plan of Subdivision proposing each dwelling on its own lot, which is at odds with the proposed description in the Statement of Environmental of Effects and the Development Application seeking approval for an attached dual occupancy, which constitutes two dwellings on one lot.

Attachment/s:

Nil



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1. Executive summary

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

The proposal seeks development consent for demolition of an existing dwelling, construction of dual occupancy with a shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision.

A total of 54 submissions in objection were received following the public notification period. The key concern raised in the submissions relates to the proposed flyover driveway above the footpath and the adverse visual impacts within the streetscape, pedestrian access and safety, the annex of public land, loss on on-street parking and the residential amenity impacts in terms of visual bulk, overshadowing and privacy.

The key issues identified in Council's assessment include building design/streetscape, non-compliance with the Floor Space Ratio (FSR) and Building Height development standards under Randwick Local Environmental Plan (RLEP) 2012 and residential amenity impacts.

On 2 February 2022, Council advised the Applicant of its fundamental concerns with the proposal and requested the application be withdrawn. The Applicant failed to respond within the specified timeframe and the proposal is therefore recommended for refusal.

2. Site Description and Locality

The subject site is known as 3 Surfside Avenue, Clovelly and is legally described as Lot 11 in DP 6512. The site is 853.6m², is regular in shape and has a 13.7m frontage to Surfside Avenue. The site contains a split-level brick residence fronting Surfside Avenue, and there is no parking on the site. The site slopes down approximately 10m from Surfside Avenue to the rear boundary. Refer to **Figures 1 and 2.**



Figure 1 – Existing site looking south from the street

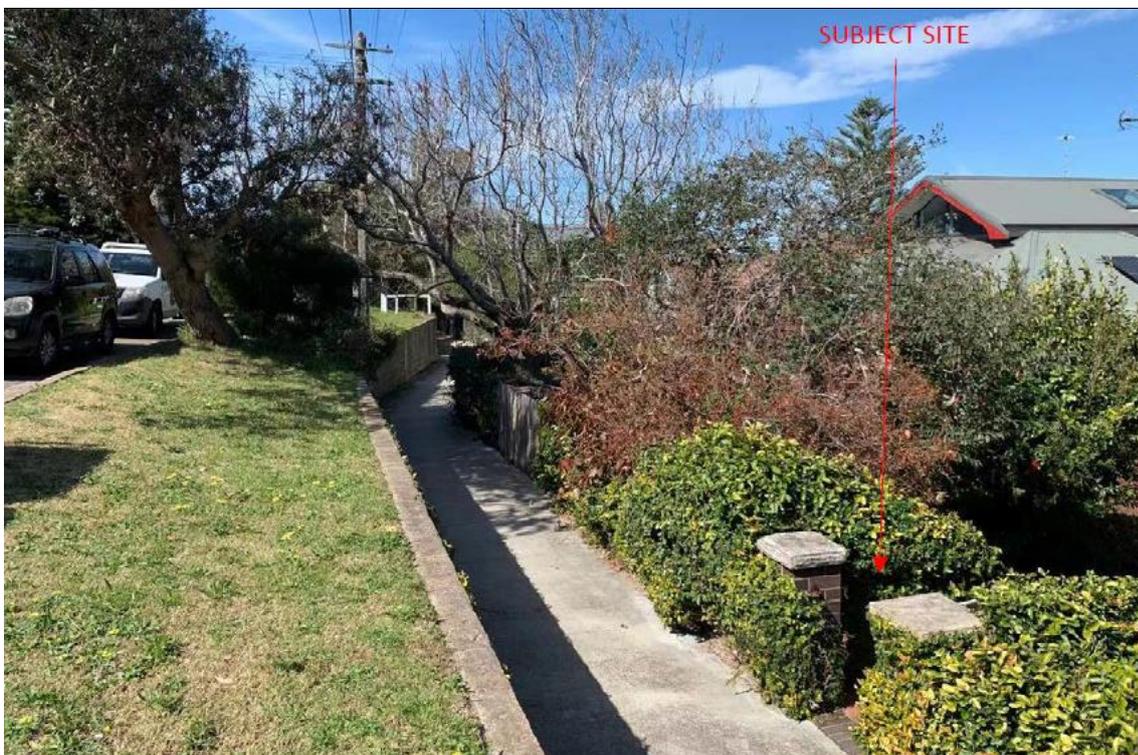


Figure 2 – Existing site looking east

3. Relevant history

There are no previous determinations of relevance to the application.

4. Proposal

The proposal seeks development consent for the demolition of existing dwelling, construction of dual occupancy with a shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision.

The proposed design includes a flyover driveway grading up from the street creating a footpath tunnel underneath, and elevated access to a shared garage above both dwellings. Each dwelling will contain 3 levels (excluding the garage on top) with a master bedroom and lounge and rear facing balconies at entry floor level, two bedrooms and rear facing balconies at the first floor and an open plan living, kitchen and dining area and elevated swimming pool/terraces at ground level.

A rendered image of the proposal is shown in **Figures 1 and 2**.



