

Randwick Local Planning Panel (Electronic) Meeting

Thursday 24 November 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, 24 November 2022

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

D71/22 40-44 Arthur Street, Randwick (DA/3/2021) 1

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ACTING DIRECTOR CITY PLANNING

Development Application Report No. D71/22

Subject: 40-44 Arthur Street, Randwick (DA/3/2021)

Executive Summary

Proposal:	Demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 11 dwellings including affordable housing dwellings and a boarding house with 35 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works (variation to building height of the RLEP 2012).
Ward:	West Ward
Applicant:	Mr J Apostolou
Owner:	Mr A E Kassis and Mr S J Kassis
Cost of works:	\$13,025,216.00
Reason for referral:	The development is subject to SEPP 65 and contravenes the development standard for building height by more than 10%

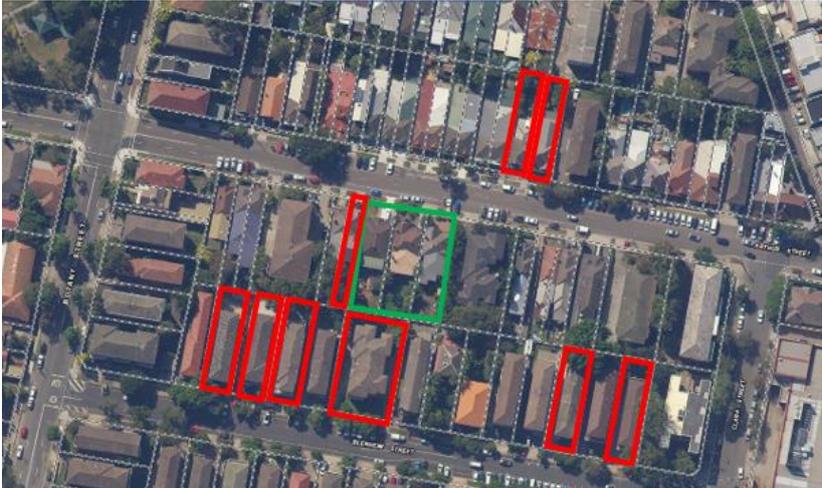
Recommendation

- 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 building height development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning 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/3/2021 for demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 11 dwellings including affordable housing dwellings and a boarding house with 35 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works, at Nos. 40-44 Arthur Street Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (mixed-use) - DA/3/2021 - 40-44 Arthur St, RANDWICK NSW 2031 - DEV - Randwick City Council

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	Subject Site
	38 Arthur Street 43 Arthur Street 45 Arthur Street + 1 Arthur Street 7 Blenheim Street 11-13 Blenheim Street 3, 5, 25, 29 Blenheim Street + 1 other
	8 Submissions received ▲ North
Locality Plan	

1. Executive summary

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

- The development contravenes the development standard for building height by more than 10%.
- The development is subject to SEPP 65 as the building is 3 or more storeys and contains at least 4 dwellings.

The proposal seeks development consent for Demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 16 units (now reduced to 11) and a boarding house with 41 boarding rooms (now reduced to 35) and manager’s room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works.

The key issues associated with the proposal relate to:

- Exceedance of the building height control
- Bulk and scale and façade articulation
- Urban design and amenity for the residents
- Communal open space and landscaping
- The co-location of a boarding house with a residential flat building with affordable rental housing.

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

- That the affordable rental housing component of the development be recalculated so that the communal corridors are not included in the area calculated as affordable housing for the purposes of calculation of the affordable rental housing FSR under Clause 13 of the ARH SEPP.
- Operational controls in relation to the management of noise and use of the premises including a plan of management;
- The requirement for additional noise reports at various stages of the development, including after issue of the occupation certificate;

- The updating and compliance with National Construction Code Assessment Report and Fire engineering reports;
- Stormwater drainage and flood management;
- Site seepage and groundwater;
- Waste management;
- Road opening and vehicular crossings; and
- Undergrounding of power.

2. Site Description and Locality

The subject site is known as 40-44 Arthur Street Randwick and is legally described as Lots 14, 15 and 16 in DP 4642. The site is 1520m², is regular in shape and has a 36.57m frontage to Arthur Street to the north, 36.57m rear boundary to the south, and east and west side boundaries of 41.81m. The site contains three brick dwelling houses with tile roofs.

Heritage item I307 (17 Blenheim Street) abuts the south eastern corner of 44 Arthur Street. This is Blenheim House – a local heritage item identified in the RLEP 2012.

The site slopes approximately 3.13m from RL59 in the north east corner to RL55.87 in the south west corner – approximately a 7.6% slope.



Figure 1: 40-44 Arthur Street Randwick looking south (44 to the left and 40 to the right)

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Figure 2: Windows of 46 Arthur Street on western side facing the site



Figure 3: From left - 40, 38, 36 and the residential flat building at 32-34 Arthur Street

3. Relevant history

The application was lodged on 6 January 2021.

The proposal originally included 15 x one bedroom apartments and one x studio apartment at the front facing Arthur Street, with 41 boarding house rooms (plus a manager's room) on the east and west side of a central courtyard over 4 levels.

On 24 March 2021, Council's assessing officer wrote to the applicant raising concerns about the following issues:

- The design philosophy – clear delineation between the two uses;
- FSR distribution between the two uses;
- Height variation is not justified. Together with the wall height exceedance the bulk is not acceptable;
- Concerns about meeting the character test under the SEPP (Affordable Rental Housing) 2009 (ARH SEPP);
- The operational plan of management is required to make clear how the two uses will operate together;
- Communal open space is disconnected from the residential flat building. Concerns about acoustic and visual privacy from the rooftop communal open space;
- Landscaped area control of 50% for the RFB is required;
- Lack of variety in housing types and sizes;
- Visual privacy from the east and west facing balconies is unacceptable. A minimum setback of 6m and/or privacy screens is required;
- Heritage conservation; and
- Various comments from Council's building section about issues raised in the National Construction Code report.

In early 2022, the proposal was amended to remove the central courtyard and amended the apartment mix. It was reviewed by the Design Excellence Advisory Panel a second time.

In May 2022, draft amended plans were provided which increased the side setbacks and made further amendments to the apartment layout and increased the common spaces internally.

In September 2022, amended plans (Issue J) were again provided. Minor amendments were made to some of those plans and lodged on 21 October 2022 (Issue K).

In November 2022, due to the confusion with the plan issue numbers and dates, Issue L was issued on 4 November 2022 dated 26/10/2022, Basix stamped plans marked as Issue K and dated 15 September 2022 (being the Issue K plans mentioned in the previous paragraph) were also provided. The assessment is based on the plans which are labelled Issue L, (floor plans and elevations), plus the Issue J and Issue K plans which are set out in the conditions.

4. Proposal

The amended proposal seeks development consent for demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 11 dwellings including affordable housing dwellings and a boarding house with 35 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works.

Of the 11 dwellings, there are 6 x 1 bedroom, 4 x 2 bedroom and 1 x 3 bedroom dwellings. The breakdown of the 11 units is as follows:

Unit number	# Bedrooms	Adaptable	Livable	Affordable Housing
G.01	2		Yes	Yes
G.02	2 bed + study			Yes
1.01	1	Yes	Yes	
1.02	1			Yes

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Unit number	# Bedrooms	Adaptable	Livable	Affordable Housing
1.03	3			
2.01	1	Yes	Yes	Yes
2.02	1			Yes
2.03	1			Yes
2.04	1	Yes	Yes	Yes
3.01	2			Yes
3.02	2			
Total	11	3	4	8 (5 x 1 bed and 3 x 2 bed)

It should be noted that due to the incorrect calculation of the GFA for the affordable housing, an additional dwelling is to be provided for affordable housing. Refer to discussion under Section 6.2 of this report.

Of the 35 boarding rooms there are 7 single rooms, 28 double rooms (2 of which are accessible) and a manager’s room.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submissions (8 of them) were received as a result of the notification process:

- Not Stated

Issue	Comment
Traffic Congestion	The traffic report lodged with the application showed a level of Service as B (acceptable delays and spare capacity) for these intersections. For a greater number of boarding rooms and units than now proposed, the modelling showed there was no change to the level of service at the intersections
Overstretched infrastructure within Randwick Junction	This is a matter for Council’s strategic planning department
41 boarding rooms and 16 units is a strain on the environment - sustainability	The proposal is reduced to 35 boarding rooms plus a manager and 11 units. The site is close to Randwick Junction and the light rail and Sydney Children’s Hospital, the Prince of Wales Hospital and UNSW. All of these close locations reduces the need to drive to services and commuting. The BASIX certificate requires photovoltaic cells on the roof
Safety concerns during construction for children and those using the footpath	A traffic construction management plan would be conditioned
Frosted windows facing 38 Arthur Street required for privacy	The unit windows facing 38 Arthur Street are either frosted or high level. The boarding rooms have a 6 metre separation distance to the boundary with a mix of privacy screens and planters to aid in reducing privacy impacts whilst avoiding an overly bulky appearance to the neighbour.
Building should not extend beyond the existing dwelling at 40 Arthur Street	Although the building (excluding the fire stairs) does slightly exceed the DCP rear setback of 6.27m (being 6m adjacent to 38 Arthur Street), it is not reasonable to reduce the potential floor plate of the site to the rear extent of the existing building at 40 Arthur Street which is about 14 metres

Issue	Comment
Damage to the paling fence between 38 and 40 Arthur Street should be replaced at the developer's cost	The acoustic report has recommended a solid 1.8m high fence on the boundary which would form part of the development consent at the developer's cost
Stormwater system must be adequate	Noted – this would be conditioned

- 11-13 Blenheim Street Randwick

Issue	Comment
Insufficient parking spots for all the apartments. Need more parking and less units	The parking numbers are established by the relevant State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Council is unable to require a greater number. The proposal meets the requirements of the SEPP. The number of units has reduced from 16 to 11.
Too many boarding units of transient residents which affects quality of life	The number of boarding units has reduced from 42 to 36 including the manager. There is a minimum stay of 3 months for boarding house residents, and occupancy arrangements for 6 and 12 months will be offered.
Communal areas back on to quiet residential buildings. Must be noise and access restrictions. Otherwise the boarding rooms should be replaced with 1 or 2 bedroom units with their own living spaces to discourage noise	The acoustic report includes various management measures which are included in the plan of management. There are also acoustic solid walls required by 1.8m high fencing to assist in acoustic management. Visitors are restricted in accordance with the plan of management. The boarding rooms have their own kitchens and private open spaces. Council's Design Excellence Advisory Panel has welcomed the combining of the two uses.
Corridors and stairways are not enclosed creating a motel style development which is uncharacteristic and result in noise impacting neighbours	The corridors are now enclosed within the building. The fire stairs at the rear remain open, however this reduces bulk and are unlikely to be heavily used other than to access the communal open space at the rear.
Overshadowing on 11-13 Blenheim Street leading to lower levels receiving no direct sunlight despite being north facing, affecting value of those properties	The proposal will create additional overshadowing midwinter to the lower two levels at 9am, and the lowest level until 2pm. However this lower level would already be largely overshadowed by the existing trees which are on that site. It is difficult to retain solar access to this building given it is directly south of the site. The height exceedance and slightly reduced rear setback is not contributing to the increased overshadowing of Nos. 11-13 Blenheim Street.
A dilapidation report should be carried out	This can be conditioned
Visual bulk is out of keeping with other lots in the area	The bulk has been reduced by increasing setbacks and removing the internal courtyard. Setbacks to the top level when viewed from Arthur Street have also increased.

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- 45 Arthur Street Randwick

Issue	Comment
Concerns about 41 boarding rooms without community consultation. There are too many. Disturbance from works zone	A traffic management and construction management plan would be conditioned. The number of boarding rooms has been reduced to 35 plus the manager. Boarding rooms are a permissible use in the R3 zone and under the now repealed SEPP (Affordable Rental Housing) 2009, without any prior community consultation.
Who will occupy the boarding rooms and how long are the leases?	The management plan identifies that the leases must be of at least 3 months
Safety concerns around the occupants of the boarding rooms	A Plan of Management accompanies the application with provisions concerning appropriate behaviour, house rules and maintenance of spaces
Insufficient parking	The parking numbers are established by the relevant State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Council is unable to require a greater number. The proposal meets the requirements of the SEPP

- Not Stated

Issue	Comment
Did not receive notification	Noted. The address is not shown in the submission
Insufficient green space and tree canopy	An amended landscape plan has been provided
2 level basement impact on the water table and surrounding properties, noting that adjoining properties sump and pump into the stormwater drain outside 32-34 Arthur Street	A geotechnical report is provided with recommendations which can be conditioned
Construction traffic – the area is already strained	Noted, the conditions can require a construction traffic management plan
Arthur Street/ Clara Street/ Belmore Road is already a choke point in the mornings and afternoons leading to gridlock throughout Randwick. This will worsen it	The traffic report lodged with the application showed a level of Service as B (acceptable delays and spare capacity) for these intersections. For a greater number of boarding rooms and units than now proposed, the modelling showed there was no change to the level of service at the intersections
Exacerbate stretched parking in the area	The parking numbers are established by the relevant State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Council is unable to require a greater number. The proposal meets the requirements of the SEPP

- 43 Arthur Street

Issue	Comment
Too many boarding rooms	The number of boarding rooms has reduced from 41 to 35 plus the manager. Each has private open space and are above the minimum size under the relevant SEPP (Affordable Rental Housing) 2009

Issue	Comment
Increase in traffic in the already congested street which will increase if Waratah Ave is blocked near Belmore Road	The traffic report indicates that the level of service of the intersections will remain at Level B – an acceptable level with capacity

- 7 Blenheim Street

Issue	Comment
16 units and 42 boarding rooms is excessive, significantly increasing population density, noise, demand for parking and traffic	<p>There are now 11 units and 35 boarding rooms (plus the manager). It will increase density. The acoustic report provides recommendations for managing noise within the property and for neighbours.</p> <p>The parking numbers are established by the relevant State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Council is unable to require a greater number. The proposal meets the requirements of the SEPP</p>

- Arthur Street

Issue	Comment
Inappropriate mix of boarding rooms and units. The carpark calculation should account for boarding rooms and those residents will also have visitors. This will compromise parking in Arthur Street	The parking numbers are established by the relevant State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Council is unable to require a greater number. The proposal meets the requirements of the SEPP
Are any current on-street carparks to be lost?	It appears unlikely. There are currently 3 driveways which will be reduced to one. It appears 3 cars can currently park and that situation will not change,
Due to no right turn from Arthur Street to Botany Street which will negatively impact further traffic flow on Belmore Road and Arthur Lane, further impacted by Council's proposal to pedestrianize Arthur Lane	Arthur Lane still allows for traffic to access the car parks of the buildings facing High Street
When was the traffic assessment conducted? Was it during school holidays? Should ensure it is during school term as the development will increase existing congestion.	The traffic engineers have advised that the surveys were conducted on 22 October 2020 which was during school term.

- 29, 25, 3 and 5 Blenheim Street

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Issue	Comment
A departure from the preferred urban outcomes in the RLEP and DCP and should be rejected. It exceeds the height and FSR and fails to comply with DCP boundary setbacks, external wall heights, deep soil and 50% landscape control	The proposal complies with the FSR control permitted under the SEPP (Affordable Rental Housing) 2009 which applied at the time of lodgment. The setbacks are largely complied with other than at the rear. The wall height control is exceeded although the top floor has increased setbacks to mitigate the exceedance. The DCP landscape control is met, although the more relevant landscape control is under the SEPP (with which the proposal has 28% and not 30% for the must not refuse provisions). The height exceedance is covered elsewhere in the report
Bulky and poor urban infill and does not pass the ARH SEPP character test	See consideration of the character test elsewhere
Should not include both a boarding house and apartment building in the same building	There is nothing preventing this combined set of uses which has been accepted as a suitable grouping of uses by Council's Design Excellence Advisory Panel
Claims in the SEE are misleading concerning compliance with the draft Housing Diversity SEPP	The Housing SEPP has now been made and commenced in November 2021. It does not apply to the application

5.1. Renotification

The amended plans addressed some of the issues raised by the submissions and the impacts were considered to be reduced from those plans originally notified. Renotification was therefore not considered necessary.

6. Relevant Environment Planning Instruments

6.1. SEPP 65 - Design Quality of Residential Apartment Developments

The *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) aims to promote quality design of Residential Flat Buildings. The proposed development is subject to SEPP 65 as part of the development involves a residential flat building of three or more storeys with 4 or more dwellings. The SEPP applies merely to the residential flat component of the proposal.

Clause 28 of SEPP 65 requires the consent authority to consider:

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

6.1.1. Design Excellence Advisory Panel (DEAP)

The Design Excellence Advisory Panel functions as design review panel for the purposes of SEPP 65.

The DA was referred to the Design Excellence Panel for advice concerning the design quality of the development. The first such referral was on 5 May 2021 when the panel advised that the design does not sufficiently address Randwick Council's Design Excellence principles. A summary of the comments includes:

- The material and formal expression is not compatible with the character of the local area
- Clearer identification of the entry and breaking up of the façade is required
- The U-shaped plan offers opportunities for social interaction and cross ventilation but leads to privacy impacts and a T shaped plan with increased setbacks should be pursued
- Further sustainability matters should be included
- Landscaping to the front is insufficient for privacy and sun-screening
- Good solar access is provided however details are required to improve visual and acoustic privacy.
- The boarding rooms should be increased to a minimum 3m width
- The combining of a boarding house and regular apartment accommodation is commended, but a greater mix of apartment sizes should be provided

The plans were amended with the removal of the internal courtyard. The DA was referred again to the Design Excellence Panel for advice concerning the design quality of the development. At the time they were only able to view the design on the screen. A summary of the comments includes:

- Removal of the courtyard is supported
- The setbacks should be increased with the courtyard's removal but they have not been, leaving the open spaces not being configured with amenity
- It is reasonable to share the communal spaces between the boarding rooms and apartments, but different types of communal areas should be provided
- Street elevation with the central recess is improved, but requires further refinement
- The common circulation spaces should have a view to a tree/vegetation. Common spaces should be more generous than 1800mm wide.
- The cantilever over the driveway entry is awkward. The setback should allow for substantial tree and screening vegetation.

The detailed comments provided by the DEP are provided in Appendix 1.

6.1.2. *Design quality principles*

The comments provided by the DEP (refer to Appendix 1) detail how each of the nine quality design principals have been considered in the proposal as originally proposed, however do not address the design quality principles under the revised plans. Below the comments from the DEP on 10 May 2021 are set out. Comments in *italics are those provided by the assessing officer* in relation to the amended plans.

Principle 1: Context and Neighbourhood Context:

The material and formal expression of the building is not compatible with the character of the local area. There is an excess of glass on the front elevation, including the glass balustrades, and the use stark white rendered surfaces are not compatible with the local area/ context which is comprised mostly of face brick buildings.

Further consideration should be given to the form and expression of the Arthur Street façade in relation to the general pattern of development in the street.

The design should be amended to address the character of the local area.

Assessor's comment: The amount of glazing has been reduced with palisade balustrading. An instep over the front door with medium grey powder coating finish reduces the glazed impact to the street. Vertical face brick and horizontal concrete look render has replaced the white render

Principle 2: Scale and Built Form

As per the above, further consideration should be given to the form and expression of the Arthur Street façade. Clear identification of the entry, expressed in break-up of façade elements, will facilitate a reduction in the visual bulk of the street address.

The U shaped plan offers opportunities for social interaction and cross ventilation via the rear void between boarding units. However it comes at the cost of insufficient privacy setbacks to occupants of neighbouring apartments to the east. East facing boarding unit balconies should be set back 6m from the boundary/ or balconies removed.

Increasing the setback/ removal of the central void/ resulting in a T-shaped plan is encouraged over removal of the balconies as they provide valuable amenity to occupants of the boarding house units. It is noted that this may reduce the number of boarding units that achieve good solar access.

Assessor's comment: The entry has been much better defined with an indent of 3.37 metres wide at all levels above the entry which reduces the visual bulk of the building. The U shape has been removed. The balcony setbacks to the east have increased from the originally proposed 4m to 6.245m. The number of boarding rooms has reduced from 41 + manager to 35 + manager.

Principle 3: Density

See Principle 2: Scale and Built Form above

Principle 4: Sustainability

The design is commendable in the number of apartments that achieve good solar access.

However, further consideration should be given to the provision of solar panels for on-site energy generation and rain water storage tanks for landscape irrigation.

See also Amenity below with regards stair location.

Assessor's comment: A photovoltaic system with a minimum 13.0 peak kW electrical output forms part of the BASIX certificate. Council's engineers have not required rainwater storage tanks in their proposed conditions.

Principle 5: Landscape

Privacy and sun-screening to front façade is insufficient - the plants shown on the street façade (photomontage) have no planter boxes or watering points provided in the landscape plan.

Further consideration should be given to the form and expression of the landscape/ entry to Arthur Street. Clear identification of the entry in the landscape will facilitate better visual accessibility.

Assessor's comment: Amended landscaping plans have been provided which include 5 trees within the front setback and shrubs within the front planters. Three new street trees are also proposed. Planter boxes shown in the photomontages on levels 1, 2 and 3 are not illustrated in the landscaping plans and further details will be required if that landscaping is to be carried forward into any approval. The entry has been better defined in the amended plans.

Principle 6: Amenity

The design is commendable in the number of apartments that achieve good solar access.

Sufficient visual and acoustic privacy in the form of planters and screen walls should be provided between the communal terrace on L3 and the apartment building on the adjacent lot to the east and the house to the west.

The glass balustrades – particularly those on the first floor balconies do not offer sufficient privacy. Consideration for solid balustrades up to 850mm above FFL should be considered

The location of the stairs in respect to the entry and lifts does not encourage regular use of the stairs as a way to access apartments. Further consideration should be given to the location of the stairs to encourage incidental exercise/ reduction in use of lifts.

The design should be amended to provide a minimum width of 3m to each unit.

Assessor's comment: All apartments obtain the ADG level of solar access. Planter boxes with grasses on the communal terrace include planting to protect the visual and acoustic privacy of the neighbours to the east and west. The acoustic report recommends restrictions on the use of the communal terrace.

The glass balustrades are replaced with palisade balustrades and some planter boxes. Some privacy screening is provided.

The location of the stairs has been moved from the far eastern side to a more central location.

A minimum 3m width has been provided to each of the boarding rooms.

Principle 7: Safety

The proposed street façade design does not sufficiently make clear or express the location of the pedestrian entry for visitors and occupants.

Assessor's comment: The entry has been more clearly expressed by the instep in the building form of 3.370 metres – significantly wider than originally proposed and identified with blade walls.

Principle 8: Housing Diversity and Social Interaction

The Panel commends the development in respect to combining boarding house and regular apartment accommodation within the one development; and the social mix and interaction that this enables.

Consideration should be given for a greater mix of apartment sizes/ number of bedrooms so as to provide for a greater social mix.

Assessor's comment: The apartment mix has changed from 15 x 1 bed and 1 x studio apartment to 6 x 1 bed, 4 x 2 bed and 1 x 3 bedroom apartment.

Principle 9: Aesthetics

Refer Principle 1: Context and Neighbourhood Context

6.1.3. Apartment Design Guide

Appendix 3 provides an assessment of the proposal against the relevant design criteria contained in parts 3 and 4 of the Apartment Design Guidelines. In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives.

The proposed development does not comply with the ADG sunlight requirements to the communal open space, and visual privacy distances, however on merit these are considered acceptable. There are minor non-compliances with internal storage for one apartment however there is substantial storage in the basement. The maximum corridor length slightly exceeds 12m however this is in the boarding room component of the proposed development.

6.1.4. Standards that cannot be used as grounds to refuse development consent
Clause 30 of SEPP 65 states:

If an application ... satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) *if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) *if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*

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

The proposed development complies with the car parking, internal area and ceiling heights controls in the ADG.

6.2. SEPP (Affordable Rental Housing) 2009

The application was lodged prior to the commencement of the SEPP (Housing) 2021 and SEPP (Affordable Rental Housing) 2009 (ARH SEPP) applies by virtue of the transitional provisions. The application seeks the benefit of the SEPP in two ways. Firstly it seeks the FSR uplift of 0.5:1 under clause 13(2) of the SEPP for affordable housing within a residential flat building, on the basis that the percentage of the gross floor area of the development that is used for affordable housing is 50% or higher. There are a number of 'must not refuse' standards applicable to that part of the development. Secondly, the application seeks the FSR uplift of 0.5:1 under clause 29(1)(c) of the ARH SEPP with respect to the provision of boarding house accommodation. The proposal takes advantage of this uplift. Again, there are a number of must not refuse standards applicable to the boarding house element of the development.

6.2.1. FSR and GFA for the residential development / apartments

The FSR control under RLEP 2012 is 0.9:1 for the site.

The GFA of the proposal is 2,109m² over a site area of 1,520m² giving an FSR of 1.39:1. The application seeks an FSR of 1.39:1 on the basis of an uplift of 0.5:1 under both the in-fill affordable housing provisions and the boarding house provisions of the ARH SEPP.

The GFA of the residential apartment section is 985m².

Division 1 of Part 2 of the ARH SEPP includes In-fill affordable housing. The division applies to residential development if various conditions are met (which they are). "Residential development" is defined in clause 10(2) and relevantly includes residential flat buildings but not boarding house development.

The relevant part of clause 13(2) of the repealed ARH SEPP regarding FSR is as follows:

- (2) *The maximum floor space ratio for development to which this Division applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus—*
- (a) *if the existing maximum floor space ratio is 2.5:1 or less—*
- (i) *0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or*
- (ii) *Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,*
where—
AH *is the percentage of the gross floor area of the development that is used for affordable housing.*

$$Y = AH \div 100$$

Clause 13(2) only refers to that part of the site which is for the residential flat building as boarding houses are not residential development for the purposes of the division. In order to achieve the full 0.5:1 uplift under the ARH SEPP, 50% of the residential apartment section must be "used for affordable housing".

Affordable housing is defined in clause 6 of the ARH SEPP as follows:

affordable housing *means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.*

The drawing number A-4110 Rev K illustrates that the proposed affordable GFA is 500m² – being 50.8% of the GFA of the residential accommodation element of the development. That figure of 500m² includes corridors which are accessible by both the boarding house occupants and the occupants of the apartments which are not affordable. If the calculation for affordable housing is considered to correctly include these corridors, the applicant appears to have satisfied the requirements to obtain the full 0.5:1 uplift under the ARH SEPP.

However there is a reasonable argument that the corridors cannot be considered to be “affordable housing” as defined. The corridors are communal areas which also include seating areas outside the lift and some of the services area on Level 1. These corridor areas provide access to the affordable housing units, but are not themselves affordable housing and are not exclusively for the benefit of the occupants of the affordable units, given that other occupants can use these corridor areas.

Measuring from the plans, estimates of the corridor areas which have been included in A-4110 Rev K as affordable housing is approximately 20m² each for Level 1 and Level 3 and approximately 40m² for Level 2. Therefore approximately 80m² is denoted as affordable housing GFA, when it actually forms part of the common areas for the whole of the development.

The total GFA of affordable housing is therefore approximately 500m² less 80m² = 420m². Out of the residential development GFA of 985m² that represents only 42.6% and the maximum uplift of 0.5:1 under clause 13(2) of the ARH SEPP will not apply. To obtain the full 0.5:1 uplift there must be 492.5m² of affordable housing. The proposal therefore needs an additional approximate 72.5m² of affordable units to have the benefit of the full 0.5:1 uplift (492.5 – 420 = 72.5m²). It is therefore proposed that this could be overcome by a condition of consent requiring at least 492.5m² (being 50% of the GFA of the residential portion of the development) to comprise affordable housing units excluding communal corridors. The most likely outcome is that one additional unit will be required to be set aside as affordable rental housing. The condition of consent should require detailed measurements to ensure that the development when completed is compliant with clause 13(2) of the ARH SEPP.

6.2.2. FSR and GFA for the boarding house element

In relation to the boarding house component of FSR, clause 29(1) of the repealed ARH SEPP is as follows:

29 Standards that cannot be used to refuse consent

- (1) *A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—*
- (a) *the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
 - (b) *if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or*
 - (c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—*
 - (i) *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
 - (ii) *20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*

Residential flat buildings are permissible on the land, and the site is not heritage listed or subject to an interim heritage order and has a maximum FSR of 2.5:1 or less. Therefore the site has the opportunity to increase the boarding house component by an FSR of 0.5:1 to a maximum FSR of 1.4:1.

The table below illustrates that the boarding house component represents 53.3% of the GFA of the site and at a GFA of 1124m², is below the maximum FSR of 1.4:1 and is compliant.

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	m ² proposed	% of 1520m ² site	m ² of site attributable	m ² GFA allowed at 1.4:1	Compliant?
RFB	985	46.7%	709.84	993.8	Yes: 8.8m ² below max <u>if</u> 50% <u>is</u> affordable
Boarding House	1124	53.3%	810.16	1134.2	Yes 10.2m ² below maximum
Total	2109	100.0%	1520.0	2128.0	Yes – 19m ² under maximum

6.2.3. Landscaped area

In relation to clause 14(1)(c) of the ARH SEPP, landscaped area is not defined in the SEPP however clause 4(2) of the SEPP indicates that a word or expression if not defined in the SEPP has the same meaning as the standard instrument. The standard instrument definition of landscaped area is:

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

There is no minimum dimension. The landscaped area includes permeable paving, stepping stones and timber decking pathways.

Clause SEPP (Affordable Rental Housing) 2009	Development Standard	Proposal	Compliance (Yes/No)
Clause 14 Must not refuse standards for affordable in-fill housing			
Site area	At least 450m ²	1,520m ²	Yes
Landscaped area	At least 30% (456m ²)	425m ² (28%)	No 8% variation. On merit the variation of 31m is considered acceptable.
Deep soil (in relation to the whole site including BH), not built on, paved or otherwise sealed with soil sufficient depth to support the growth of trees and shrubs	15% with minimum dimension of 3m (228m ² required). If practicable at least 2/3rds at the rear	Plans state 262m ² (17%). However most of this is less than 3m wide due to timber decking for paths. There is probably only 32m ² (2%) which meets the 3m criteria. If decking and the BBQ area which are not over the basement are included as they have decking and not paving approximately 312m ² (20.5%) would have a 3m dimension for deep soil.	Depending on how the control is read, if the deep soil must be planted, there is no compliance at 2%. If timber decking and the stepping stones are included, there is approximately 20.5% deep soil and it complies.

Clause SEPP (Affordable Rental Housing) 2009	Development Standard	Proposal	Compliance (Yes/No)
		Majority is on the western side setback and some in the rear	No but acceptable
Solar access living rooms and private open spaces	Minimum of 70% of dwellings receive at least 3 hours direct sunlight between 9am-3pm midwinter	11 out of 11 = 100%	Yes
Parking	0.5 spaces / 1 bed (6) 1 space / 2 bed (4) 1.5 spaces / 3 bed (1)	9 required. 13 residential + 3 visitor provided	Yes
Dwelling size	35m ² studio 50m ² 1 bed 70m ² 2 bed 95m ² 3 bed	All comply	Yes
16A compatibility with the character of the local area			See discussion below
CI 29 Must not refuse standards for boarding houses			
FSR is 0.5:1 above existing maximum (CI 29(1)(c))	0.9:1 + 0.5: 1 = 1.4:1 Applying the calculations for the % of the site for boarding house: 1,134.2m ² max)	1,124m ² boarding house GFA provided, over the attributable 810.16m ² of the total development (see table above) being 1.39:1	Yes
Building height not more than permissible	12m	13.55m (12.9% variation)	No. A cl 4.6 provided
Landscaped area of front setback is compatible with the streetscape		5 x tuckeroos in front setback with <i>acmena smithii</i> as hedge planting with various other shrubs, grasses and ground covers	Yes. Approximately half the front setback is well landscaped
Solar access for communal living rooms	At least 3 hours direct sunlight between 9am-3pm midwinter	Sunlight provided all day via a skylight. 2 hours direct sunlight through the windows	Yes
Private open space	At least 20m ² with minimum dimension of 3m Boarding house manager has 8m ² adjacent	463m ² shared with RFB Manager has 10m ²	Yes Yes
Parking	0.5 spaces / boarding room. Not >1 space per employee	35 rooms = 18 reqd. 18 provided for rooms (including 2 x accessible),	Yes

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Clause SEPP (Affordable Rental Housing) 2009	Development Standard	Proposal	Compliance (Yes/No)
		plus one for manager – 19 provided	
Accommodation size – (not including kitchen and bathroom) at least	12m ² single 16m ² > a single	Achieved	Yes
CI 30 Standards for boarding houses			
Communal living room	At least one	one	Yes
GFA	Not > 25m ²	none exceed 25m ²	Yes
Lodgers per room	Not > 2	Not > 2	Yes
Bathrooms and kitchens within the boarding house		All provided within the rooms	Yes
Manager	Required if > 20 lodgers	63 boarders. A manager provided	Yes
Bicycles and motor bikes	At least one of each for every 5 rooms	35 rooms (7 of each required): 7 motor bikes 8 bicycles (or more (shared with RFB))	Yes - Motor bikes Yes bikes
30A compatibility with the character of the local area			See discussion below

6.2.4. Compatibility with the character of the local area

Clauses 16A and 30A of the ARH SEPP requires a consent authority to take into consideration whether the design of the development is compatible with the character of the local area, before granting consent.

The block bounded by Botany Road, Arthur Street, Clara Street and Blenheim Street has a very large number of 3 and 4 storey residential flat buildings generally constructed in the 1970s – generally 3 storeys above a ground floor car parking area. They generally have a narrow presentation to the street. Each of the RFB's have a hipped or gabled roof form.

The proposal will differ from these buildings because of the width of the building (arising from the consolidation of three lots) and because of the flat roof form. The lower levels have a building form of 28.57m in width – roughly similar in width to 1-7 Waratah Avenue facing Botany Street. That building has a length to Waratah Avenue of approximately 81 metres. The top storey of the proposal has been reduced in width from the lower levels to 23.115m – roughly similar to the width of the lower levels of 18 Botany Street. The adjoining site at 46-48 Arthur Street and the site to the rear at 11-13 Blenheim Street both have street building frontages of approximately 15m. All others in the immediate area are less than these in width.

The proposal does have a vertical division and recess around the entrance way which visually separates the building into two zones, each of which is approximately 12m wide. This is a width that is commensurate with the other RFBs of the area.

The northern side of Arthur Street has many single and double storey dwelling houses constructed at around the same time as the existing houses on 40-44 Arthur Street following the subdivision in 1909-1913 of the area.

Project Venture Developments v Pittwater Council [2005] NSWLEC 191 at paragraph 24 sets out two questions to be asked regarding compatibility with the urban environment as a planning principle:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The physical impacts are those such as noise, overlooking, overshadowing and constraining development potential. The proposal includes a number of acoustic treatments and management requirements to ensure that the acoustic impacts are reasonable upon the adjoining developments. These can be conditioned. The proposal includes a number of privacy treatments to reduce overshadowing, such as planter boxes, privacy screens and translucent and high level windows. Overshadowing to the surrounding development mostly affects the lower northern windows of the residential flat buildings to the south and their northern rear private open space. A narrower development would reduce that impact.

The planning principle recognizes the subjectiveness of whether a proposal is in harmony with its environment, most clearly contributed to by the building form created by the building height, setbacks and landscaping. The proposal does exceed the 12 metre height limit on the western side where there is a fall in the ground level. The property to the east at 44-46 Arthur Street has a ridge level of RL69.49 – 0.51m (below the proposed top of the parapet of RL70) and a height of 11 metres above ground level existing. The top of the windows of 44-46 Arthur Street is at RL67.20 (at the eave height). The top of the windows for the proposal will be at approximately RL69.40 – 2.2m above the adjoining windows.

The side setback of 44-46 Arthur Street is approximately 5m on the western side and includes the driveway to the basement car parking. That is a similar arrangement to what is proposed in this application on the western side.

The landscape plan establishes boundary planting to both side, rear and front setbacks and would contribute to the urban character by creating greater consistency with 44-46 Arthur Street and by reducing the impact of the building from the street. The landscape plan includes planting in the public domain, which would be only possible if the overhead wires were to be undergrounded. A condition requiring undergrounding is included in the draft conditions. The Landscape officer has commented that the additional planting in the front setback will increase the amount of trees planted in this part of the street compared to the existing situation.