Figure 1 – Image of the proposal from the front of the site

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Figure 2 – Image of the proposal from the rear of the site

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.

A total of fifty four (54) submissions, primarily from local residents, were received in objection to the proposal following the public notification process.

Submissions were received from the following properties:

- 20 Keith Street, Clovelly
- 18 Keith Street, Clovelly
- 19 Park Close, Clovelly
- 6A Clifton Street, Clovelly
- 3 Glebe Street, Randwick
- 27 Surfside Avenue, Clovelly
- 15 Surfside Avenue, Clovelly
- 6 Allen Street, Clovelly
- 14 Keith Street, Clovelly
- 5 Surfside Avenue, Clovelly
- 6 Surfside Avenue, Clovelly
- 25 Surfside Avenue, Clovelly
- 1 Surfside Avenue, Clovelly
- 19-21 Surfside Avenue, Clovelly
- 1/8 Surfside Avenue, Clovelly
- 7 Knox Street, Clovelly
- 8 Surfside Avenue, Clovelly
- 2/1 Keith Street, Clovelly
- 19 Keith Street, Clovelly
- 4/30 Keith Street, Clovelly
- 30 Keith Street, Clovelly
- 373 Clovelly Road, Clovelly
- 7 Keith Street, Clovelly
- 324 Clovelly Road, Clovelly

- Park Street, Clovelly
- 1 Keith Street, Clovelly
- 7 Surfside Avenue, Clovelly
- 4/1 Keith Street, Clovelly
- 10 Surfside Avenue, Clovelly
- 16 Surfside Avenue, Clovelly
- 23 Surfside Avenue, Clovelly
- 9 Surfside Avenue, Clovelly
- 2/2 Surfside Avenue, Clovelly
- 1/2 Surfside Avenue, Clovelly
- 17 Surfside Avenue, Clovelly
- 8/19 Bishop Avenue, Randwick
- 3 Keith Street, Clovelly
- 13 Keith Street, Clovelly
- 11 Surfside Avenue, Clovelly
- 9 Allen Avenue, Clovelly
- 48 Macpherson Street, Bronte
- 1/8 Cliffbrook Parade, Clovelly
- Eight (8) submissions were received with no address
- One (1) submission from the Randwick Heritage Action Group.

The key issues raised in the submissions are summarised as follows:

Issue	Council's Comment
<p>The proposed elevated driveway above the footpath:</p> <ul style="list-style-type: none"> • will have an adverse visual impact within the streetscape • not in keeping with the character with the area • adverse bulk and scale • poor design outcome • unsightly, eyesore, ugly and obtrusive design • change the character of the street • annex public land • occupation of public space • sets an undesirable precedent • obstruct pedestrian access • safety hazards for pedestrians • overshadowing of adjoining properties • adverse privacy impacts to adjoining properties • detract from neighbourhood amenity 	<p>The proposed flyover driveway above Council footpath is an uncharacteristic building element and would have significant adverse visual impact within the streetscape. The proposal is therefore not supported.</p>
<p>Adverse heritage impacts associated with the loss of the Californian Bungalow</p>	<p>The site is not listed as a heritage item or in a heritage conservation area. Notwithstanding, the existing Californian bungalow contributes to the residential streetscape. The proposal is therefore not supported.</p>
<p>Excessive wall heights</p>	<p>The proposal exceeds the maximum 8m external wall height under RDCP 2013. The proposal is therefore not supported.</p>

Issue	Council's Comment
Visual and acoustic privacy impacts from the balconies, windows and elevated pool deck	The design and layout of the development fails to minimise overlooking and cross viewing and will result in unreasonable privacy impacts to the adjoining properties. The proposal is therefore not supported.
Non-compliance with Building height development standards	The proposed development will have a building height of 9.51m, which exceeds the building height development standard. No clause 4.6 written request seeking and exception to the development standard was submitted with the application. Council therefore must refuse the application.
Non-compliance with FSR development standards	The proposed development will have a FSR of 0.6:1, which exceeds the FSR development standard. No clause 4.6 written request seeking and exception to the development standard was submitted with the application. Council therefore must refuse the application.
Excessive height, bulk and scale	The built form steps up at the street and does not respond to the topography of the site. From a planning and design perspective, the built form is inappropriate in terms of its adverse visual bulk and excessive scale within the streetscape. The proposal is therefore not supported.
Parking, access and traffic impacts	Council's Development Engineer does not support this vehicular access arrangement and notes that any vehicle access to the site would be difficult to achieve without adversely impacting the existing pedestrian pathway. The proposal is therefore not supported.
Overdevelopment of the site	The proposed development results in significant deviations from both the numerical and merit-based controls and is therefore an overdevelopment of the site.
Inadequate building setbacks	The upper levels of the development do not comply with the minimum setback requirements under RECP 2013, resulting in adverse amenity impacts to the adjoining properties.
Non-compliance with the swimming pool controls	The proposed pool and associated deck will be elevated 2m above existing ground on the lower side.