Taking into account the large number of residential flat buildings in the locality, and the changes made to the front façade to create articulation of some depth which provides for some vertical separation and articulation within the front façade, it is considered that the proposal is compatible with the character of the area. It provides for substantial increased planting in the front setback which will help to minimize the perceived bulk of the building.

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. SEPP (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-rural Areas

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) came into effect in NSW on 25 August 2017.

The aims of Chapter 2 of the 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 2.6(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Council's Landscape Officer has assessed the proposal and advises no objection to the removal of shrubs and planting within the site. The proposed landscaping within the site is subject to conditions of consent ensuring the future amount of vegetation on site will afford a reasonable level of residential amenity. The provided landscape plan includes significant planting of canopy trees on the site, mostly natives, which will increase biodiversity on the site.

6.5. SEPP (Resilience and Hazards) 2021 Chapter 4 – Remediation of Land

Council has considered remediation and a desktop review did not identify any potentially contaminating land uses. It is concluded that the site is unlikely to be contaminated.

6.6. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the ongoing viability of the centre whilst integrating residential development in a suitable manner that protects 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)	0.9:1	1.39:1 based on uplifts of 0.5:1 for boarding house and affordable infill housing	Yes
Cl 4.3: Building height (max)	12m	13.55m (12.9% variation)	No

6.6.1. Clause 4.6 - Exceptions to development standards

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

6.6.2. Clause 5.10 - Heritage conservation

The site is adjacent to the heritage item I307 Blenheim House and outbuildings on 17 Blenheim Street Randwick. Clause 5.10(5) of RLEP 2012 provides that a consent authority may require a heritage management document to be prepared to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item which is in the vicinity of a heritage item.

A heritage impact statement has been provided as part of the application. It concludes that there will be an acceptable impact on Blenheim House generally for the following reasons:

- The proposal is approximately 17m from Blenheim House.
- The enclosed character of Blenheim House (following subdivision in 1909-1913) means that it will not be possible to see the proposed development and Blenheim House from the public domain in the same view
- There are no original north-facing windows in Blenheim House.
- The main view to the development would be from the first floor verandah

Given the above, the impact of the proposal on the heritage item is considered acceptable. Refer to Appendix 1 for detailed comments from Council's Heritage Planner.

6.6.3. Clause 6.2 - Earthworks

Clause 6.2 of the RLEP requires the consent authority to consider a number of matters. A geotechnical report accompanied the application. Although based on the original set of plans, the plans have not changed to such an extent that the report cannot be used. The report includes consideration of boreholes and standard penetration testing and measurements of groundwater seepage/levels.

Free standing groundwater or significant seepage was not observed. The underlying material is silty sand. Dilapidation surveys are recommended for surrounding sites. Recommendations are made for demolition. An engineered retention system must be installed prior to excavation commencing and methods of excavation are recommended, together with monitoring.

The report indicates that it is likely that groundwater seepage into the excavation would occur along the soil/rock interface and through any defects in the sandstone bedrock, particularly following rainfall. Monitoring of seepage is recommended to confirm the capacity of the drainage system, which should be able to be controlled by a sump-and-pump system during construction and for permanent groundwater control below the basement floor slab. Various recommendations are set out.

Recommendations for maintaining the stability of all adjacent structures are considered and recommended, including for retaining walls, foundations and the basement floor slab.

Taking into account the results of the geotechnical report, it is considered that the drainage patterns and soil stability in the locality can be managed, that it will not adversely affect the likely future use or redevelopment of the land, that the quality of the soil to be excavated will be acceptable, that impacts on the amenity of adjoining properties can be managed, that the destination of the excavated materials can be appropriately managed, that the likelihood of disturbing relics is not high (although an unexpected finds condition should be included, and that appropriate measures can be included to avoid, minimize or mitigate the impacts from the development.

6.7. Planning Proposal for Draft Amendments to Randwick Local Environmental Plan 2012 (Planning Proposal)

Between 31 May to 12 July 2022, Randwick Council exhibited a comprehensive planning proposal to update the RLEP 2012 to take into account recent changes to strategies and studies including the Randwick Housing Study, draft Affordable Housing Plan (Housing Investigation Areas (2021)), Randwick Heritage Study (March 2021), Randwick Environment Strategy, Randwick Economic Analysis Report (2019), Night-time Economy Study (2019) draft Randwick Open Space and Recreation Needs Study (2020) and various rezoning requests. The planning proposal aims to ensure the RLEP is in line with the strategic directions and planning priorities of the Greater Sydney Region Plan (A Metropolis for Three Cities), Eastern City District Plan and the Randwick Local Strategic Planning Statement.

Of particular relevance to this application is the Arthur Street Housing Investigation Area which aims to increase the maximum building height for the R3 Medium Density Residential zone (except the Arthur Street Frontage) from 9.5m and 15m to 26m, and along the Arthur Street frontage from 9.5m to 13.5m; and to increase the FSR for some areas in the R3 zone from 0.75:1 and no FSR to 3:1. The outcome of the proposal is that there would be no change to the part of the Arthur Street Housing Investigation Area in which the site is situated (the shaded area), as set out in figure 4 below:

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Figure 4: From draft Arthur Street HIA Urban Design Analysis Report

The planning proposal includes that all of the Arthur Street HIA other than the area for no change will have an FSR of 3:1 and a building height of 26m. Those parts will also be identified on the Special Provisions Map for affordable housing contributions, with the intent to identify a percentage of the total floor area for residential purposes and to include a clause requiring a monetary contribution for development which cannot be subdivided such as boarding houses under the SEPP (Housing) 2021 or purpose built student accommodation.

It is not the place of this report to consider the background behind the decisions made supporting the planning proposal in relation to the Arthur Street Housing Investigation Area. The report indicates that no change is proposed to the part including the site because it already includes many four storey walk up apartments in strata ownership which restricts turnover and development of the properties, and that the area includes Blenheim House which is an important heritage property. The increase in FSR and building height is stated to be for the purpose of contributing to Council's 6-10 year housing target of 4,300 new dwellings.

On 6 September 2022 Council endorsed and supported changes (none of which relate to the immediate surrounds of the site) and resolved to forward the amendments to the Department of Planning and Environment. The planning proposal is listed as being in the finalization process on the Department's website. There is no specific change to the planning controls for the site and its immediate surrounds.

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 4.3: Building height (max)	12.0m	13.55m	1.55 m	12.9% variation

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from*

the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.1. Exception to Building Height development standard (Cl 4.3)

The applicant's written justification for the departure from the building height 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 building height development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed heights are not incompatible with the existing scale of development within the visual catchment of the site, indicating 16 other four storey developments within the visual catchment. It notes that the proposal will not present at odds with that likely to occur across the defining setting, once the revised planning controls as in the Randwick comprehensive planning proposal are implemented. Those controls will include a maximum building height to 26 metres within the Arthur Street Investigation Area, save for the area bounded by Arthur Street, Clara Street, Blenheim Street and Botany Street.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the heritage item is diagonally adjoining to the south-east and including a site view plan and visual identification of the breach from the rear of Blenheim House. The exceeding part is limited to the solid cover over the outdoor kitchen as observed from the heritage item.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the non-compliant height element does not generate visual bulk across Arthur Street and the defining contextual character. The height breaching elements are primarily associated with the building's horizontal banding, roof form features and in part, diminutive components of the uppermost habitable spaces. It notes that where height breaches exist, setbacks either comply or outperform the DCP controls, with architectural composition and materiality also reducing the visual appreciation of the development along those peripheries. The request indicates that balcony blades assist with vertical breakup.

The justification also references proposed planter boxes adjacent to the common room which mitigate direct overlooking. In relation to overshadowing, the justification includes shadow diagrams which illustrate a relatively small increase in overshadowing arising from the height exceedance, with that only occurring between 8am to 10am. By 4pm the breach is so minor as to be not perceptible

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

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

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

- The proposal is consistent with the objectives of the development standard and objectives of the R3 zone.
- The proposal is compliant with the maximum FSR that applies to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA).
- The perception of building height across all levels has been mitigated by appropriate levels of building modulation and massing whereby the various portions of the building and relative setbacks from the viewing perspectives are formed in a manner that continue to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At a high level, the proposed building successfully mitigates environmental impacts such as overshadowing, privacy and visual impact.
- Part of the structure ancillary to the communal open space which exceeds the height standard, does not comprise any gross floor area, rather ensures weather protection for the rooftop communal open space. Without this element, the space would be less usable for residents, would provide less amenity and would not achieve compliance with the relevant design criteria in the Apartment Design Guideline.

- The lift overrun which exceeds the height provides for equitable access to the rooftop communal open space.
- Part of the communal living room which exceeds the height has a direct bearing on resident amenity. Without this breaching element, the space would be less usable for residents, would provide less amenity and would not achieve compliance with the relevant design criteria in the Apartment Design Guideline.
- The location and design of the height breaching elements have been organised to ensure that they do not present as visually jarring to the streetscape.
- The proposed height variation directly enables the provision of an affordable apartment on Level 3 (Apartment 3.01) and a boarding rooms identified as 3.05 of the building. Therefore, without the subject variation, the proposed development would limit the extent of affordable housing on the site. This would reduce the housing variety provided as part of the development. Clearly, there is an inherent public benefit in providing affordable housing on the site, particularly given the proximity of the site to the Randwick Centre, University of New South Wales and the Prince of Wales and Sydney Children's Hospitals. This public benefit is a direct result of the height non-compliance.
- Despite the numerical non-compliance with the height development standard, the development provides a scale and form of development that is compatible with surrounding developments and the emerging character. A notable number of developments across the defining context present a four (4) storey scale and therefore, the proposed development will not be out of character with this scale.
- The design of the development carefully considers surrounding built context, including heritage assets in the locality. This includes 'Blenheim House and Outbuilding' which diagonally adjoins the subject site to the south-east.
- The slope of the site being a cross fall of approximately 3.15m from the north-eastern corner of the site along Arthur Street down towards the south-western corner, has been a determinative factor with regards to the extent of height variation observed across the building.

The justification also considers the proposal against the objects of the Environmental Planning and Assessment Act 1979.

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

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Building Height standard and R3 Medium Density Residential zone is provided below:

Assessment against objectives of the building height standard

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

Assessment against objectives of R3 Medium Density Residential zone

The objectives of R3 Medium Density Residential zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*

- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

The applicant's written request seeks to demonstrate that the development is consistent with the objectives of the R3 zone as follows:

- The proposal provides for a range of apartments and boarding rooms in a well serviced location, located in proximity to a variety of public transport options, expanses of public open space and services facilities.
- The siting arrangement, built form and architectural language of the development is consistent with that likely to be encountered in a medium density residential setting and is proportionate with that observed within the evolving context.
- The dwelling/boarding room mix proposed as part of this development, is broad enough in that it will cater for a variety of households within the local area. The proposed dwelling mix is.
 - Six (6) 1 bedroom apartments.
 - Four (4) two bedroom apartments
 - One (1) three bedroom apartment.
- There is also a variety of both single and double sized boarding rooms provided across the development. Seven single and twenty-nine double rooms (inclusive of managers room) are provided.
- Access to services are located within proximity to the site.
- The contemporary designed building will improve the appearance of the subject site from Arthur Street and is in-keeping with the scale and future context of surrounding development. The proposal employs setbacks that either comply with or considerably outperform the DCP setback controls while the clear architectural composition of the development combined with the diverse yet subtle materiality, also serves to reduce the visual appreciation of the development along these peripheries. Balcony blades serve to accentuate the vertical breakup of the dwellings while small recesses on either end of the balcony also reduce the extent of any unadorned horizontal span. The defined visual break across the entry has been book ended with the inclusion of brick blades which further define this component of the building. In terms of materiality, the strong use of brickwork ensures that the proposed finishes subtly integrate with that of the predominant materiality already established across the defining context.
- The high quality, architecturally designed building provides a significant improvement on the existing building occupants. Amenity impacts on neighbouring residents have been appropriately mitigated through the design and development of the building. The provision of privacy screening, planting, fencing and setbacks that largely outperform the base DCP requirements, all combine to ensure that the amenity of residents is maintained at acceptable levels.
- The proposal nominates the provision of thirty-six (36) boarding rooms, one of which is nominated as the managers room and seven (7) affordable apartments, that serve to positively increase the supply of quality and more affordable housing within the Randwick LGA.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that the proposal is consistent with the objectives of the R3 zone.

The justification demonstrates that the development is consistent with the objectives of the building height standard and the *R3 Medium Density Residential* zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed in Appendix 4.

Note: Clause 6A of SEPP 65 states:

- (1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*
 - (a) *visual privacy,*
 - (b) *solar and daylight access,*
 - (c) *common circulation and spaces,*
 - (d) *apartment size and layout,*
 - (e) *ceiling heights,*
 - (f) *private open space and balconies,*
 - (g) *natural ventilation,*
 - (h) *storage.*
- (2) *If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.*
- (3) *This clause applies regardless of when the development control plan was made.*

Consequently, where the Randwick DCP provides controls in relation to the matters listed in item (1), the assessment has been made against the relevant controls in parts 3 and 4 of the ADG (refer to appendix 3) rather than those in the DCP.

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	See discussion in sections 6 & 7 and key issues below.

Section 4.15 'Matters for Consideration'	Comments
environmental planning instrument	
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Section 6.7 has considered the draft Comprehensive Planning Proposal for amendment to Randwick LEP 2012. Although the site is included in the Arthur Street Housing Investigation Area, there are no amendments which will impact on the planning controls of the site. If approved it will have an impact on some surrounding areas.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 4 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	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 character 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	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

9.1.1. Building height and wall height

The building height matter is discussed in section 7 above.

The maximum wall height on the north west side opposite the kitchen of Unit 3.01 is 13.55m – an exceedance over the DCP control of 10.5m by 3.05m (29.0%). This is measured at an RL70 from a ground level of RL56.5.

The height of the parapet of Level 2 is approximately at RL66.95, or 10.45 above existing ground level. Just below the wall height control.

The relevant objectives of the DCP wall height control in section 4.4 of Part C2 is to ensure that building form provides for interesting roof forms and is compatible with the streetscape, and to control the bulk and scale of development and minimise impacts on neighbouring properties.

The proposal has been amended to provide increased side setbacks to the third storey as viewed from the street. This has the effect of reducing the bulk of the building when viewed from the street.

The clause 4.6 exception request is considered to meet the requirements of the clause (see above).

9.1.2. *Bulk and scale*

The proposal complies with the FSR controls, taking into account the uplift received both for the boarding house and for affordable housing under the now repealed SEPP (Affordable Rental Housing) 2009 which applies to the site under the transition provisions of SEPP (Housing) 2021.

As detailed above the proposal exceeds the height control (generally on the eastern side), largely resulting from the fall in the ground level existing and topography of the site. The lift overrun which provides accessible access to the rooftop communal open space and communal indoor room exceeds the height by 1.55m, a 12.9% exceedance. The site also exceeds the DCP wall height control. The building has a wider presentation to the street than all other buildings in the immediate locality. The façade accentuates the vertical break-up of the units and provides verticality with the brick blades. The break at the entry of 3.37m wide and approximately 3m deep, highlights the entry and helps to provide some articulation to visually divide the building into two sections separated by a recess. The top level (level 3) of the building includes increased side setbacks to those on Level 2 - from 4 metres to 6.7 metres on the west and 6.755 metres on the east.

9.1.3. *Rear Setback*

The proposal does not meet the rear setback control under the DCP which seeks a minimum 6.27m rear setback. The bulk of the façade is 6m from the rear boundary. An external open staircase extends further into the setback reducing the rear setback to approximately 3.5m. The staircase forms part of the fire stairs from the basement. The stairs provide external access between the different levels of the boarding house rooms and also to the rooftop communal open space and communal room. Additional ways these can be access are via the internal staircase and lift.

The objectives of the setback controls relevantly include to ensure adequate separation between building for visual and acoustic privacy, solar access, air circulation and views and to reserve contiguous areas for the retention or creation of open space and deep soil planting. It is considered that the use of the stairs will be reasonably limited and unlikely to create an acoustic impact. Being of an open nature, without cover, the visual impact of the stairs is also considered to be minimal. The stairs will not add to any overshadowing of the adjoining properties. It is also not considered that the non-compliance of the main part of the building with the rear setback of 270mm, will have a noticeable impact on the visual and acoustic privacy, the overshadowing or views. The non-compliance with the rear setback will not have any impact upon the deep soil as the basement excavation extends closer to the rear boundary than the rear façade of the building.

It is therefore considered that the non-compliance with the rear setback control is acceptable on merit.

9.1.4. *Character and context*

See the discussion in section 6.2.1 above.

9.1.5. *Traffic and Parking*

The proposal includes the required number of car and motor bike spaces. The ARH SEPP requires 18 spaces for boarding house residents. 19 car spaces (including 2 accessible) have been provided. For boarding houses, the ARH SEPP requires at least one parking space for bicycles and one motor bike space for every 5 boarding rooms. There are 35 rooms plus the manager. 7 motor bike spaces are provided for the boarding rooms which complies. There are 28 bicycle spaces provided in two separate rooms. The ARH SEPP requires 7 bicycle for the boarding house residents but does not

require any for the in-fill housing. The site therefore complies with the motor cycle and bicycle requirements.

For the in-fill affordable housing the ARH SEPP requires 9 car parking spaces and 13 have been provided including 3 accessible. Additionally 3 visitor spaces (including 1 accessible) have been provided. If these are complied with, a consent authority must not refuse consent on the basis of car parking.

The consent authority is therefore unable to refuse consent on the basis of parking.

The ADG considers a car wash bay. One has been provided in conjunction with the service bay. The plans include provision for electric car recharging at each car space – also a provision considered in the ADG.

9.1.6. Communal facilities

The proposal includes an unusual feature for Randwick – the combination of both a boarding house and residential flat building (including affordable housing) within the same development. The Design Excellence Advisory Panel has been supportive of this mix, providing social mix and interaction. Unusually in a residential flat building, there are communal indoor space provisions which are accessible, as are commonly required in boarding house buildings. The two uses also share the outdoor communal open spaces. There is nothing in the planning controls which would prevent such mix and it is considered that there are possible advantages to such a mix, including increased social interaction between the different styles of residential accommodation, and co-location of facilities.