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 (Biodiversity and Conservation) 2021

Chapter 2 - Vegetation in Non-rural Areas

The proposal seeks to remove existing trees to make way for the development footprint. The application has not been accompanied by an Arborist report. Council is therefore unable to undertake a proper assessment in relation to impact on existing trees.

6.3. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned Residential R2 Low Density under RLEP 2012, and the proposal is permissible with consent.

The proposal is contrary to the relevant objectives of the R2 zone in that the built form and design will have a significant adverse impact on the existing streetscape character and the amenity of 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)	0.5:1	0.6:1	No Refer to the Key Issues section of this report.
Cl 4.3: Building height (max)	9.5m	9.51m	No Refer to the Key Issues section of this report.
Cl 4.1A: Subdivision lot size for strata plan schemes in Zone R2	400m ²	Unit A: 429.4m ² Unit A: 424.2m ²	Yes
Cl 4.1C: Lot Size for dual occupancies (min)	450m ²	853.6m ²	Yes

6.3.1. Clause 4.6 - Exceptions to development standards

The application fails to provide a written request seeking an exception to the Building Height and FSR development standards in accordance with Clause 4.6 of RLEP 2012. Council must refuse the application. Refer to the Key Issues section of this report.

6.3.2. Clause 6.7- Foreshore scenic protection area

The site is located within the Foreshore Scenic Protection Area (FSPA) under RLEP 2012. The proposed development has not been designed to minimise its visual impact on public areas of the FSPA due to its excessive bulk and scale. In addition, it does not positively contribute to the scenic quality of the FSPA. The proposal therefore fails to comply with the objectives of the FSPA and cannot be supported.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

The provisions in Randwick Development Control Plan (RDCP) 2013 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 RDCP 2013 are addressed in Appendix 3.

8. Environmental Assessment

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

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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 does not satisfy 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	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is inconsistent with the dominant residential character in the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site has insufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not 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 is inconsistent with the objectives of the zone and will result in significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not in the public interest.

8.1. Discussion of key issues

Building Design/Streetscape

Part C1 Section 4 of RDCP 2013 contains objectives and controls in relation to building design that seek to ensure the form, scale, massing and proportions of a development respond to the site characteristics and the surrounding natural and built context.

The proposed design includes a flyover driveway grading up from the street creating a footpath tunnel underneath, and elevated access to a shared garage above both dwellings. The proposed

driveway level at the front boundary is approximately 3m above the existing Council footpath level. This is an uncharacteristic building element and would have significant adverse visual impact within the streetscape.

Council's Development Engineer does not support this vehicular access arrangement and notes that any vehicle access to the site would be difficult to achieve without adversely impacting the existing pedestrian pathway.

The built form steps up at the street and does not respond to the topography of the site. From a planning and design perspective, the built form is inappropriate in terms of its adverse visual bulk and excessive scale within the streetscape. The proposal is therefore not supported.

Non-compliance with the Building Height Development Standard

A maximum Building Height development standard of 9.5m is applicable under Clause 4.3 of RLEP 2012. The highest part of the roof is RL 29.73. The Survey Plan submitted with the application shows the existing ground directly below at RL 20.22. The proposed development will therefore have a building height of 9.51m, which exceeds the maximum building height development standard under RLEP 2012. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.

Non-compliance with the FSR Development Standard

A maximum Floor Space ratio (FSR) development standard of 0.5:1 is applicable under Clause 4.4 of RLEP 2012. The proposed development will have an FSR of 0.6:1, which exceeds the maximum FSR development standard by 20%. A review of the gross floor area (GFA) plans submitted with the application indicate that the variation has been underestimated as the stairs at the lower levels and vertical lifts have not been included in the calculation of GFA. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.

Overshadowing

Part C1 Section 5.1 of RDCP 2013 establishes the solar access and overshadowing controls applicable to the development.

The living, kitchen and dining area of the southernmost dwelling will have inadequate solar access and poor amenity for the future occupants.

The proposal will have an adverse impact in terms of overshadowing to the adjoining properties, due to the excessive bulk and scale of the development. The additional shadow cast is largely a function of the non-compliance with the building envelope controls, including external wall height and setbacks under RDCP 2013.

The shadow diagrams submitted with the application fail to show the window types and location of private open space on the adjoining affected properties. Council is therefore unable to undertake a proper assessment of the overshadowing impacts of the proposal.

Privacy

Part C1 Section 5.3 of RDCP 2013 establishes the visual privacy controls applicable to the development. The elevated terraces/pool deck at ground level and the balcony/window openings at the upper levels along the rear and side elevations will result in direct overlooking of the adjoining properties. The design and layout of the development fails to minimise overlooking and cross viewing and will result in unreasonable privacy impacts to the adjoining properties.

Building Classification

The description of the proposed development in the Statement of Environmental of Effects accompanying the application and the Development Application form is for an 'attached dual occupancy', which is two dwellings on one lot. However, the proposal involves subdivision, which would result in each dwelling being on its own lot and therefore akin to semi-detached dwellings.

9. Conclusion

That the application for demolition of the existing dwelling, construction of dual occupancy with shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision be refused for the following reasons:

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 774/2021 for proposed demolition of existing dwelling, construction of dual occupancy with shared garage, associated driveway and landscape, pool to the rear yard, and strata subdivision at No. 3 Surfside Avenue, Clovelly for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal exceeds the maximum building height development standard in Clause 4.3 - Building Height of Randwick Local Environmental Plan 2012. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.
2. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal exceeds the floor space ratio development standard in Clause 4.4 - Floor Space Ratio of Randwick Local Environmental Plan 2012. The applicant has failed to identify the non-compliance and as such, a Clause 4.6 request to vary this standard has not been submitted. The proposed variation cannot be supported and therefore, by necessity, the development application must be refused.
3. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives of the R2 Low Density Residential zone established within Randwick Local Environmental Plan 2012 as it will have an adverse impact on the existing streetscape character and built form and it does not protect the amenity of residents.
4. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to satisfy the Aims of the Plan in Clause 1.2(2)(a),(d)&(i) of Randwick Local Environmental Plan 2012.
5. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives in Clause 6.7 – Foreshore Scenic Protection Area of Randwick Local Environmental Plan 2012 as it has not been designed to minimise its visual impact on public areas and does not positively contribute to the scenic quality of the Foreshore Scenic Protection Area.
6. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to comply with the objectives and controls of Randwick Development Control Plan 2013:

- 2.1 - Minimum Lot Size and Frontage
 - 3.1 – Floor Space ratio
 - 3.2 – Building Height
 - 3.3 – Setbacks
 - 4.1 – Building Design
 - 4.3 – Additional Provisions for Attached Dual Occupancy
 - 4.4 – Roof Design
 - 4.6 – Earthworks
 - 5.1 – Solar Access and Overshadowing
 - 5.3 – Visual privacy
 - 5.4 – Acoustic Privacy
 - 5.5 – Safety and Security
 - 5.6 – View Sharing
 - 6.1 – Location of Parking Facilities
 - 6.2 – Parking Forward Front Building Alignment
 - 6.3 - Setback of Parking Facilities
 - 6.4 – Driveway Configuration
 - 6.5 – Garage Configuration
 - 7.5 – Swimming Pools
7. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(b) of the Environmental Planning and Assessment Act 1979 in that the proposed development will result in adverse environmental impacts on the existing neighbourhood character and the visual amenity of the street.
8. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(e) of the Environmental Planning and Assessment Act 1979 in that approval of the development will create an undesirable precedent, and the building proposes significant deviations from both the numerical and merit-based controls and is therefore not in the public interest.
9. The information submitted with the application does not provide sufficient detail to enable Council to undertake a proper assessment of the potential view impacts, removal of trees on the site and overshadowing of the adjoining properties.
10. The information submitted with the application is ambiguous as it incorporates a Plan of Subdivision proposing each dwelling on its own lot, which is at odds with the proposed description in the Statement of Environmental of Effects and the Development Application seeking approval for an attached dual occupancy, which constitutes two dwellings on one lot.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

Council's Development engineer provided the following comments:

Development Engineering has reviewed the submitted plans and notes that the proposed vehicular access to the site from Surfside Ave is to construct a driveway bridge over the low level Council footpath.

Development Engineering advises that such a structure (driveway bridge) over Council's footpath is not supported, and the application should be withdrawn/refused.

Development Engineering also advises that any vehicular access from Council's roadway would appear difficult as it would impact on the existing pedestrian pathway. The Planning Officer is advised that any future development of the subject site may have to be considered with no ability to provide off-street parking.

Appendix 2: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP): <ul style="list-style-type: none"> • R2 = 400sqm • R3 = 325sqm • R2 = 450sqm (attached dual occupancy) 	853.6m ²	Yes
	Minimum frontage		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	13.175m	No
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	374m ² or 44%	Yes
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	303m ² or 35%	Yes
2.5	Private open space (POS)		
	Dual Occupancies (Attached and Detached) POS		
	451 to 600 sqm = 5m x 5m each 601sqm or above = 6m x 6m each ii) POS satisfy the following criteria: <ul style="list-style-type: none"> • Situated at ground level (except for duplex) • No open space on podiums or roofs • Adjacent to the living room • Oriented to maximise solar access • Located to the rear behind dwelling • Has minimal change in gradient 	6m x 6m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.5:1	0.6:1	No
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	9.5m	Yes

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DCP Clause	Controls	Proposal	Compliance
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	9.2m	No
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Generally consistent with the average setback of the adjoining dwellings	Yes
3.3.2	Side Setback Frontage width 12m and above <ul style="list-style-type: none"> - 1.2m (ground) - 1.2m (first) - 1.8m (second storey and above) 	1.2m (entry floor plan and garage)	No
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: <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	23.5m-24m (to the building) 12.95m (edge of the pool deck) The proposed development is inconsistent with the predominant rear setback.	No
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 	Poor design response due to the elevated driveway across the footpath.	No
4.3	Additional Provisions for Attached Dual Occupancies		