Clause 30(1)(a) of the ARH SEPP includes a development standard requiring a boarding house of 5 or more rooms to have at least one communal living room, although does not establish a size. The communal indoor area does not meet the DCP chapter C4 requirement for the size of the room. With 51 potential boarding house residents, the DCP recommends 61.2m² of indoor space. 56m² is provided (a 8.5% variation) and this space can also be used by residents of the apartments. The room includes a communal kitchen.

The objectives of the building design for boarding rooms in the DCP include to ensure that communal spaces are appropriately sized, located and equipped with suitable facilities and to protect the acoustic and visual privacy and living amenity for both boarding house residents and neighbours. It is considered that the internal space is well supported by an undercover area immediately adjoining the indoor room, and non compliance with the DCP room size can be considered acceptable on merit.

The proposal includes communal open space totalling 463m² (30.4%) at both ground and roof level. This complies with the minimum 20m² required for boarding houses under the DCP section C4, and complies with the ADG 25% requirement for communal open space. At roof level the facilities include a covered BBQ/kitchen and seating area, a pergola, seating and a flexible lawn for yoga or presumably other activities. At ground level is a BBQ and dining area under a pergola in the south western corner and seating nooks in various places on the eastern side.

The communal open space does not meet the requirement for 50% direct sunlight for a minimum of 2 hours midwinter under the ADG. Approximately half of the rooftop open space obtains 2 hours sunlight, as do the southwest and south east corners where most of the ground level facilities are. The objectives in the ADG include to enhance residential amenity, provide opportunities for landscaping, allow for a range of activities, to be attractive and inviting, and to be safe. Although the communal open space does not comply with the direct sunlight requirements, different parts of the outdoor area do obtain 2 hours sunlight in the middle of the day. The orientation of the apartments to the north to ensure adequate sunlight access for them leaves the communal areas to the south where it is difficult to attain the amount of sunlight required by the ADG. In the circumstances it is considered that the proposed communal open spaces are acceptable.

9.1.7. Acoustic and visual privacy issues

An acoustic report supports the application. The report sets out recommended criteria for partition walls and floors and ceilings, and for services in cavity walls or ceilings – all of which could be conditioned. The report also provides guidance on sound insulation of pumps and unit entry doors.

The report is modelled to include half of the building occupants being outside at any one time with 50% of those talking at the same time. This is considered conservative. The following mitigation measures were suggested to achieve compliance with required noise levels at all times:

- Common room windows are to be closed at all times
- The common room door must remain closed from 6pm to 10pm except when being used for ingress/egress. An automatic closing device should be installed to ensure that it remains closed when not in use.
- Outdoor common room areas will need to be restricted in terms of allowable occupancy levels

Area	Maximum number of persons in common areas during each period		
	Day	Evening	Night
BBQ area	30	20	0
East common area on the ground level	10	8	0
Level 3 outdoor common area	10	5	0
"Day" = 7am to 6pm (weekdays) and 8am to 6pm (weekends) "Evening" = 6pm to 10pm (all days) "Night" = 10pm to 7am (weekdays) and 10pm to 8am (weekends)			

- A detailed plan of management to include a noise management plan including a complaint handling procedure
- No music to be played in the outdoor common area
- Boundary fences along the east, west and south site boundaries to be 1.8m high constructed of a solid construction
- The common room is not to be used after 10pm or before 7am weekdays and 8am weekends
- The house manager is to ensure that internal noise levels generated by music or the television are maintained at reasonable levels
- The common room windows and doors must be fitted with no less than 4mm thick toughened glass that is acoustically sealed into the frames with a guidance acoustic rating for the window/door systems (inclusive of framing and seals at R_w27).
- Further assessment of mechanical plant noise emissions to be conducted during design stage

It is considered that these matters could be conditioned and contained in the Plan of Management.

9.1.8. Landscaping and deep soil

Landscape plans have been included in the proposal. These are recommended for approval, subject to revisions to ensure planting on the podium depths and revisions to ensure consistency with the approved architectural plans.

There are some discrepancies between the landscape plans and the planters proposed on levels 1 and 2 which are not shown in the landscape plans.

Council’s landscape officer has made recommendations to remove the two street trees. The screen planting on 46 Arthur Street is able to be protected due to the setback. The vegetation on the site is found to be acceptable for removal due to being weed species, exempt or their size or location. The Thuja species within 11-13 Blenheim Street should also be protected. The draft conditions provide for the removal of a number of trees on the site and pruning of neighbours’ trees is conditioned.

The landscaped area control under the ARH SEPP for in-fill apartments is 30%. 28% of the site is landscaped area, being an 8% variation to the ARH SEPP must not refuse control (a non-

compliance of 31m²). The boarding house controls under the ARH SEPP do not require a minimum area of landscaped area. It is therefore considered that the minor non-compliance below 30% of the site is considered acceptable, given that the boarding house provisions have no minimum landscaped area.

The ADG includes deep soil zone and requires this to be at least 6m wide. The 6m area of deep soil is approximately 13.1%, although there is timber decking and seating which is on this. However the most pertinent deep soil control is that in the ARH SEPP must not refuse controls. This requires 15% of the site with a minimum dimension of 3m to be deep soil. The plans state that deep soil is 17% of the site. If timber decking is not included, the site will not comply with the control. If however timber decking and the BBQ area (which is not over the basement) are included, the site will have approximately 20.5% with a 3m dimension for deep soil. Given the reasonable volume of landscaping which is not over the basement, it is considered that on merit the landscaping and deep soil provided is acceptable. The DCP landscaping and deep soil controls are subject to the controls in the ARH SEPP.

9.1.9. Number of people

There will be an increase in the number of residents in the area as a result of the development. However the local area includes multiple residential flat buildings, is close to public transport and employment opportunities and the uses for a residential flat building and a boarding house are both permissible in the zone. The proposal includes the required number of car spaces under the ARH SEPP and the consent authority is unable to require an increase in the number of car spaces above those requirements.

10. Conclusion

That the application for Demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 16 units (now revised to 11) and a boarding house with 41 boarding rooms (now reduced to 35) and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works (variation to building height of the RLEP 2012) be approved (subject to conditions) for the following reasons:

- That the affordable rental housing component of the development be recalculated so that the communal corridors are not included in the area calculated as affordable housing for the purposes of calculation of the affordable rental housing FSR under Clause 13 of the ARH SEPP.
- The non-compliance with the building height control in RLEP 2012 has been justified by a clause 4.6 exception which meets the requirements of the clause.
- 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 objectives contained within SEPP 65
- The proposal is consistent with the specific objectives of the R3 Medium Density Residential zone in that the proposed activity and built form will provide residential development that is well-integrated with, and supports the primary business function of the zone.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the character and the desired future character of the locality.
- The design and planning outcome for the site will establish a positive precedent in the area
- The development enhances the visual quality of the public domain/streetscape

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

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- Operational controls in relation to the management of noise and use of the premises including a plan of management;
- The requirement for additional noise reports at various stages of the development, including after issue of the occupation certificate;
- The updating and compliance with National Construction Code Assessment Report and Fire engineering reports;
- Site seepage and groundwater;
- Waste management;
- Road opening and vehicular crossings;
- Undergrounding of power; and
- Removal of trees

Appendix 1: Referrals

1. Design Excellence Advisory Panel

PANEL COMMENTS from 10 May 2021

Development application (DA/3/2021) seeks demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 16 units and a boarding house with 41 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works (variation to building height of the RLEP 2012).

The Panel considers that the design in its current form does not sufficiently address RCC's Design Excellence principles.

Principle 1: Context and Neighbourhood Context

The material and formal expression of the building is not compatible with the character of the local area. There is an excess of glass on the front elevation, including the glass balustrades, and the use stark white rendered surfaces are not compatible with the local area/ context which is comprised mostly of face brick buildings.

Further consideration should be given to the form and expression of the Arthur Street façade in relation to the general pattern of development in the street.

The design should be amended to address the character of the local area.

Principle 2: Scale and Built Form

As per the above, further consideration should be given to the form and expression of the Arthur Street façade. Clear identification of the entry, expressed in break-up of façade elements, will facilitate a reduction in the visual bulk of the street address.

The U shaped plan offers opportunities for social interaction and cross ventilation via the rear void between boarding units. However it comes at the cost of insufficient privacy setbacks to occupants of neighbouring apartments to the east. East facing boarding unit balconies should be set back 6m from the boundary/ or balconies removed.

Increasing the setback/ removal of the central void/ resulting in a T-shaped plan is encouraged over removal of the balconies as they provide valuable amenity to occupants of the boarding house units. It is noted that this may reduce the number of boarding units that achieve good solar access.

Principle 3: Density

See Principle 2: *Scale and Built Form* above

Principle 4: Sustainability

The design is commendable in the number of apartments that achieve good solar access.

However, further consideration should be given to the provision of solar panels for on-site energy generation and rain water storage tanks for landscape irrigation.

See also *Amenity* below with regards stair location.

Principle 5: Landscape

Privacy and sun-screening to front façade is insufficient - the plants shown on the street façade (photomontage) have no planter boxes or watering points provided in the landscape plan.

Further consideration should be given to the form and expression of the landscape/ entry to Arthur Street. Clear identification of the entry in the landscape will facilitate better visual accessibility.

Principle 6: Amenity

The design is commendable in the number of apartments that achieve good solar access.

Sufficient visual and acoustic privacy in the form of planters and screen walls should be provided between the communal terrace on L3 and the apartment building on the adjacent lot to the east and the house to the west.

The glass balustrades – particularly those on the first floor balconies do not offer sufficient privacy. Consideration for solid balustrades up to 850mm above FFL should be considered.

The location of the stairs in respect to the entry and lifts does not encourage regular use of the stairs as a way to access apartments. Further consideration should be given to the location of the stairs to encourage incidental exercise/ reduction in use of lifts.

The design should be amended to provide a minimum width of 3m to each unit

Principle 7: Safety

The proposed street façade design does not sufficiently make clear or express the location of the pedestrian entry for visitors and occupants.

Principle 8: Housing Diversity and Social Interaction

The Panel commends the development in respect to combining boarding house and regular apartment accommodation within the one development; and the social mix and interaction that this enables.

Consideration should be given for a greater mix of apartment sizes/ number of bedrooms so as to provide for a greater social mix.

Principle 9: Aesthetics

Refer Principle 1: Context and Neighbourhood Context

SUMMARY AND RECOMMENDATIONS

The Panel recommends that the design be amended by the applicant to address the issues raised above, and re-presented to the Panel for further consideration.

Design Excellence Advisory Panel meeting 14 February 2022

INTRODUCTION

At the Panel meeting, plans were presented that differed from those provided before the meeting, so the panel could not review the plans and discuss issues collectively. What follows are a set of notes. These notes are intended to capture the main issues noted by the panel in the meeting.

PANEL COMMENTS

The panel notes the main change from the previous scheme, which is the removal of the narrow courtyard. The courtyard was considered too narrow (3m) and deep (10m) to provide reasonable amenity, and its removal is supported.

The removal of the central courtyard should effectively narrow the building by around 5 metres, creating the opportunity to enlarge and improve landscaped area on the site (along the side and rear); however, the side setbacks are similar to or the same as the previous, such that side and rear

setbacks are 'leftover spaces' function only as screening with linear paths, rather than being configured as consolidated open spaces with amenity.

The panel notes the suggestion that communal spaces could be shared between the residents of the boarding rooms and the apartments. We consider this is a reasonable proposal. However, the proposed space is effectively a single area. The scheme should be configured to create various types of common spaces, including roof terraces, ground-level garden spaces and attractive lobbies.

The modification of the street elevation, including the introduction of the central recess over the entry dividing this long elevation into two. This is considered an improvement supported because, without a break, the elevation is long and undifferentiated, uncharacteristic in the street. While this is a step in the right direction, this elevation should be further refined and differentiated.

The common circulation spaces are uniformly 1800mm wide corridors, each having views towards daylight (windows or doors). These could be improved if the view extends to vegetation (such as a tree), additionally key points in the circulation, such as the main entry lobby, and lift lobbies would be improved if spaces are made more generous (lighting & seating) allow for social interaction.

The driveway entry at the NW corner of the property is partly overhung by the units above (2-metre cantilever), producing an awkward corner to the building. The balcony's strong horizontal band (FB1) to Unit 1.01 and the 2-way cantilever helps to reconcile the corner. This situation would be helped if trees shown in the West Elevation and North Elevation could be achieved; however, the extent of the driveway and minimal width of potential landscaping along the western boundary (around 300mm) is too narrow, and the plan shows only small trees. The setback should be sufficient for a substantial tree and screening vegetation.

2. Internal referral comments:

2.1. Development Engineer

An amended application has been received for the demolition of existing structures across 3 allotments, and construction of a 4-storey mixed-use development comprising a residential flat building with 11 units and a boarding house with 35 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works (variation to building height of the RLEP 2012).at the above site.

This report is based on the following plans and documentation:

- Amended Architectural Plans by Loucas Architects Rev K dated 15/09/2022;
- Statement of Environmental Effects by BNAUrban dated 22nd Dec 2020;
- Detail & Level Survey by J.P Bates & Inwood dated 20th June 2019;
- Geotechnical report by EI Australia date 4th December 2020;
- Traffic and Parking report by Motion Traffic Engineers dated Dec 2020;
- Arboricultural Impact Assessment Report by Rain Tree Consulting, ref 20120, dated 07/12/20;
- Amended Landscape Plans by Land And Form, dwg's 2022040-LD-DA-000 – 900, rev 2, dated 14/10/22.

GENERAL COMMENTS

The development proposal generally meets Development Engineering's requirements. No objections are raised to the proposal subject to the comments and conditions provided in this report.

PARKING COMMENTS

VEHICLE PARKING PROVISION

Vehicle parking requirements for the development have been assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013 (RDCP) and the Affordable Housing State Environmental Planning Policy (AHSEPP).

For the residential units component

- 0.5 space per studio unit
- 1 space per 1 bedroom unit
- 1.2 spaces per 2 bedroom unit
- 1.5 spaces per 3 bedroom unit
- 1 visitor space per 4 units (but none where development is less than 4 dwellings)

For the boarding house component

Under Clause 29 (2) (e) under standards that cannot be used to refuse consent in the SEPP Affordable Housing, a consent authority must not refuse consent on parking grounds if;

- (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and
- (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and
- (**iiia**) ***in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and***
- (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,

Proposed Development

The proposed development will contain 11 residential units (RFB) and a 36 room boarding house including manager (BHSE). The residential units will comprise of 6 x 1 bedroom, 4 x 2 bedroom and 1 x 3 bedroom units ;

PARKING REQUIRED = Parking (RFB) + Parking (BHSE)
 = ((6 X 1) + (4 x 1.2) + (1 x 1.5) + 11/4 (visitor)) + (35/2 + 1 (Manager))
 = 15.05 (RFB) + 18.5(BHSE)
 = 33.6 spaces
 = 34 spaces

PARKING PROPOSED = 35 spaces (complies)

MOTORBIKE PARKING

For the residential flat building component motorbike parking is required under the RDCP at the rate of 5% of the vehicle parking requirement, while for the boarding house component motorbike parking is a compulsory requirement under regulation 30(h) of the AHSEPP which states that consent authorities must not consent to development unless at least one parking space is provided for a motorcycle for every 5 boarding rooms.

MOTORBIKE PARKING REQUIRED = MParking (RFB) + MParking (BHSE)
 = 0.05 x 15(RFB) + 35/5(BHSE)
 = 0.75(RFB) + 7(BSE)
 = 8 spaces

**MOTORBIKE PARKING PROPOSED = 3(on basement 1) + 6(on basement 2)
 = 9 spaces (complies)**

BICYCLE PARKING

For the residential flat building component bicycle parking is required under the RDCP at the rate of 1 space per 2 units plus 1 visitor space per 10 units, while for the boarding house component bicycle parking is a compulsory requirement under regulation 30(h) of the AHSEPP which states that consent authorities must not consent to development unless at least one parking space is provided for a bicycle for every 5 boarding rooms.

BICYCLE PARKING REQUIRED = BParking (RFB) + BParking (BHSE)
 = (11/2 + 11/10) RFB + (35/5) BHSE
 = 6.6(RFB) + 7.0(BHSE)
 = 13.6
 = say 14 spaces

BICYCLE PARKING PROPOSED = 8 spaces on B1 + 20 spaces on B2 (complies)

SERVICE AND DELIVERY PARKING

Under the DCP Service and Delivery Parking is to be provided at the rate of 1 space per 50 units up to 200 dwellings, plus 1 space per 100 dwellings thereafter. Service and Delivery Parking is not required under the AHSEPP

Given there are 11 units and 36 boarding rooms including manager it is recommended however that 1 service and delivery space be provided.

One service bay area is proposed which is satisfactory

CARPARK LAYOUT

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) appear to be in accordance with the requirements of Australian Standard 2890.1:2004. No objections are raised

DRAINAGE COMMENTS

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 site in Arthur Street; or
- ii. Directly into Council's street system located in Blenheim street via a suitable easement over adjoining premises; or
- iii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

Should the Stormwater be discharged to Council's street gutter or underground drainage system, an onsite stormwater detention (OSD) system will be required for this development.

SITE POWER COMMENTS

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

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

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

WASTE MANAGEMENT COMMENTS

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

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

Comments on the number of Waste Bins for residential Units

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

i.e. Garbage/recycling Bins Required = $11/2 = 5.5 =$ say 6 of each

There are no specific requirements for green waste in Part B6 of the DCP however since March 2021 Council has now introduced a Food Organics Garden organic (FOGO) collection service areas. In consideration of this it is recommended that a minimum of 1 x 240L bins also be provided for FOGO.

Total Number of BINS required for Units = 6(normal) + 6(recycling) + 1(FOGO)
= 18 x 240L BINS

Comments on the number of Waste Bins for boarding house

Council's Waste management Guidelines specifies the following waste generation rate for boarding houses:

- 9L/occupant/day for garbage
- 3L/occupant/day for recycling

Of the 36 lodger rooms indicated on the amended plans 27 are indicated with double beds hence there is potential for a total of 63 occupants however for the purposes of assessment it has been assumed about half will be occupied as double rooms being a total of 54 occupants.