DCP Clause	Controls	Proposal	Compliance
	Should present a similar bulk as single dwellings i) Garage for each dwelling shall have a single car width only ii) Articulate and soften garage entry iii) Minimise driveway width iv) Maximum 2m setback of front entry from front façade v) Maximise landscape planting at front	The proposed development does not present a similar bulk to single dwelling. The elevated driveway and double garage will have significant adverse visual impact within the streetscape. Inadequate landscape treatment at the front setback.	No
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)	The proposal includes a double garage on the roof.	No
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	Concrete, timber and rendered wall	Acceptable
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.	1.9m (fill) 2.9m (cut)	No
5	Amenity		

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DCP Clause	Controls	Proposal	Compliance
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.	Poor solar access to the living, kitchen and dining area of the southernmost dwelling. Unlikely to achieve a minimum 3 hours direct sunlight at the winter solstice	No
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	Insufficient information provided to enable Council to do a proper assessment of the overshadowing impacts to the adjoining properties	No
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 	Sufficient daylight and natural ventilation.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>walls</p> <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: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i></p>		
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>There will be potential privacy impacts to the adjoining properties associated with window openings at the upper levels along the rear and side elevations.</p>	No
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>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)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>There will be potential privacy impacts to the adjoining properties associated with elevated terrace areas at ground level and the balconies at the upper levels along the rear elevation.</p>	No
5.4	Acoustic Privacy		
	<p>i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <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. 	<p>The future use of the proposed elevated tool deck will result in potential acoustic impacts to the adjoining properties.</p>	No
5.5	Safety and Security		
	<p>i) dwellings main entry on front elevation (unless narrow site)</p> <p>ii) Street numbering at front near entry.</p> <p>iii) 1 habitable room window (glazed area min</p>	<p>The front entry is not visible from the street due to the elevated</p>	No

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DCP Clause	Controls	Proposal	Compliance
	2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	driveway.	
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 adopted to mitigate potential view loss impacts in the DA. (certified height poles used)	Insufficient information has been submitted to enable Council to undertake a proper assessment of the potential view impacts	No
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)	1 vehicular access will be located forward of the dwelling.	No
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;	A 5.2m wide driveway at the street boundary elevated above the footpath in front of the site.	No

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - 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) 		
6.3	Setbacks of Parking Facilities		
	<ul style="list-style-type: none"> 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 	An elevated double garage will be provided at the front of the site.	No
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	5.2m	No
6.5	Garage Configuration		
	<ul style="list-style-type: none"> 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 	The garage is not integrated into the building form.	No
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 	There will be no new fencing	
7.5	Swimming pools and Spas		
	<ul style="list-style-type: none"> i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of 	The proposed pool and associated deck will be elevated 2m above existing ground on the lower	No

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DCP Clause	Controls	Proposal	Compliance
	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.	side.	

3.4 Section B10: Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Outbuildings and ancillary structures integrated with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.	The proposed development will have an adverse visual impact on the surrounding area.	No

Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/774/2021

Development Application Report No. D37/22

Subject: 342 Arden Street, Coogee (DA/123/2021/A)

Executive Summary

Proposal: Section 4.55 (2) - Modification to approved development to modify Condition 3. a. relating to the rear setback of the dwelling.