Waste Generated per week = $54 \times 9 \times 7 = 3402\text{L}$

Number of bins Required = $3402/240 = 14 \times 240\text{L bins}$

Recycled Waste generated = $54 \times 3 \times 14 = 2268$

Number of Recycled bins Required = $2268/240 = 9.5 = 10 \times 240\text{L bins}$

There are no specific requirements for green waste in Part B6 of the DCP however Council has now introduced a Food Organics Garden Organic (FOGO) collection service. In consideration of this it is recommended that a minimum of 2 x 240L bins also be provided for FOGO.

Total Number of BINS required for BHouse = $14(\text{normal}) + 10(\text{recycling}) + 2(\text{FOGO})$
= 26 x 240L BINS

TOTAL NUMBER OF BINS REQUIRED = **20(normal) + 16(recycling) + 3(FOGO)**
FPR DEVELOPMENT = **39 x 240L BINS**

Total Number of BINS provided = 53 x 240 L bins (complies)

An area for bulky waste has also been provided and is satisfactory.

Tree Management & Landscape Comments

Whilst not shown on the survey, architectural plans or assessed in the Arborist Report, the inspection of 1st November 2022 confirmed two juvenile, 2m tall trees on Council's Arthur Street nature strip, being a *Watergum* in front of no.40, to the west of the existing driveway, then a *Grevillea* in front of no.42, also to the west of their existing layback and crossing.

Despite their small size they are still protected by the DCP due to their location on public property, and as the plans show the new basement ramp being provided along the western site boundary (of no.40), the *Watergum* will be in direct conflict, so conditions allow its removal and replacement, wholly at the applicant's cost.

Retention of the *Grevillea* further to the east would be possible; however, the inspection confirmed that a variety of species have been planted throughout this streetscape, with *Watergum*'s considered the most desirable of these due to their form and habit, and as a consistent and uniform approach is a main objective of our Street Tree Masterplan, conditions also require its removal, which will actually result in an increase in the amount of trees planted in this part of the street compared to the existing situation.

There is no significant vegetation within the entire front setback that would pose a constraint in any way to these works, so can all be removed where needed, including T1 & T28 (within no.44) and T29-30 (within no.42) as all are exempt weeds or too small for the DCP, with the Landscape Plans showing that a row of five advanced (200L) replacement native feature trees (8m x 8m at maturity) will be provided in the new courtyards, in deep soil, across the width of this frontage, and will also be supplemented by screen planting and lower plants/ground covers, all of which will result in a far superior outcome to what currently exists, as well as assist with presentation of the development and its integration into the streetscape, so this treatment is supported.

Growing wholly on the adjoining private property to the east, 46 Arthur Street, in a narrow perimeter garden parallel with the dividing fence, with a supporting retaining wall of the neighbouring driveway then just to their east is a closely planted row of established native screening trees, which as a group, were observed to perform an important screening, privacy and amenity function between

these two sites, which will be even more beneficial to both parties upon completion of this project as they will assist in minimising direct over-looking between the upper floor levels.

They comprise from north to south, alternating 3-9m tall *Banksia serrata* (Saw Toothed Banksia's) and *Elaeocarpus reticulatus* (Blueberry Ash, T2-15) adjacent the eastern wall of the existing dwelling at no.44, a single *Schefflera actinophylla* (Umbrella Tree, T16), and then just beyond the southeast corner of the dwelling of no.44, two 10-12m tall *Archontophoenix cunninghamiana* (Bangalow Palms, T17-18), and lastly, a 7m x 6m *Mangifera indica* (Mango, T19).

First and foremost, their location on another property means that both the applicant and Council have a common law responsibility to ensure they are not affected in anyway by these works, and while significant civil works associated with the eastern wall of the basement levels will be performed at varying offsets of 2745mm (fire stairs), 4045mm (storage/cleaners room) and 6445mm (parking spaces), this is at a greater setback than the existing dwelling, so will actually increase the amount of deep soil that is available contiguous to their trunks.

This officer concurs with the findings of the Arborist Report, in that the footings/foundations of the existing house at no.44 would have already restricted normal radial root growth to some degree, and as works will be performed within this existing footprint, any impact on these trees is anticipated to be negligible, with conditions requiring the retention of existing ground levels for the landscape zone along this common boundary, as well as the establishment of protective fencing and the engagement of a Project Arborist who must undertake/supervise all demolition activities and initial excavations in this area.

Still within the neighbouring site at no.46, but further to the south of those described above, and beyond the southeast corner of this development site is another *Mango* (T21), which would not be adversely impacted given the setbacks discussed above, and as the ground level landscape works comprising the timber boardwalk and seating nooks are regarded as minor, only minimal protection measures are needed.

Back within the rear setback of this development site, the small row/hedge of *Camelia's* (T20) along the eastern boundary of no.44 are insignificant, the *Celtis* (Hackberry, T23) on the opposite, western side is an exempt weed, with the *Tree Fern* (T26) and *Celtis* (Hackberry, T27) that are both in the western side setback are also exempt due to their small size/location/weed species, as well as being in direct conflict with all levels and aspects of the proposal.

The same also applies to the rear of no.42, along its eastern boundary, being from south to north, a *Frangipani* (T22), an *Oleander* (T24) and a *Dracaena* (T25), as well as those along its western boundary, including the row/small hedge of *Syzygium sp.* (T33), a *Howea forsteriana* (Kentia Palm, T32) and a *Schefflera arboricola* (Miniature Umbrella Tree, T31).

As such, no objections are raised to the removal of those groups described above, with each of the side and rear setback areas to be drastically improved by a combination of native screening and feature trees, lush understory planting and tree ferns, a timber boardwalk and seating, along with an edible garden, garden arbour/BBQ/outdoor dining area, which will increase the amount of plant material as well as result in a high quality outcome that will cater to the amenity needs of future occupants, all of which is supported.

The last specimen within this development site is halfway across the rear boundary of no.42, being a mature 7m tall *Persea americana* (Avocado, T34) which is assessed as being in significant decline/poor health and condition due to existing structural wounds, and as it is also a common, low value exotic species, which does not benefit native fauna in any way, can be removed and replaced with the more desirable native species and landscape treatment as part of the new landscape scheme, with the row of screening trees on the adjoining property to its south minimise any loss of amenity.

To the south of both no.42 & 40, growing wholly on the adjoining site at 11-13 Blenheim Street, against the common boundary, is a row of four, 7-9m tall *Thuja occidentalis* (Thuja, T35-38), which are protected by the DCP, with their co-joined canopies overhanging partially into the development site, and also perform a screening function in the immediate area.

Both the survey and Arborist note the presence of a substantial existing retaining wall on the common boundary, beneath the dividing fence just to the north of their trunks, and as this would have acted as a physical barrier to prevent root growth even being able to enter this site, no major impact is expected, especially as the southern wall of the basement will be offset a distance of between 3045-3735mm from the boundary, and while the Ground Level landscape works will encroach closer than this, it will still only constitute a minor encroachment of their TPZ's, so is sustainable, with relevant protection measures imposed here also.

2.2. Environmental Health

The following comments were made on 11 January 2021 in relation to the original proposal. Conditions of consent were proposed:

Acoustic Amenity

An acoustic report prepared by Koikas Acoustics dated 4th December 2020 was provided with the application. The acoustic report provides recommendations for the use of the outdoor communal areas and acoustic rated glazing to the proposed development to minimise acoustic impact.

It is noted that mechanical services design equipment selections and locations have not been detailed at the time of report preparation. Mechanical services will need to be designed such that the overall noise emission from the development complies with the noise criteria in the report.

An acoustic report is required to be carried out prior to occupation once all plant and equipment has been installed to ensure the recommended acoustic glazing has been implemented and the use of the boarding house does not create any noise concerns. An additional report has been requested within 3 months of occupation to ensure that the boarding house complies at full occupancy and any recommendations relating to minimising potential noise concerns has been implemented.

A plan of management has been received with the application includes an induction process, restricting the use of all outdoor communal areas between 7.00am to 10.00pm on a daily basis and having a complaints register. The implementation of the PoM may assist in minimising potential noise nuisances.

The use and the operation of the boarding house accommodation in particular proposals of this size, has the potential to create offensive noise and the occupant's behaviours may impact on the other users of the boarding house and/or the neighbouring residential properties at times.

The potential for noise nuisance has been considered and appropriate conditions have been included in this referral.

Land contamination

SEPP No.55 – Remediation of land was considered and a desktop review did not identify any potentially contaminating land uses and is unlikely to be contaminated.

Environmental Pollution

Standard conditions in relation to pollution control have been included in the following referral to ensure compliance with relevant legislation and guidelines.

2.3. Building Section

The following comments were made on 12 January 2021 in relation to the original proposal. Comments:

Classification - Class 2 – residential flat building.

- Class 3 – boarding house
- Class 7a – car park
- Class 7b – storage

Rise of storeys – 4

Type A construction

A National Construction Code (NCC) report, dated 21 December 2020 prepared by Building Certification Services (NSW) was submitted with the Development Application which indicated the following Clauses require a performance solution with respect to the Deemed to Satisfy provisions is necessary to comply with the relevant Performance Requirements of the BCA;

- A. Clause C3.11 (bounding construction) – The proposed design details window openings over the entry doors to a number of the residential sole occupancy units that open onto the public corridor. These openings are required to be protected (Page 14 – 15 of the report).
- B. Clause 3.1 of Specification C1.1 (fire resistance of building elements) – Load bearing internal walls (including those parts of a load bearing shaft and fire walls must be on concrete or masonry (Page 17 of the report).
- C. Clause D1.7 (Travel distance via fire isolated exits) – A Performance Solution is proposed to deal with the issue of the discharge of the external stairway which is in lieu of a fire isolated stairway at the rear of the building having regard to the occupants having travel numerous openings within 6m when travelling to the roadway (Page 20 – 21 of the report).
- D. Clause D1.8 (External stairways or ramps in lieu of fire isolated exits) – It has advised that the construction of the external stairway at the rear of the building is to be dealt with as a Performance Solution (Page 21 – 22 of the report).

Prior to determination of the development application, further information is required to be provided to Council to assess the suitability of the proposed levels of fire and safety within the development, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*.

Therefore, prior to determination of this application the following additional information should be provided for consideration.

Recommendation:

1. The applicant must provide a report from a C10 level Registered/Accredited Fire Safety Engineer to address the issues, raised in the NCC Assessment Report, that require a Performance Solution in respect to the Deemed to Satisfy (DTS) provisions of the relevant Performance Requirements of the BCA.

The report must address the following issues raised in the NCC Assessment Report, prepared by Building Certification Services dated 21 December 2020;

- A.- Clause C3.11 (bounding construction) – The proposed design details window openings over the entry doors to a number of the residential sole occupancy units that open onto the public corridor. These openings are required to be protected (Page 14 – 15 of the report).
- B. - Clause 3.1 of Specification C1.1 (fire resistance of building elements) – Load bearing internal walls (including those parts of a load bearing shaft and fire walls must be on concrete or masonry (Page 17 of the report).
- C. - Clause D1.7 (Travel distance via fire isolated exits) – A Performance Solution is proposed to deal with the issue of the discharge of the external stairway which is in lieu of a fire isolated stairway at the rear of the building having regard to the occupants having travel numerous openings within 6m when travelling to the roadway (Page 20 – 21 of the report).
- D. -Clause D1.8 (External stairways or ramps in lieu of fire isolated exits) – It has advised that the construction of the external stairway at the rear of the building is to be dealt with as a Performance Solution (Page 21 – 22 of the report).

The following comments were made on 16 March 2022 in relation to the amended proposal.

Please see comments on my earlier memo dated 12 January 2021

Comments:

Classification – Class 2 – residential flat building

- Class 3 - boarding house
- Class 7a – car park
- Class 7b – storage.

Rise of storeys – 4

Type A classification.

As mentioned in my earlier memo, National Construction Code (NCC) Assessment Report, dated 21 December 2020 prepared by Building Certification Services, was submitted to Council which specified performance solutions for the following clauses of the NCC/Building Code of Australia (BCA);

- a. Clause C3.11 (bounding construction) for the protection of openings
- b. Clause 3.1 of Specification C1.1 (fire resistance of building elements).
- c. Clause D1.7 (travel distance via fire isolated exits).
- d. Clause D1.8 (external stairways or ramps to fire isolated exists).

In the memo, I required a report from a C10 level Registered/Accredited fire safety engineer to address the issues raised in the NCC report in relation to the performance solutions.

A report, dated 22 December 2021, was received from Innova Services (fire safety engineering/ fire protection engineering) in relation to the relevant Building Code of Australia (BCA) performance solutions;

- a. Clause C3.11 (bounding construction) with the preliminary fire safety strategy based on the following;
 1. The provision of a fire safety and smoke curtain installed over each window opening within bounding construction of the residential units.
 2. The provision of a fire sprinkler system throughout the building.
 3. The provision of a smoke detection system throughout the building.
 4. The provision of an enhanced building occupant warning system.
- b. Clause D1.4 (exit travel distances) based on the following;
 1. The provision of a fire sprinkler system
 2. The provision of fast response sprinklers
 3. The provision of an enhanced building occupant warning system
 4. The characteristics of the occupants and relatively low population numbers.
 5. The ceiling height of the basement levels being on average 2.8m.
 6. The paths of travel to require exits from the basement levels predominantly of vehicle driveway areas.
- c. Clause D1.8 (external stairways in lieu of fire isolated exits) based on the following;
 1. The provision of a fire sprinkler system
 2. The provision of an alternative exit from the building.
 3. The provision of an enhanced building occupant warning system.

Recommend approval

2.4. Heritage Planner

The Site

The site is occupied by a group of three detached early twentieth century cottages, with no.44 Arthur Street retaining much of its original Federation character. To the south east of the site at no.17 Blenheim Street is Blenheim House and outbuilding listed as a heritage item under Randwick LEP 2012.

Background

The original application proposed to demolish the existing cottages and construct a boarding house development comprising four stories to Arthur Street, stepping down to three stories with roof deck to the rear.

Heritage comments on the original application recommended that standard consent conditions should be included in relation to excavation in order to avoid damage to the adjacent heritage item which is located adjacent to the rear boundary of the site. It was suggested that the proposal should be consistent with LEP and DCP controls for the site, to ensure it is compatible with surrounding development and to avoid adverse impact on the amenity and rear garden setting of the heritage item and views to and from it.

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.

Comments

The application proposes excavation for two basements adjacent to the boundary, and once again standard consent conditions should be included in relation to excavation in order to avoid damage to the adjacent heritage item which is located adjacent to the rear boundary of the site. Once again, the proposal should be consistent with LEP and DCP controls for the site, to ensure it is compatible with surrounding development and to avoid adverse impact on the amenity and rear garden setting of the heritage item and views to and from it.

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



Clause 4.6 Variation Request
40-44 Arthur Street, Randwick

D71/22

1. INTRODUCTION

This Clause 4.6 Exceptions to Development Standards request has been prepared by Bernard Moroz of BMA Urban on behalf of Loucas Architects. It is submitted in support of a development Application (DA) for the redevelopment of the site at 40-44 Arthur Street, Randwick.

This request seeks approval to vary the height of buildings development standard in clause 4.3 of the RLEP 2012. For the avoidance of doubt, the development standard is not specifically excluded from the operation of Clause 4.6 of RLEP 2012.

Clause 4.3 prescribes a numerical building height limit of 12m over the subject site. The proposed building height departs from this standard as demonstrated in **Part 2** of this variation request.

Clause 4.6 of the *Randwick Local Environmental Plan 2012* (RLEP 2012) enables consent for development to be granted even though it contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

As the following request demonstrates, flexibility may be afforded by Clause 4.6 because compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard. This request also demonstrates that the proposal will be in the public interest, as the proposed development will be consistent with the objectives of the development standard and the zoning of the site.

The following sections of the report provide an assessment of the request to vary the development standards relating to "**height of buildings**" in accordance with Clause 4.6 of the *Randwick Local Environmental Plan 2012* ('RLEP 2012').

Consideration has been given to the following matters within this assessment:

- *Varying development standards: A Guide*, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgments issued by the Land and Environment Court. The *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 court judgment is the most relevant of recent case law.

Chief Justice Preston of the Land and Environment Court confirmed (in the above judgment):

The consent authority must, primarily, be satisfied the applicant's written request adequately addresses the 'unreasonable or unnecessary' and 'sufficient environmental planning grounds' tests:

"that the applicant's written request ... has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ... and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard ..." [15]

On the 'Five Part Test' established under *Wehbe v Pittwater Council* [2007] NSWLEC 827:

"The five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most



Clause 4.6 Variation Request
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commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way..." [22]

That, in establishing 'sufficient environmental planning grounds', the focus must be on the contravention and not the development as a whole:

"The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole" [26]

That clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development:

"Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard will have a better environmental planning outcome than a development that complies with the development standard." [88]

This clause 4.6 variation has specifically responded to the matters outlined above and demonstrates that the request meets the relevant tests with regard to recent case law.

In accordance with the RLEP 2012 requirements, this Clause 4.6 variation request:

- identifies the development standard to be varied (**Part 2**);
- identifies the variation sought (**Part 2**);
- Summarises relevant case law (**Part 3**);
- establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (**Part 4**);
- demonstrates there are sufficient environmental planning grounds to justify the contravention (**Part 4**);
- demonstrates that the proposed variation is 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 (**Part 4**);
- provides an assessment of the matters the secretary is required to consider before providing concurrence (**Part 4**); and
- Provides a conclusion summarising the preceding parts (**Part 5**).

This Clause 4.6 Exception to a Development Standard should be read in conjunction with the architectural plan detail prepared by Loucas Architects.



2. VARIATION OF HEIGHT OF BUILDINGS STANDARD

2.1 DEVELOPMENT STANDARD

Clause 4.3(2) of RLEP sets out the maximum building height for development as shown on the Height of Buildings Map. The site is subject to a maximum building height of 12 metres as illustrated in **Figure 2**.

The objectives of clause 4.3 as set out in clause 4.3(1) of the RLEP are:

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,
- (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,
- (c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The definition of building height under clause 4.3 of RLEP is:

building height (or height of building) means—
 (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
 (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.



Figure1: Height of Buildings Map
(Source: RLEP 2012)



Clause 4.6 Variation Request
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2.2 VARIATION TO HEIGHT OF BUILDING STANDARD

The proposed height departure across the building ranges from 420mm to 1.55m. The extent of contravention from the prescribed height is best demonstrated in **Figure 2** below.



Figure 2: Height Breach Overlay
Source: Loucas Architects

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3. RELEVANT ASSESSMENT FRAMEWORK

Clause 4.6 of RLEP includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 of RLEP are:

1. *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
2. *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a DA that does not comply with certain development standards, where it can be shown that flexibility in the particular circumstances of the case would achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6(3) requires that the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

1. *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
2. *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4)(a) requires the consent authority to be satisfied that the applicant's written request adequately addresses each of the matters listed in clause 4.6(3). The consent authority should also be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which it is proposed to be carried out.

Clause 4.6(4)(b) requires the concurrence of the Secretary to have been obtained. In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

(c) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

1. *(d) the public benefit of maintaining the development standard, and*
2. *(e) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The concurrence of the Secretary can be assumed to have been granted for the purpose of this variation request in accordance with the Department of Planning Circular PS 18-003 'Variations to development standards', dated 21 February 2018. This circular is a notice under section 64(1) of the Environmental Planning and Assessment Regulation 2000 and provides for assumed concurrence. A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

The Secretary can be assumed to have given concurrence if the matter is determined by an independent hearing and assessment panel or a Sydney district or regional planning panel in accordance with the Planning Circular.



Clause 4.6 Variation Request
40-44 Arthur Street, Randwick

This clause 4.6 request demonstrates that compliance with the height of building prescribed for the site in Clause 4.3 of RLEP is unreasonable and unnecessary, that there are sufficient environmental planning grounds to justify the requested variation and that the approval of the variation is in the public interest because it is consistent with the development standard and zone objectives.

In accordance with clause 4.6(3), the applicant requests that the height of building standard be varied.

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4. ASSESSMENT OF THE CLAUSE 4.6 VARIATION

The following sections of the report provide a comprehensive assessment of the request to vary the development standards relating to the height of buildings standard in accordance with Clause 4.3 of RLEP.

Detailed consideration has been given to the following matters within this assessment:

- Varying development standards: A Guide, prepared by the Department of Planning and Infrastructure dated August 2011.
- Relevant planning principles and judgements issued by the NSW Land and Environment Court. The following sections of the report provide detailed responses to the key questions required to be addressed within the above documents and clause 4.6 of the LEP.

4.1. ABILITY TO VARY THE STANDARD

The height of building prescribed by Clause 4.3 of RLEP is a development standard capable of being varied under clause 4.6(2) of RLEP. The proposed variation is not excluded from the operation of clause 4.6(2) as it does not comprise any of the matters listed within clause 4.6(6) or clause 4.6(8) of RLEP.

4.2 CONSIDERATION

4.2.1 Clause 4.6 (3)(a) – Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

Historically, the most common way to establish a development standard was unreasonable or unnecessary was by satisfying the first method set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method requires the objectives of the standard are achieved despite the non-compliance with the standard.

This was recently re-affirmed by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17]. Similarly, in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34] the Chief Judge held that "establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary".

This Request addresses the first method outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827. This method alone is sufficient to satisfy the 'unreasonable and unnecessary' requirement.

The Request also addresses the third method, that the underlying objective or purpose of the development standard would be undermined, defeated or thwarted if compliance was required with the consequence that compliance is unreasonable (*Initial Action* at [19] and *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]).

- ***The objectives of the standard are achieved notwithstanding non-compliance with the standard*** (the first method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43])



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The specific objectives of the height of buildings development standard as specified in clause 4.3 of RLEP are detailed in the **Table** below. An assessment of the consistency of the proposed development with each of the objectives is also provided.

Objectives	Assessment
<p>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,</p>	<p>The underlying purpose of this objective is to ensure that any future development is designed in a manner whereby any resulting building height will appropriately respond to both the existing and future context in a controlled manner. The proposed development is consistent with those objectives on the basis that the proposed heights are not incompatible with the existing scale of development within the visual catchment of the site.</p> <p>As outlined in Figure 3 below, the volume of the development is not inconsistent with that observed within the immediate context which currently presents numerous examples of four (4) storey development scales.</p> <p>These established examples are marked as a red star on the site aerial.</p>  <p>Figure 3: Surrounding four (4) storey building scale Source: Loucas Architects</p> <p>Importantly, the proposed development will positively contribute to the existing and desired character of Randwick when viewed in connection with the existing and emerging development context. The built form of this development is considered compatible with the context and not of a form that may be interpreted as visually "jarring" from either Arthur Street or neighbouring properties.</p> <p>Furthermore, the scale of the development will not present at odds with that likely to occur across the defining setting, once the revised planning controls as in the Randwick comprehensive planning proposal are implemented. The planning controls where relevant to the Arthur St housing investigation area, seek to increase the maximum building height for the R3 medium density residential zone to 26 metres apart from the Arthur St frontage where are 13.5 metre height is suggested. An increase to an allowable FSR</p>



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	<p>of 3:1 is also proposed. This is demonstrated in Figure 4 below.</p>  <p>Arthur Street HIA – Proposed height of buildings</p> <p>Figure 4: Arthur St investigation area Source: Randwick council</p> <p>Having regard to the commentary above, the proposal continues to align with this objective despite the height variation.</p>
<p>(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</p>	<p>The site is located in proximity to a heritage item identified as i307 (Blenheim house and outbuilding) located at 17 Blenheim Street, Randwick. This item diagonally adjoins the subject site to the south-east. Importantly, the siting, scale and spatial characteristics of the proposed development when measured against that of the heritage item, will ensure that no adverse level of impact either to, from or across the item will result.</p> <p>This is affirmed in Figure 5 (site view plan) and Figure 6 below (View from Blenheim House). As observed, the perception of height breach as interpreted from Blenheim House is limited to a nominal component of the solid cover over the outdoor kitchen (Blue arrow) as observed atop the rooftop communal space.</p>
<p>(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p>	<p>The visual impact of the non-compliant height element is deemed not significant as the proposed height variation does not generate an adverse level of visual bulk across Arthur Street and more generally, the defining contextual character. The height breaching elements are primarily associated with the building's horizontal banding, roof form features and in part, diminutive components of the uppermost habitable spaces.</p> <p>Where the height breaches are identified, the proposal employs setbacks that either comply with or considerably outperform the DCP setback controls while the clear architectural composition of the development combined with the diverse yet subtle materiality, also serves to reduce the visual appreciation of the development along these peripheries. Balcony blades serve to accentuate the vertical breakup of the dwellings while small recesses on either end of the balcony also reduce the extent of any</p>

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unadorned horizontal span. The defined visual break across the entry has been book ended with the inclusion of brick blades which further define this component of the building.

In terms of privacy, the elements that breach the height, do not result in any unreasonable level of privacy impact. The proposed planter boxes located adjacent to the common room across the western building periphery will serve to mitigate any direct ability for direct overlooking into the neighbouring building. The ensuing visual relationship between the areas of the building that breach the height and adjoining neighbouring properties, will remain at acceptable levels. It is important to note that the consideration of privacy where it pertains to the building height breach needs only to be carried out in relation to the aspect of the building that breaches the height, and not the building as a whole.

Furthermore, the siting and characteristics of the breaching elements and the extent of available views offered across the subject site, which do not display any level of significance or value, ensures that any views currently enjoyed by neighbouring properties will not be adversely impacted nor compromised by the height breach.

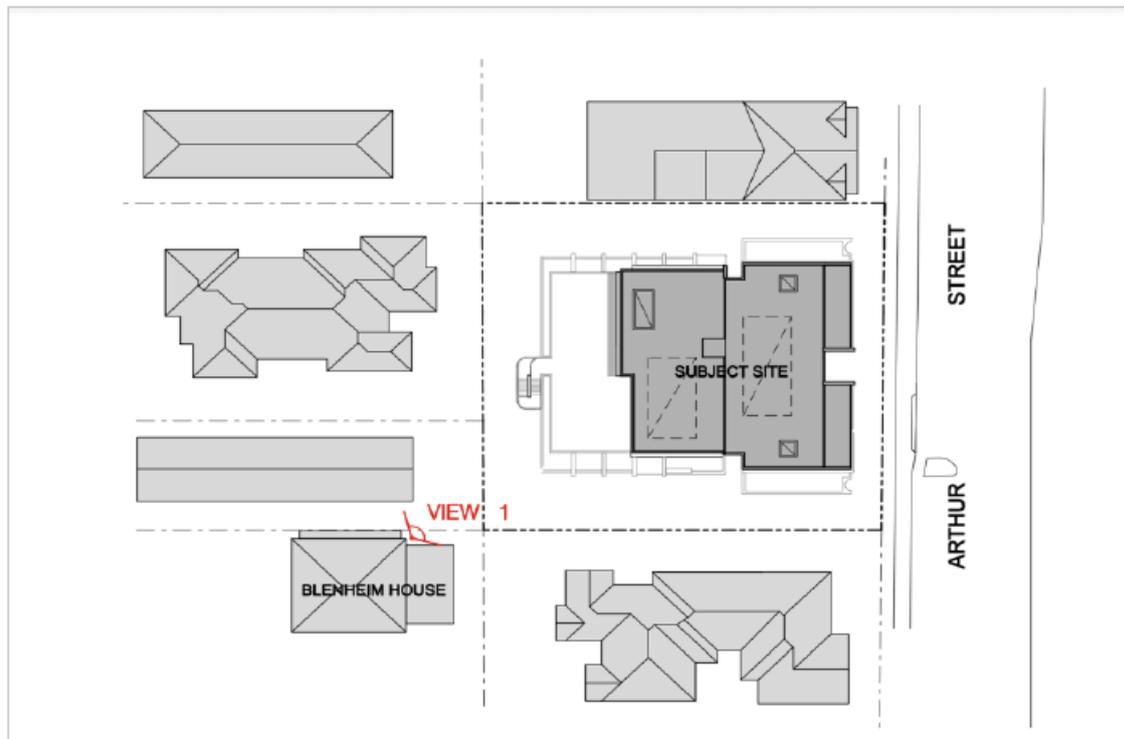


Figure 5: View line site plan
Source: Loucas Architects



Figure 6: Visual identification of breach as presented to the proximate item of heritage (Blenheim House)
Source: Loucas Architects

As demonstrated in the accompanying shadowing analysis prepared by Loucas architects **Figures 7 through to 11**, the extent of additional shadow cast by the breach will not result in an unreasonable increase to the shadowing likely to be cast by a wholly compliant development. The extent of additional shadow generated by the height breach is marked in green while the compliant building envelope shadow is annotated in yellow. For ease of interpretation, a blue arrow directs attention to the extent of additional shadow cast.

The extent of additional shadow cast by the breaching elements are only evident from 8am through to 10am. By 11am and through to 3pm, the additional shadow cast by the breach falls wholly over the subject site and building. At 4pm, the extent of breach is very minor and would not be perceptible.

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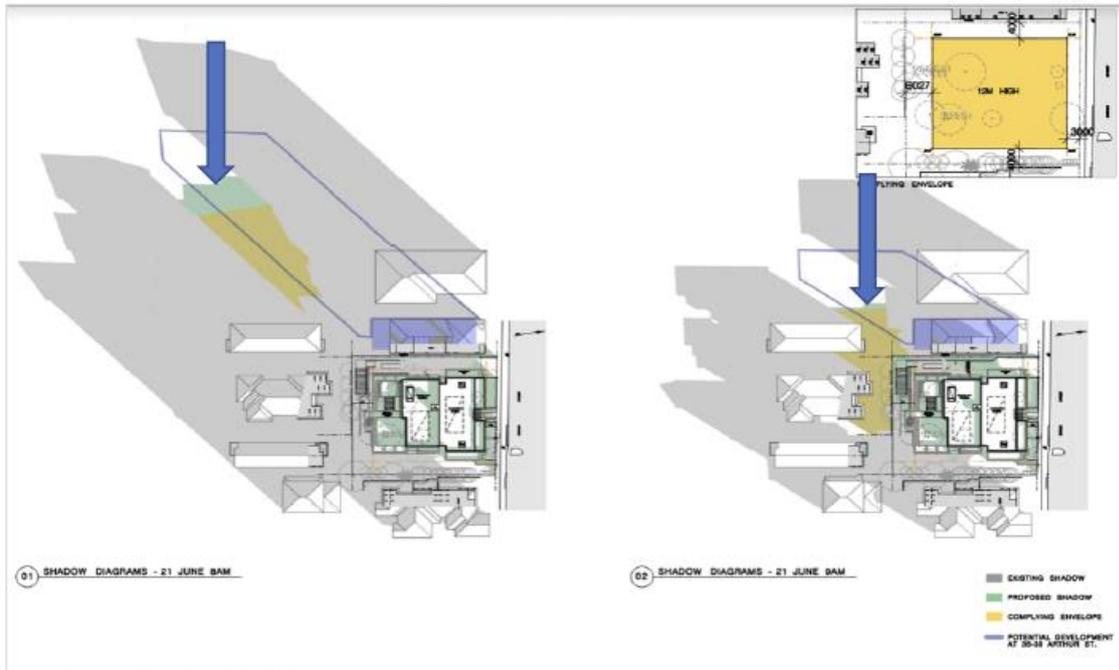


Figure 7: 8am and 9am June 21 shadow
Source: Loucas Architects

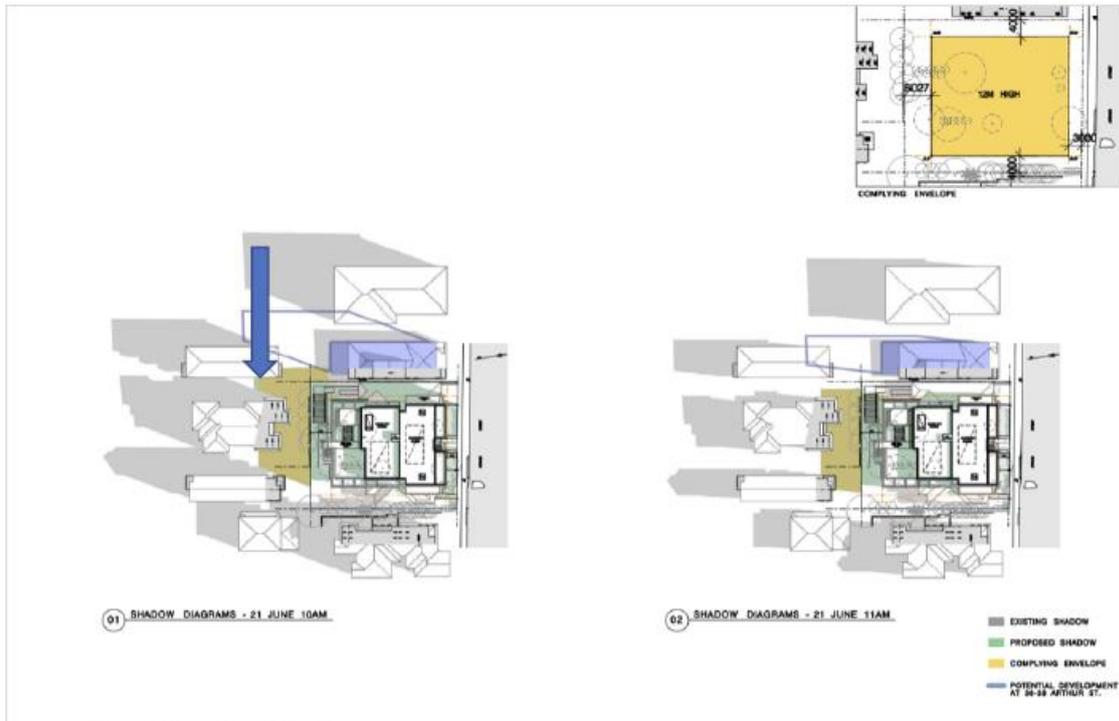


Figure 8: 10am and 11am June 21 shadow
Source: Loucas Architects



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Figure 9: 12pm and 1pm June 21 shadow
Source: Loucas Architect

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Figure 10: 2pm and 3pm June 21 shadow
Source: Loucas Architects

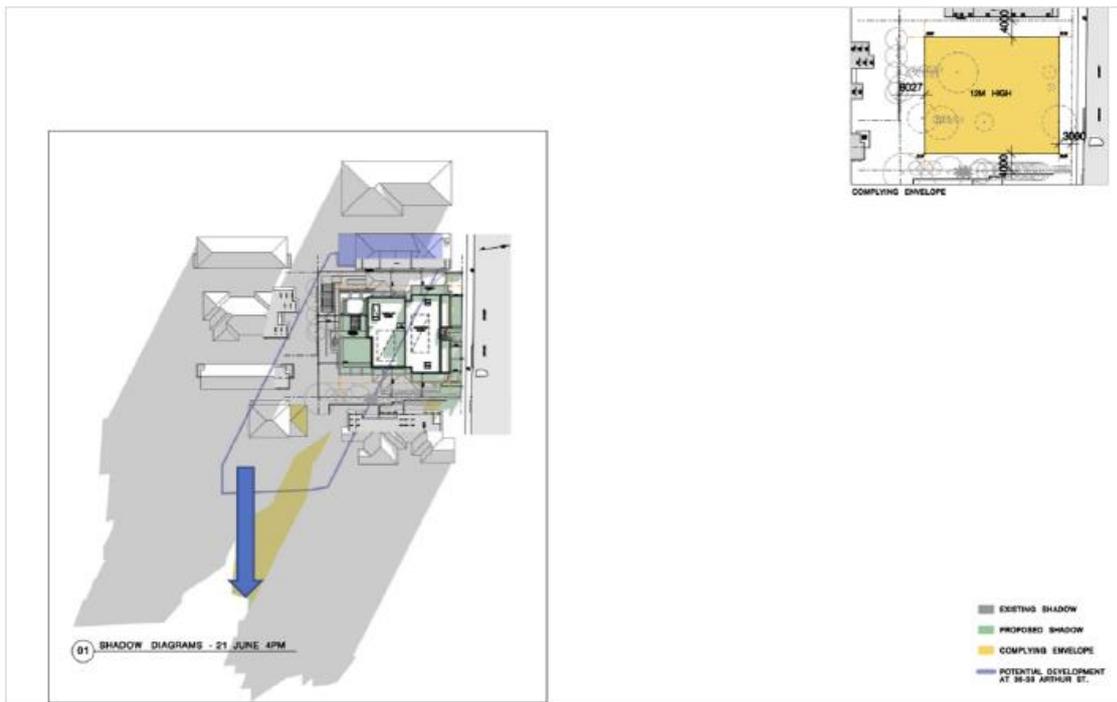


Figure 11: 4pm June 21 shadow
Source: Loucas Architects

The objectives of the development standard are achieved, notwithstanding the non-compliance with the standard in the circumstances described in this variation report.