Ward: East Ward

Applicant: R Roe-Gilligan

Owner: R Roe-Gilligan

Cost of works: Nil

Reason for referral: **More than 10 unique objections have been received**

Recommendation

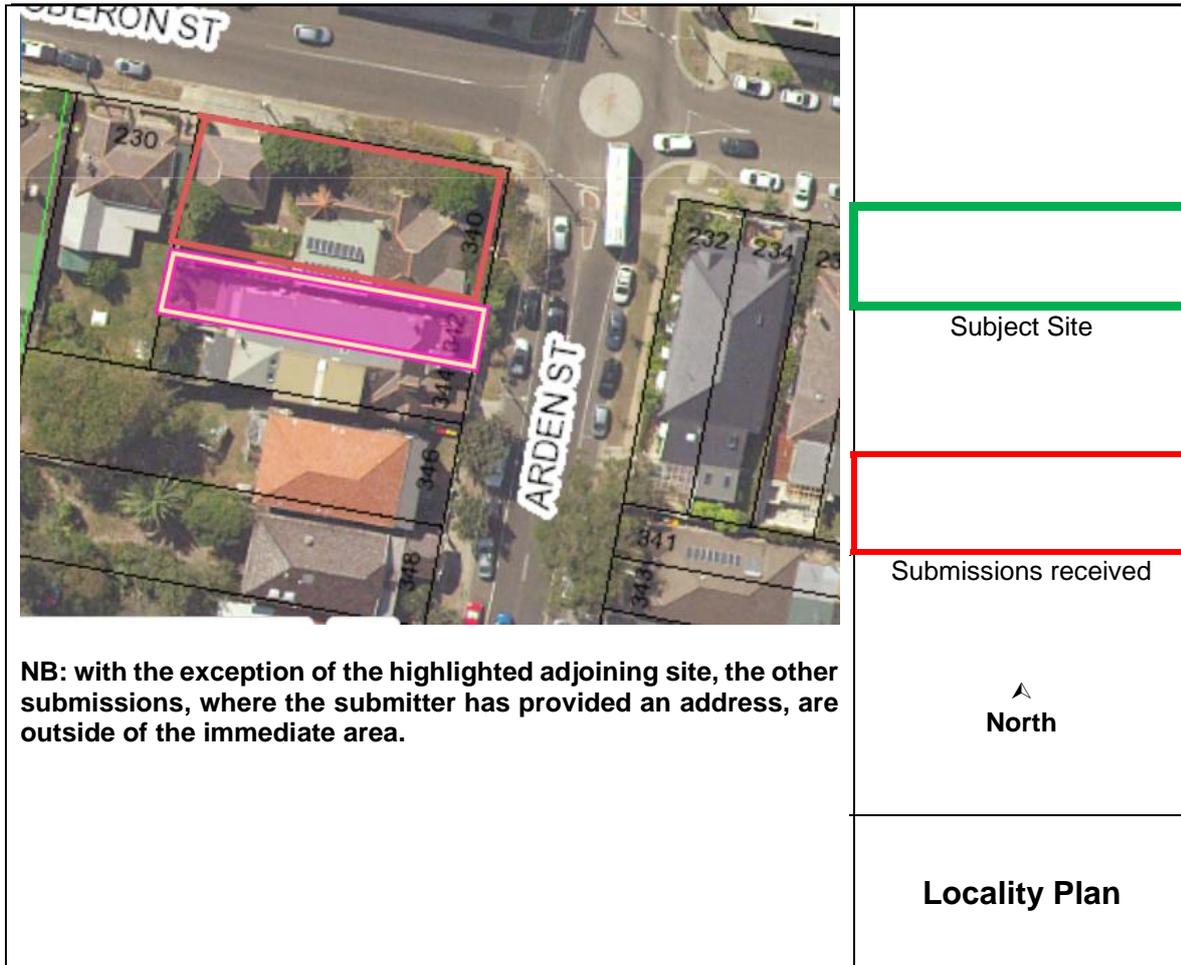
- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Consent No. DA/123/2021 by deletion of Condition 3. a. in relation to the rear setback of the dwelling at 342 Arden Street, Coogee, in the following manner:
- 1) Delete Condition 3. a.

Attachment/s:

Nil

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1. Executive summary

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

- 11 unique submissions have been received.

The proposal seeks development consent to delete reference in condition 3. a. that requires the proposed first floor addition to have a minimum rear setback consistent with the adjoining semi-detached dwelling at No. 344 Arden Street, Coogee.

The key issues associated with the proposal relate to the impact that the reduced rear setback may have upon the visual amenity, privacy, solar access of adjoining premise and in relation to the adjoining Heritage Item, the setting, views or fabric of that item which is immediately to the north of the subject premises.

The proposal is recommended for approval to allow for condition 3. a. to be deleted.

2. Site Description and Locality

The subject site is legally identified as lot 2 in deposited plan 164666, 342 Arden Street Coogee and is on the western side of Arden Street between Rainbow street to the south and Oberon Street to the north. The site has a frontage of 6.965m, a maximum depth of 36.88m, a rear boundary of 6.96m and a total site area of 252.9sqm. The site is a regular rectangular shaped allotment.

The locality is residential in nature and includes a mixture of semi detached and free standing dwellings and multi unit housing development. There is a Heritage Item immediately adjoining the premises at No. 340 Arden Street Coogee.

3. Relevant history

The original application detailed alterations and additions including relocating the existing ground floor entry and demolition of existing porch to accommodate a new parking space, minor demolition to the ground floor internally to allow the addition of a new stair, cupboard laundry and re-planning of the existing bathroom area, first floor addition of two new bedrooms, a new bathroom and ensuite, a new study area and a walk-in robe and store. The original application was approved under delegation on 16 September 2021 subject to conditions.

4. Proposal

This application seeks to delete condition 3. a. which states;

Amendment of Plans & Documentation

3. *The approved plans and documents must be amended in accordance with the following requirements:*
 - a. *The proposed first floor addition must achieve a minimum rear setback which is consistent with the adjoining semi-detached dwelling at no. 344 Arden Street, Coogee.*

5. Section 4.55(2) Assessment

Under the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979 (the Act), as amended, 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-

- (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*

Council is satisfied that the development to which the consent as modified relates is substantially the same development as the modifications do not alter the fundamental nature of the development and seek the reconsideration of a condition of development only.

- (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*

The proposed modification has not triggered the requirement of consultation with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed.

- (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*

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development.