• **The underlying object or purpose would be undermined, if compliance was required with the consequence that compliance is unreasonable** (the third method in *Wehbe v Pittwater Council* [2007] NSWLEC 827 [42]-[43] as applied in *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24])

Part of the breach relates to access to and provision of a high quality communal open space on the rooftop, serviced by way of a solid cover over the outdoor kitchen offering year-round weather protection.

If the proposed building was to be fully compliant with the building height, access to the communal space, and weather protection would be compromised. This would result in a loss of amenity for residents and does not reflect the design criteria of Part 3D Communal and Public Open Space of the Apartment Design Guide.

Compliance in the circumstances is therefore unreasonable.

4.2.2 Clause 4.6 (3)(b) – Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

Clause 4.6(3)(b) of the RLEP 2012, requires the consent authority to be satisfied that the applicant's written request has adequately addressed clause 4.6(3)(b), by demonstrating:

"That there are sufficient environmental planning grounds to justify contravening the development standard".

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in (*Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118).

There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. These include:

- The proposal is consistent with the objectives of the development standard and objectives of the R3 zone.
- The proposal is compliant with the maximum FSR that applies to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area (GFA).
- The perception of building height across all levels has been mitigated by appropriate levels of building modulation and massing whereby the various portions of the building and relative setbacks from the viewing perspectives are formed in a manner that continue to enable the visual identification of a built form that remains appropriate for the site and commensurate with both existing and envisaged development likely to occur on neighbouring undeveloped sites. At a high level, the proposed building successfully mitigates environmental impacts such as overshadowing, privacy and visual impact.
- Part of the structure ancillary to the communal open space which exceeds the height standard, does not comprise any gross floor area, rather ensures weather protection for the rooftop communal open space. Without this element, the space would be less usable for residents, would



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provide less amenity and would not achieve compliance with the relevant design criteria in the Apartment Design Guideline.

- The lift overrun which exceeds the height provides for equitable access to the rooftop communal open space.
- Part of the communal living room which exceeds the height has a direct bearing on resident amenity. Without this breaching element, the space would be less usable for residents, would provide less amenity and would not achieve compliance with the relevant design criteria in the Apartment Design Guideline.
- The location and design of the height breaching elements have been organised to ensure that they do not present as visually jarring to the streetscape.
- The proposed height variation directly enables the provision of an affordable apartment on Level 3 (Apartment 3.01) and a boarding rooms identified as 3.05 of the building. Therefore, without the subject variation, the proposed development would limit the extent of affordable housing on the site. This would reduce the housing variety provided as part of the development. Clearly, there is an inherent public benefit in providing affordable housing on the site, particularly given the proximity of the site to the Randwick Centre, University of New South Wales and the Prince of Wales and Sydney Children's Hospitals. This public benefit is a direct result of the height non-compliance.
- Despite the numerical non-compliance with the height development standard, the development provides a scale and form of development that is compatible with surrounding developments and the emerging character. A notable number of developments across the defining context present a four (4) storey scale and therefore, the proposed development will not be out of character with this scale.
- The design of the development carefully considers surrounding built context, including heritage assets in the locality. This includes 'Bleinhelm House and Outbuilding' which diagonally adjoins the subject site to the south-east.
- The slope of the site being a cross fall of approximately 3.15m from the north-eastern corner of the site along Arthur Street down towards the south-western corner, has been a determinative factor with regards to the extent of height variation observed across the building.

Based on the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed non-compliance to the maximum height of buildings in this instance.

The Objects of the Act under S1.3 are also relevant to whether grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in **the table below** we consider whether the proposed development is consistent with each object.

The objects of this Act and how this proposal responds to the object are as follows:



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Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This building will in part harvest of the identified resources given it is location proximate to numerous parklands. The breach will therefore provide future residents of the top floor (in part breach) with access to those resources and encourage their renewal and use.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.
(d) to promote the delivery and maintenance of affordable housing,	The development will provide thirty-six (36) boarding rooms, one of which is nominated as the managers room and seven (7) affordable residential apartments.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves to positively influence the future amenity of the dwelling occupants while adopting an architectural form and language, with an overall silhouette, height and land use intensity compatible with both the established and emerging development and housing typology.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	This object is not relevant to this development
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The proposed development will be publicly notified in accordance with Council's DCP requirements.



Based on the above, the consent authority can be satisfied that there the proposed development remains consistent with the Objects of the Act despite the height non-compliance.

4.2.3. Clause 4.6 (4)(a)(i) - Has the Written Request adequately Addressed the Matters in Sub-Clause (3)?

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3).

Each of the sub-clause (3) matters are comprehensively addressed in this written request, including detailed consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The written request also provides sufficient environmental planning grounds, including matters specific to the proposal and the site, to justify the proposed variation to the development standard.

4.2.4. Clause 4.6 (4)(a)(ii) - Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

Clause 4.6(4)(a)(ii) provides that development consent must not be granted for development that contravenes a development standard unless 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.

In Part 4.1.1 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal, inclusive of the non-compliance, is also consistent with the objectives of the R3 Medium Density Residential Zone:

Zone R3 – Medium Density Residential Zone

Objective	Comment
To provide for the housing needs of the community within a medium density residential environment.	<p>The proposal provides for a range of apartments and boarding rooms in a well serviced location, located in proximity to a variety of public transport options, expanses of public open space and services facilities.</p> <p>The siting arrangement, built form and architectural language of the development is consistent with that likely to be encountered in a medium density residential setting and is proportionate with that observed within the evolving context.</p>
To provide a variety of housing types within a medium density residential environment.	<p>The dwelling/boarding room mix proposed as part of this development, is broad enough in that it will cater for a variety of households within the local area. The proposed dwelling mix is.</p> <ul style="list-style-type: none"> . Six (6) 1 bedroom apartments. . Four (4) two bedroom apartments

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	<p>. One (1) three bedroom apartment.</p> <p>There is also a variety of both single and double sized boarding rooms provided across the development. Seven single and twenty-nine double rooms (inclusive of managers room) are provided.</p>
To enable other land uses that provide facilities or services to meet the day to day needs of the residents	<p>The proposal does not offer the provision of other land uses.</p> <p>Notwithstanding, access to services are located within proximity to the site.</p>
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.	<p>The contemporary designed building will improve the appearance of the subject site from Arthur Street and is in-keeping with the scale and future context of surrounding development. The proposal employs setbacks that either comply with or considerably outperform the DCP setback controls while the clear architectural composition of the development combined with the diverse yet subtle materiality, also serves to reduce the visual appreciation of the development along these peripheries. Balcony blades serve to accentuate the vertical breakup of the dwellings while small recesses on either end of the balcony also reduce the extent of any unadorned horizontal span. The defined visual break across the entry has been book ended with the inclusion of brick blades which further define this component of the building. In terms of materiality, the strong use of brickwork ensures that the proposed finishes subtly integrate with that of the predominant materiality already established across the defining context.</p>
To protect the amenity of residents.	<p>The high quality, architecturally designed building provides a significant improvement on the existing building occupants. Amenity impacts on neighbouring residents have been appropriately mitigated through the design and development of the building. The provision of privacy screening, planting, fencing and setbacks that largely outperform the base DCP requirements, all combine to ensure that the amenity of residents is maintained at acceptable levels.</p>
To encourage housing affordability.	<p>The proposal nominates the provision of thirty-six (36) boarding rooms, one of which is nominated as the managers room and seven (7) affordable apartments, that serve to positively increase the supply of quality and more affordable housing within the Randwick LGA.</p>
To enable small-scale business uses in existing commercial buildings.	<p>This objective is not relevant to the proposed development.</p>

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The objectives of the zones as demonstrated above, as well as the objectives for the standard, have been adequately satisfied. Therefore, the proposal is considered to be in the public interest.

4.2.5. Clause 4.6(5)(a) – Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed minor non-compliance with the height of buildings development standard will not raise any matter of significance for State or regional environmental planning. It has been demonstrated that the proposed variation is appropriate based on the specific circumstances of the case and would be unlikely to result in an unacceptable precedent for the assessment of other development proposals.

4.2.6. Clause 4.6(5)(b) – Is There a Public Benefit of Maintaining the Planning Control Standard?

The proposed development achieves the objectives of the building height development standard and the land use zoning objectives. As such, there is no public benefit in maintaining the development standard given the substantial activation throughout the development.

4.2.7. Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

There are no known additional matters that need to be considered within the assessment of the clause 4.6 Request and prior to granting concurrence, should it be required.



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5. CONCLUSION

For the reasons set out in this written request, strict compliance with the height of buildings development standard contained within clause 4.3 of RLEP is unreasonable and unnecessary in the circumstances of the case. Further, there are sufficient environmental planning grounds to justify the proposed variation and it is in the public interest to do so.

It is reasonable and appropriate to vary the height of buildings development standard to the extent proposed for the reasons detailed within this submission and as summarised below:

- Compliance with the height of building development standard is unreasonable and unnecessary in the circumstances of the proposed development.
- The proposal, notwithstanding the non-compliance, is consistent with the objectives of the height of building standard and the R3 Medium Density Residential Zone.
- There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- There is an absence of any environmental impacts arising from the proposed variation.
- The proposed non-compliance with the height of building standard will not result in any matter of significance for State or regional environmental planning

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the height of buildings development standard should be applied.

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Appendix 3: SEPP 65 Compliance Table

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Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3D-1	Communal and Public Open Space														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	Site Area 1520m ² Rooftop 151m ² Ground = 192 + 120m ² TOTAL = 463m ² = 30.4%	Yes												
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Vegie garden: 0 hour Approx 50% sunlight to rooftop 2 hours (11am-1pm). SW corner sunlight 3 hours 11am to 2pm. SE corner 2 hours 10am -noon	No, but there are three different parts which get some sunlight. Acceptable on merit as sunlit areas are landscaped to enable use of the areas												
3E-1	Deep Soil Zones														
	Deep soil zones are to meet the following requirements: Site Area: <table border="1" data-bbox="347 1010 847 1227"> <thead> <tr> <th>Site Area</th> <th>Min. Dimension</th> <th>Deep Soil Zone (% site)</th> </tr> </thead> <tbody> <tr> <td>< 650m²</td> <td>-</td> <td>7%</td> </tr> <tr> <td>650–1,500m²</td> <td>3m</td> <td>7%</td> </tr> <tr> <td>>1,500m²</td> <td>6m</td> <td>7%</td> </tr> </tbody> </table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m ²	-	7%	650–1,500m ²	3m	7%	>1,500m ²	6m	7%	Site area 1520m ² . Approximately 199m ² (13.1%) is 6m wide deep soil (south east of site). However that area includes timber paths and seating which divides the area so in fact there is no 6m solely vegetated area.	Perhaps. Numerically it complies, although some has timber decking above. On merit considered acceptable due to substantial landscaping
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m ²	-	7%													
650–1,500m ²	3m	7%													
>1,500m ²	6m	7%													
3F-1	Visual Privacy														
	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1" data-bbox="347 1503 847 1906"> <thead> <tr> <th>Building Height</th> <th>Habitable Rooms and Balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> Note: Separation distances between buildings on the same site should combine	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	At least 6m provided to boundaries for balconies and terraces for the boarding house. 4m from boundaries to habitable blank walls and to some windows with operable frosted glass or highlight windows in the RFB and ground L1 and L2. The windows are frosted to studies or very narrow windows to the bedrooms.	Yes for Boarding rooms. No for RFB. The windows are above the windows of 38 Arthur Street on the west. They are opposite blank walls for 46 Arthur Street. The non-compliance is for 8.46m over a building depth of 32.03m (26%). Hedge planting is proposed on
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													

Clause	Design Criteria	Proposal	Compliance
	<p>required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>		<p>the west. On the east existing hedge planting on 46 Arthur Street is to remain with additional trees to assist privacy. On merit considered acceptable</p>
3J-1	Bicycle and Car Parking		
	<p>For sites located within 800m of a light rail stop, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street</p>	<p>The car parking requirement is met with respect to the must not refuse standards of the ARH SEPP.</p> <p>13 spaces for cars and 20 bicycle spaces.</p> <p>Charging stations at each car park and car wash bay provided I the service bay</p>	<p>Yes numerically under ARH SEPP.</p> <p>Yes for car wash bay and charging</p>
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.</p>	100%	Yes
	<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	Nil	Yes
4B	Natural Ventilation		
	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p>	7/11 = 63.6%	Yes
	<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	Less than 18m	Yes
4C	Ceiling Heights		
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable Rooms – 2.7m • Non-habitable – 2.4m • Attic spaces – 1.8m at edge with min 30 degree ceiling slope • Mixed use areas – 3.3m for ground and first floor 	2.75m	Yes

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Clause	Design Criteria	Proposal	Compliance															
	These minimums do not preclude higher ceilings if desired																	
4D	Apartment Size and Layout																	
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • Studio - 35m² • 1 bedroom - 50m² • 2 bedroom - 70m² • 3 bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each</p>	Comply	Yes															
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	This is achieved	Yes															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	This is achieved	Yes															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All less than 8m	Yes															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Achieved	Yes															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Achieved	Yes															
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Achieved	Yes															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	NA	NA															
4E	Apartment Size and Layout																	
	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4 m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8 m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10 m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12 m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	Achieved	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It	28, 36 and 53 m ²	Yes															

Clause	Design Criteria	Proposal	Compliance
	must have a minimum area of 15m ² and a minimum depth of 3m		
4F	Common Circulation and Spaces		
	The maximum number of apartments off a circulation core on a single level is eight	4	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	NA	NA
	Windows to be provided at the end of corridors. Ventilation should be provided	Operable windows at end of each corridor.	Yes
	Corridors greater than 12m from lift core to be articulated	Articulation provided outside the lift core. Corridor just exceeds 12m in boarding house area.	No but on merit acceptable
4G	Storage		
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments - 4m³ • 1 bedroom apartments - 6m³ • 2 bedroom apartments - 8m³ • 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>	<p>All achieved except 1.03 has 4.4m³ internal not 5m³. However it has 20m³ in the garage – well above the required minimum of 10m³ total</p>	<p>No, however acceptable on merit</p>

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Appendix 4: DCP Compliance Table

3.1 Section B6: Recycling and Waste Management

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	In the basement with garbage chute internally	Yes
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	In the basement	Yes
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	In the basement	Yes
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	Waste management plan provided	Can be conditioned
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	This appears satisfactory	Yes
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	Not clear	Can be conditioned

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3.	Parking & Service Delivery Requirements		
	Car parking requirements RFB: <ul style="list-style-type: none"> • 1space per 2 studios • 1 space per 1-bedroom unit (over 40m2) • 1.2 spaces per 2-bedroom unit • 1.5 spaces per 3 or more bedroom unit • 1 visitor space per 4 dwellings 	6 x 1 Bed = 6 4 x 2 bed = 4.8 1 x 3 bed = 1.5 = 12.3 + 3 visitors Provided: 13 residential (3 accessible) plus 3 visitor (1 accessible)	Yes RFB
	Car parking Boarding House – Use ARH SEPP	Provided as required	YES
	Motor cycle requirements:	3 motor bikes for RFB	Yes RFB

	RFB: 5% of car parking requirement Boarding house require 7 under ARH SEPP	7 for boarding house	Yes Boarding house
4. Bicycles			
	Residents: <ul style="list-style-type: none"> 1 bike space per 2 units or per 2 rooms Visitors for RFB: <ul style="list-style-type: none"> 1 per 10 units 	11 units: require 6 36 boarding rooms require 18 + 1 Visitor 25 required and 28 provided	Yes

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3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2. Site Planning			
2.1 Site Layout Options			
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> Two block / courtyard example T-shape example U-shape example Conventional example 	Proposal best approximates the T shape example with a rear wing (which is the proposed boarding house)	Yes
2.2 Landscaped open space and deep soil area			
2.2.1 Landscaped open space			
	A minimum of 50% of the site area (1520m ²) is to be landscaped open space.	50% of 1520m ² = 760m ² Drawing D-4200 indicates 425m ² but it would also include the vegetable garden of approx 4.5 x 16.8 = 66.6m ² = 491.6m ² (32.3%) provided	No but subject to ARH SEPP must not refuse 14(1)(c). NB different landscape definition to the ARH SEPP must not refuse requirement of 30% with which it does not comply – 28% provided
2.2.2 Deep soil area			
	(i) A minimum of 25% of the site area (1520m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting. Must be permeable, at ground level and not covered by impervious surfaces and capable of growing plants. NB no minimum dimension	Subject to SEPP ARH must not refuse 15% with minimum 3m dimension 380m ² required 262m ² (17.2%) (excluding timber paths) provided. If timber paths and seating included deep soil area of deep soil is approx. 385m ²	No.31% variation (if paths not included. Yes complies if timber paths/seating included NB it does not comply with ADG 6m wide requirement, Questionable if it complies with the ARH SEPP deep

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
			soil requirement of 15%
	(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 areas at ground level	Yes
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Detailed landscaped plan provided.	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Noted.	Yes
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Proposed deep soil areas are indicated adjacent those of adjacent properties.	Yes
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	(i) Each dwelling has its own PoS directly accessible from its living area. (ii) Open space is orientated north due to site orientation. (iii) Provided	(i) Yes (ii) Yes (iii) Yes
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	ADG takes priority and proposal complies with ADG and DCP	Yes
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance.	COS is 151m ² on the rooftop, and two additional areas at ground level of 192m ² and 120m ² . Passive surveillance is good. Solar access is relatively poor as the COS is on the	Yes save for solar access, however on merit considered acceptable and subject to ADG in any event for solar