- (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.*

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 submissions were received as a result of the notification process:

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Issue	Comment
<p>Submissions received from;</p> <p>23/10 Alexander Street Coogee 1 Berwick Street Coogee 41 Dudley Street Coogee 76 Dudley Street Coogee 64 Coogee Bay Road Coogee 340 Arden Street Coogee 3/28 Beach Street Coogee 4/138 Beach Street Coogee Randwick Heritage Action Group Tenants of an unidentified property Resident who has not provided an address An unidentified resident</p> <p>Summary of concerns;</p> <p>-Objects to the proposal on Heritage grounds and impacts upon the adjoining Heritage Item.</p> <p>-The rear setback does not respect to the adjoining properties in relation to existing setbacks, privacy and view sharing.</p>	<p>The proposed modification has been assessed by Council’s Heritage Planner who has advised that the proposal as modified to seek to maintain the original rear setback will remain located to the rear and will not further impact on the setting, views or fabric of the heritage item immediately to the north.</p> <p>It is noted in the control that an increased rear setback may be required to maintain an existing predominant rear building line, achieve reasonable view sharing and protect privacy and solar access of the adjoining properties.</p> <p>The test to require a greater rear setback than the minimum 8m therefore rests with an assessment of any adverse impact that may result to the adjoining properties in relation to solar access, privacy, view sharing, and any predominant rear setback.</p> <p>With regards to amenity impacts that result from the complying setback. The development does not result in any unreasonable solar access impacts to the adjoining properties with solar access to those adjoining being maintained in accordance with the DCP control.</p> <p>In relation to privacy, all of the upper level northern side elevation windows are to the rear section of the dwelling nominated as being high level high light style windows that will not look</p>

<p>-Objects to the proposed carport.</p> <p>-Object to the size and bulk of the proposed addition to the existing building.</p> <p>-The proposal is out of character with the local area.</p>	<p>directly into the adjoining properties and the privacy objectives of the DCP will be maintained by the originally proposed rear setback of the new upper level portion of the dwelling.</p> <p>In relation to views it has been identified during the assessment of the original application that there are no views of any value across the rear of the subject and adjoining properties that would be maintained or require any detailed view loss analysis that would justify an additional rear setback in excess of the control. Having regard to the controls of the DCP, and the notation that a rear setback in excess of the minimum may be required, it is evident that the complying setback in this instance is reasonable in terms of maintaining solar access, does not result in privacy impacts, has no view impacts and is not out of keeping with any predominant rear setback.</p> <p>The carport was approved under the original development consent subject to amendments as per Condition 3. e. This application to modify the consent does not refer to the carport and does not provide a mechanism for the consent authority or residents to review an element approved and not part of this modification.</p> <p>The overall bulk and scale of the proposal addition was considered as part of the original assessment and is regarded as being acceptable and satisfies the LEP and DCP controls in relation to site coverage, setbacks, floor space ratio and building height.</p> <p>The local area contains a variety of building forms and is not cohesive in terms of building form and streetscape and the overall development as assessed in detail in the original development assessment will not detract from the residential character of the locality.</p>
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NB: An objection had been received from the owners of No. 341 Arden Street. By email received on the 6/6/22 that objection has been withdrawn.

6.1. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents, with particular regards to not impacting upon the adjoining Heritage Item.

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

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Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	On merit, site less than 300sqm	0.8:1	Yes, consistent with the surrounding development
Cl 4.3: Building height (max)	9.5m	7.7m	Yes

6.1.1. Clause 5.10 - Heritage conservation

The site is adjacent to a Heritage Item at 340 Arden Street Coogee. Therefore, as required by Clause 5.10 of the RLEP consideration must be given to the impact that any development may have upon the adjoining item.

The original proposal was considered by Council's Heritage Planner who did raise concerns during that assessment that the addition should be setback further to the rear to retain the existing roof form, the decorative ridge line and its original chimney and reduce the visual dominance when viewed from Arden Street and conserve the setting and views of the adjacent heritage item.

This application to modify the development consent to delete condition 3. a. has been referred to Council's Heritage Planner for further consideration.

The further advice received from the Heritage Planner as part of the overall consideration of this modification is that the proposed changes are located to the rear and will not further impact on the setting, views or fabric of the heritage item immediately to the north.

See Appendix 1. Heritage Planner referral comments.

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)(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)(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	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.

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

8.1. Discussion of key issues

The applicants justification in relation to the original proposal and rear setbacks is summarised as follows;

There is no predominant rear building line noting that a non conforming flat building in the R2 zone exists in the near vicinity and the site to the north at 340 Arden Street has a secondary street frontage to Oberon Street which also contains dense screen planting along its northern and southern setbacks and has substantail structures in its rear yard.

It is acknowledged that the first floor addition as proposed will extend beyond the adjoining semi however the proposed built form is setback further than the ground floor rear building line of the adjoining dwelling.



Figure 1. View to the adjoining property to the south (Source: Applicant’s SEE)

It is noted that the proposed siting of the addition does not generate any adverse visual bulk impacts to the other neighbour to the north, 340 Arden Street, or when viewed from any surrounding area. See photos supplied by the applicant below:

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Figure 2. View to the adjoining property to the north, note outbuilding and planting (Source: Applicant's SEE)



Figure 3. View from Oberon Street which demonstrates that viewing from the street to the rear of the subject site is already blocked by the existing building and vegetation to the immediately adjoining site at 340 Arden Street. (Source: Applicant's SEE)

The adjoining property to the north 340 Arden Street has a large outbuilding in the rear yard and a large hedge which prevents the direct view of the proposed rear upper level from the street and public domain. See figure 3 above.

The proposed addition is noted as having a side setback of 2.2m which is greater than the 900mm side setback control which allows not only for greater physical articulation but also reduces the apparent visual bulk of the rear addition from the adjoining property to the north.

The rear setback of the addition has no impact upon either view impacts or privacy to the adjoining properties.

Section 3.3 of the RDCP details the objectives and controls in relation to rear setbacks which are;

- a) To ensure the form and massing of development complement and enhance the streetscape character,
- b) To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access,
- c) To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.

The rear setback numerical control is 25% of the allotment depth or 8m whichever is the lesser.

It is noted in the control that an increased rear setback may be required to maintain an existing predominant rear building line, achieve reasonable view sharing and protect privacy and solar access of the adjoining properties.

The test to require a greater rear setback than the minimum 8m therefore rests with an assessment of any adverse impact that may result to the adjoining properties in relation to solar access, privacy, view sharing, and any predominant rear setback.

With regards to amenity impacts that result from the complying setback. The development does not result in any unreasonable solar access impacts to the adjoining properties with solar access to those adjoining being maintained in accordance with the DCP control.

In relation to privacy, all of the upper level northern side elevation windows are to the rear section of the dwelling nominated as being high level high light style windows that will not look directly into the adjoining properties and the privacy objectives of the DCP will be maintained by the originally proposed rear setback of the new upper level portion of the dwelling.

In relation to views it has been identified during the assessment of the original application that there are no views of any value across the rear of the subject and adjoining properties that would be impacted or require any detailed view loss analysis that would justify an additional rear setback in excess of the control.

Having regard to the controls of the DCP, and the notation that a rear setback in excess of the minimum may be required, it is evident that the complying setback in this instance is reasonable in terms of maintaining solar access, does not result in privacy impacts, has no view impacts and is not out of keeping with any predominant rear setback. Therefore, the rear setback of 8m which complies with the minimum 8m setback is acceptable, and condition 3. a. of development consent may be deleted.

9. Conclusion

The application is recommended for approval 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 provide for the housing needs of the community whilst enhancing

the aesthetic character and protecting the amenity of the local residents, with particular regards to not impacting upon the adjoining Heritage Item.

- 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 does not detract from the visual quality of the public domain/streetscape
- The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality, and in particular the adjoining heritage item.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The site is occupied by a Federation semi-detached single storey dwelling featuring a low tower element comprising Art Nouveau decorative leadlight casement windows. The dwelling is setback from a masonry and timber front fence.

It is located adjacent to the heritage item 'Verona, Federation Queen Anne corner house' at No. 340 Arden Street, Coogee (I52) located on the corner of Oberon Street and Arden Street. Views to the heritage item are appreciated from both the Arden Street frontage and Oberon Street frontage.

Background

The original applicant proposed alterations and additions including a first floor addition. The proposal included considerable change to the front elevation and front setback area. Heritage comments raised concerns regarding the scale and siting of the proposed two storey rear addition. It was recommended that the addition be setback further to the rear, to retain the existing roof form, the decorative ridge line and its original chimney and reduce its visual dominance when viewed from Arden Street and conserve the setting and views of the adjacent heritage item.

Proposal

A Section 4.55 application has now been received which seeks to remove a consent condition relating to the rear setback of the proposed upper level addition.

Controls

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.

Comments

The proposed changes are located to the rear and will not further impact on the setting, views or fabric of the heritage item immediately to the north.

Appendix 2: DCP Compliance Table

For the purposes of the assessment of this application to modify the development consent the relevant sections of the Randwick Comprehensive DCP 2013 which relate to the FSR and rear setback are addressed as follows with the additional comments relating to the modifications in italics;

Section B2: Heritage

All heritage provisions have been assessed by Council’s Heritage Planner as referenced in Appendix 1 above.

Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
3	Building envelope		
3.1	Floor space ratio LEP 2012 = On merit	Site area = 252.9sqm Proposed FSR = 0.8:1	<i>Complies in terms of being consistent with the immediate locality.</i>
3.3	Setbacks		
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	Proposed = 8m It is considered that the proposal has not demonstrated compliance with control no. ii) As such a condition of consent has been imposed to ensure compliance with the DCP. <i>The applicant has provided additional justification for the reconsideration and deletion of condition 3a which is discussed separately below.</i>	Conditioned to comply. See <i>Key Issues</i> .
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 	The proposal will have minimal impact on the streetscape being located behind the apex of the ridge.	Acceptable – see key issues.

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> encourage innovative design 	<p>The portion of the first floor addition which sits above the ground floor roof when viewed from the street is minimal.</p> <p>The proposal is seeking to provide a first floor northern elevation of 13.13m.</p>	
5.6	View Sharing		
	<ul style="list-style-type: none"> i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used) 	<p>No significant views have been identified.</p>	<p>Yes</p>

D37/22

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/123/2021/A