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	east and south side of the building. Landscaping is satisfactory. Site provides for a number of different types of use.	
3. Building Envelope			
3.1	Floor space ratio		
	The maximum permitted mapped FSR is 0.9:1 however ARH SEPP provides for 0.5:1 uplift if 50% or more is affordable housing, providing an FSR of 1.4:1 (2,128m ²). Note that cl 29(1)(c) of ARH SEPP also allows for an uplift for a boarding house of 0.5:1	The proposed FSR is 1.39:1 (2,109m ²), subject to the affordable rental component being recalculated to exclude communal corridors	Yes subject to conditions about removal of corridors
3.2	Building height		
	The maximum permitted building height for the zone is 12m	The max height at the lift core is 13.55m	No. Clause 4.6 provided
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Max window to window depth is 8m	Yes
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries. (ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis. (iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings. (iv) The entire front setback must incorporate landscape planting,	Front set back is 3.0m which aligns with neighbouring property west and is free of structures other than stairs. The property to the east has a 6m front setback for the adjoining part and a 3m setback further to the east. 3m setbacks are common in the street. The front setback has areas for deep soil planting punctuated by stairs leading to ground floor units. The front setback incorporates planting and access driveway.	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	with the exception of driveways and pathways.		
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 20m and above frontage – 4m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>Setback to the west RFB section is 4m, and 6m to the boarding house section.</p> <p>Setback to the east RFB section is 4m and 6m to the boarding house section.</p> <p>There is articulation by the increased setback for the boarding house component and the T openings for the corridors</p>	Yes
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (6.27m) or 5m, whichever is the greater.	The allotment depth is 41.18m and 15% of this depth is 6.27m. The proposed setback is 6m to the façade and approximately 3.5m to the fire stairs.	No. None of the criteria supporting a reduction are present. No. 46 Arthur Street next door has a rear setback of 9m reducing to a lower figure. On merit considered acceptable due to fire stairs being of open form.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4. Building Design			
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (v) Conceal building services and pipes within the balcony slabs. 	<ul style="list-style-type: none"> (i) The façade presents a well defined entry and openings to the street. (ii) The front wall alignments are parallel to the street. (iii) The front façade has a slightly wider entry articulation than previously (3370mm now). Additional articulation provided to the top level by the additional setback on the eastern and western side and minor articulation at the balcony edges on the east and west edges of the front façade. (iv) The east and west boarding house bays are 19.17m long and the RFB side elevations are 11.06m. The front two sections facing Arthur Street are each about 11.6m wide. On each façade they are punctuated by balconies with blade walls providing vertical relief. (v) There are no obvious services depicted on the façade 	<ul style="list-style-type: none"> (i) Yes (ii) Yes (iii) Yes (iv) No, however on merit the balconies, planter boxes and privacy screens and blade walls provide relief sufficient to provide adequate articulation (v) Yes
4.2	Roof design		
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is 	<ul style="list-style-type: none"> (i) The roof is flat with a slight drop for the boarding house element. It is an unusual roof form in the vicinity. All other RFBs have a pitched (generally hipped) roof form (ii) It is a flat roof with shading for balconies (iii) The flat pitch is dissimilar to all other 	<ul style="list-style-type: none"> (i) No, however this is a more modern style which allows for communal open space on the roof (ii) Yes (iii) No (iv) Yes 2 levels (v) Not used (vi) Lift form extends above but centralized

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>development in the street.</p> <p>(iv) No articulation, although it is a flat roof. A slight reduction in height at the rear section.</p> <p>(v) Skylights used to provide sunlight to the communal living room for the boarding house and for two units on Level 3.</p> <p>(vi) Lift overrun is centrally located. Photovoltaic cells are behind a low parapet wall. Air-conditioning units for RFB not identified.</p> <p>(vii) COS looks towards 46-48 Arthur Street. Its RL is between two different levels at 46-48 Arthur Street. Distance to the balustrade is 13.711m to 46 Arthur Street, therefore adequate privacy is considered achieved.</p> <p>(viii) There is no green roof proposed, although landscaping is proposed including 2 Japanese Elm and a dragon tree.</p>	<p>and unlikely visible from the street. PV cells proposed on the roof</p> <p>(vii) Yes</p> <p>(viii) Yes</p>
4.3	Habitable roof space		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	Habitable roof space may be considered, provided it meets the following: <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	N/A	N/A
4.4	External wall height and ceiling height		
	(i) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	Maximum wall height is 13.5m on the north west (RL70-RL56.5) opposite the kitchen on unit 3.01.	No. See discussion on increased setback
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	ADG applies – 2.7m. 2.75m shown on plans	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	The proposal provides a clear entry point from Arthur Street, separate from the driveway	Yes
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of 	The vertical blade walls and articulation assist with building entry identification. A ramp is integrated into the entry design. Direct entry to ground level RFBs provided from the street. Mailboxes are convenient in the entry way and integrated. Entry is weather protected. Postal services requirements will likely be addressed at the construction certificate stage.	Yes Postal services requirements may be conditioned.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary).</p> <ul style="list-style-type: none"> - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>		
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	<p>Subject to ADG. Natural lighting provided by windows at north, south, east and west facades for the circulation spaces. Wider circulation zone provided at lift core</p>	<p>Yes</p>
	<p>(ii) Use multiple access cores to:</p> <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	<p>Subject to ADG. Only 4 come off the lift core.</p>	<p>Yes</p>
	<p>(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.</p>	<p>N/A</p>	<p>N/A</p>
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p>	<p>Subject to ADG</p>	<p>N/A</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>		
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Subject to ADG	N/A
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Subject to ADG	N/A
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Subject to ADG	N/A
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Subject to ADG	N/A
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.	Subject to ADG	N/A
4.9	Colours, materials and finishes		
	<ul style="list-style-type: none"> (i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces 	<p>A schedule of materials and colours is included. The materials proposed that are visible from the streetfront include face recycled brick, render glass balustrading privacy screens, metal blades on render, metal cladding, painted render.</p> <p>The materials appear to be suitable for the locality.</p>	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used. 		
4.12	Earthworks Excavation and backfilling		
	<ul style="list-style-type: none"> (i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling. 	<p>Excavation is required for the basement level containing the garaging and storage.</p>	<p>No re the depth but the excavation is necessary to accommodate the basement parking and storage areas. A geotech report is provided</p>
	<p>Retaining walls</p> <ul style="list-style-type: none"> (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (vi) Where it is necessary to construct retaining walls at less than 900mm 	<p>The setback of the outer edge of the excavation is 1.3m from the western boundary, 2.745m from the eastern boundary and 3.045 from the southern rear boundary.</p> <p>Retaining walls will be required for the front courtyards of the ground floor facing Arthur Street</p>	<p>Yes. Further details required for retaining walls in front setback should be provided by condition prior to CC.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).	of up to one metre which will be about 3m from the front boundary.	
5. Amenity			
5.1 Solar access and overshadowing			
Solar access for proposed development			
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	Subject to ADG	N/A
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	Subject to ADG	N/A
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	Subject to ADG	N/A
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	Subject to ADG	N/A
Solar access for surrounding development			
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.	Subject to ADG	N/A
	(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.		
	(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.		
5.2 Natural ventilation and energy efficiency			
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights,	Subject to ADG	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	clerestory windows, fanlights above doorways and highlight windows in internal partition walls.		
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Subject to ADG	N/A
	(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.	Subject to ADG	N/A
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Subject to ADG	N/A
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	Subject to ADG	N/A
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Subject to ADG	N/A
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	Subject to ADG	N/A
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen	Subject to ADG	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 		
5.4	Acoustic privacy		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	(i) Utility areas are co-located. (ii) Bedrooms are separated from corridors. (iii) Details are recommended in the acoustic report and can be conditioned.	(i) Yes (ii) Yes (iii) Yes – can be conditioned. It is noted that the recommended partition/flooring /ceiling in section 7.2 is not consistent with a floor to ceiling height of 2.75m as set out in the plans, and the floor to ceiling height may be reduced to accommodate required BCA acoustic requirements. The floor to ceiling heights should be conditioned to a minimum 2.7m
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained	There are no obvious views enjoyed by the existing building or adjoining properties that might be affected by the proposed development.	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>from the bedrooms and non-habitable rooms.</p> <p>(iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Access is centralized and clear	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Provided	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Ventilation largely provided by balcony doors, however operable highlight windows have been included to Units G.02, 1.01, 2.01, and 2.04	No, however cross ventilation has been provided where possible
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	None proposed	N/A
	(vi) Resident car parking areas must be equipped with security grilles or doors.	The entry to the garage basement is not clear. Can be conditioned.	Unclear – can be conditioned
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	This may be confirmed at the construction stage.	This may be conditioned to be checked at the construction stage.
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	This may be confirmed at the construction stage.	This may be conditioned to be checked at the construction stage.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Casual opportunity surveillance exists with views to the street. Views over the side communal areas provided from the boarding house rooms. Very little oversight to rear COS and rooftop COS. Casual views provided to exterior from the corridor ends.	Partly
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	This may be confirmed at the construction stage.	This may be conditioned to be checked at the construction stage.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	This may be confirmed at the construction stage.	This may be conditioned to be checked at the construction stage.
6. Car parking and access			
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Rear lane / secondary street access is not available.	N/A
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	The car parking is situated in the basement and it is accessed via a short driveway.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Driveway is generally 1m from western boundary, reducing to 300mm for passing near the street. Landscaping provided	No, but on merit acceptable
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side	Car parking in basement. Car park entry is behind the facade	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	and not centrally positioned across the street frontage.		
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Vehicles can enter and exit the basement in a forward direction.	Yes
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Maximum width (including upturns) is 6.1m. Width of driveway approximately 5.5m	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	(a) Basement car parking is provided. Natural ventilation not shown but a naturally ventilated garage door could be conditioned (b) As above (c) External walls do not protrude above existing ground level by more than 1.2m. (d) Perimeter landscaping will be provided, although narrow for a small section at passing bay. (e) No direct access, other than lifts. (f) The car park entry is incorporated in the streetfront design of the building.	(a) Can conditioned (b) Yes (c) Yes (d) Yes (e) Yes (f) Yes
7.	Fencing and Ancillary Development		
7.1	Fencing		
	(i) Fences are constructed with durable materials that are suitable for their	The proposed fencing to the front is indicated as	Yes, can condition

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials <p>(iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	<p>metal railing medium grey on the front boundary. The acoustic report requires 1.8m high boundary fences of solid construction</p>	
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	The proposed fence aligns with front boundary. It contains planting and provides a barrier beyond which is the courtyards for the ground floor apartments	Yes
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	The proposed fence appears to be approx. 600mm solid portion with 1.2m above of privacy fencing – open design	Yes, can be conditioned
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	The plans indicate this	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. <p>Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.</p>	NA	NA
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Stepping is provided. This can be conditioned	Yes – can condition

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	The proposed materials are rendered and painted masonry and powder-coated mid grey privacy strips	No but acceptable on merit. Note the requirements of the acoustic report for a solid construction which can be conditioned
	(vii) Gates must not open over public land.	No proposed gates open on public land.	N/A
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	The driveway is designed to allow for forward entry and exit and should have adequate sightlines to the street.	Yes
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>	The acoustic report requires 1.8m high boundary fences of solid construction.	Yes – can conditioned
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m3</p> <p>(b) 1-bedroom apartments – 6m3</p>	Subject to ADG	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(c) 2-bedroom apartments – 8m ³ (d) 3 plus bedroom apartments – 10m ³		
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Shown in the balconies	Yes
	(ii) Provide internal laundry for each dwelling unit.	Each dwelling is proposed to have an internal laundry.	Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	N/A	N/A
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 	Shown in the balconies	Yes

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3.5 Section C3 Adaptable and universal housing

Section C3: Adaptable and universal housing

DCP Clause	Controls	Proposal	Compliance
2	Universal Housing		
	Ground floor dwellings to have: <ul style="list-style-type: none"> Accessible continuous path of travel from street entrance/parking to dwelling entrance At least one level entrance to the building Internal doors facilitating unimpeded access Toilet on the entry level with easy access Reinforced walls around toilet, shower Continuous handrail for stairways >1 metre 	Liveable identified units are G.01, 1.01, 2.1, 2.04. Ramp entry to front and to lift to upper floors. Flat entry to G.01 and other units. Toilet at entry level for each. Note that G.02 does not have toilet at entry level (but it is not identified as liveable)	Yes, acceptable
3	Adaptable Housing		
	Minimum 20% of dwellings in RFB to be adaptable (11 dwellings, so 3 required) If there is no lift they should be on the ground floor. Integrated into the general design, should be clearly identified	3 provided – 1.01, 2.01, 2.04. Lift provided and accessible using the lift. Easy adaptation to adaptable. Identified on the plans	Yes

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3.5 Section C4 Boarding houses

Section C3: Boarding Houses

DCP Clause	Controls	Proposal	Compliance
2	Building Design		
2.1	<p>Boarding rooms <i>Orientate to receive the maximum amount of sunlight;</i></p> <p><i>Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and</i></p> <p><i>Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres.</i></p>	<p>All face east or west onto a balcony or terrace. All balconies at least 4m²</p>	<p>Yes</p>
<p>Solar access to rooms: The proposal is located on a north south axis therefore somewhat limited in its capacity to provide solar access for the rooms. It is likely that about 12-14 boarding rooms (a third) will not receive 2 hours sunlight midwinter, essentially those on the ground floor). All units should receive at least one hour.</p>			
2.2	<p>Outdoor Communal Open Space <i>Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres;</i></p> <p><i>Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents; Locate and orientate to maximise solar access;</i></p> <p><i>Incorporate both hard and soft landscaped areas;</i></p> <p><i>Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and</i></p> <p><i>Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties.</i></p>	<p>Communal open space is shared with the RFB – a total of 463m², including 151m² on the roof and 312m² at ground level. Hard and soft landscaping included, as are shared facilities such as BBQ area, seating, yoga lawn, outdoor kitchen. Partial cover for kitchen provided on roof, plus a pergola. Pergola also at ground level.</p> <p>As the property is north south and the RFB occupies the northern (street) aspect it is hard to achieve solar access, although some is provided in the south east and south west corner and on the roof which are the sunniest positions.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
4.3	<p>Indoor Communal Facilities <i>Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident), whichever is greater); and</i></p> <p><i>Orientate to maximise solar access and have a northerly aspect where possible.</i></p>	<p>The indoor communal room is 56m² on the top level with good sunlight and close access to the rooftop communal open space.</p> <p>51 potential boarding house residents requires 61.2m² communal internal space</p>	<p>No. However generous undercover space is provided adjacent with the covered outdoor kitchen and seating areas, so on merit considered acceptable</p>
2.4	<p>Communal Kitchen Bathroom and Laundry Facilities <i>For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room;</i> <i>For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents;</i> <i>Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and</i> <i>Where possible, locate clothes lines to maximise solar access while not compromising the street amenity or usability of communal open space.</i></p>	<p>Each room has its own facilities. Communal kitchen provided in the communal living area.</p> <p>Clothes lines are in each balcony</p>	<p>Yes</p>
2.5	<p>Safety and Crime Prevention <i>Locate building entry points and internal entries to living areas where they are clearly visible from common spaces;</i> <i>Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street and communal open space;</i> <i>Separate ground level private open space from public and common areas by measures such as open fencing or low level plants; and</i> <i>Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment.</i></p>	<p>The design of the boarding house incorporates adequate measures in accordance with CPTED principles such as natural surveillance, access control, fencing, territorial reinforcement (landscaping and fencing assists in delineating between communal and private areas) and space management.</p> <p>The plan of management includes reference to on-going management of cleaning of communal open space.</p>	<p>Yes</p>
2.6	<p>Visual and Acoustic Amenity and Privacy <i>Indicative locations of facilities and appliances for bathrooms, kitchens and</i></p>	<p>Layout is shown and well set out with services together.</p>	<p>Acoustic recommendations should be conditioned. They are included in the</p>

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DCP Clause	Controls	Proposal	Compliance
	<p><i>laundries must be clearly shown on the DA plans/drawings; Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other; Locate similar uses (such as bedrooms or bathrooms) back to back, to minimise internal noise transmission; Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts;</i></p> <p><i>Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties; Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties; An acoustic report prepared by a suitably qualified acoustic consultant must be submitted for new development or conversions/intensifications with an increase in resident numbers. The report must: establish the existing background noise levels; identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment; estimate the level of potential noise emission; establish desirable acoustics performance criteria; and recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria.</i></p>	<p>Entry is at the front centrally located and shared with the RFB.</p> <p>COS and on rooftop – well located. Other COS areas which are shared with the RFB are in the rear and side setbacks.</p> <p>Balconies do face towards side boundaries, but all are at least 6m from the boundary.</p> <p>Acoustic report provided and includes recommendations which could be conditioned.</p>	<p>plan of management generally.</p> <p>Side balconies have a combination of planter boxes and privacy screens to assist in privacy to the neighbours and all are a minimum 6m from the boundary.</p>
<p>3</p>	<p>Management Plan <i>Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements outlined in the Management Plan section in Part B, and the following specific requirements: Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes; A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room; House rules, covering issues such as lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking</i></p>	<p>A plan of management and House Rules accompany the application. Adherence to these controls will be a conditional requirement of the consent.</p>	<p>Yes – can be conditioned</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>and consumption of alcohol and illicit drugs;</i> <i>Professional cleaning and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms;</i> <i>Public notice and signs, including:</i></p> <p><i>A sign showing the name and contact number of the manager/caretaker, placed near the front entry and in a visible position to the public;</i> <i>Clear display of fixed room identification number for each boarding room; and</i> <i>Internal signage prominently displayed in each boarding room and/or communal living areas informing maximum number of lodgers per room, house rules, emergency contact numbers for essential services, annual fire safety statement and current fire safety schedule and emergency egress routes and evacuation plan.</i> <i>The manager/caretaker must maintain an up-to-date accommodation register with information on residents' details, length of stay, etc. and provide to Council officers upon request.</i></p>		

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Responsible officer: Urban Perspectives, Town Planners

File Reference: DA/3/2021

**Development Consent Conditions
(Mixed use)**

Folder /DA No:	DA/3/2021
Property:	40-44 Arthur St, RANDWICK NSW 2031
Proposal:	Demolition of existing structures across 3 allotments, and construction of a 4 storey mixed-use development comprising a residential flat building with 11 dwellings including affordable housing dwellings and a boarding house with 35 boarding rooms and manager's room, communal areas, two levels of basement parking, lot amalgamation, landscaping and associated works (variation to building height of the RLEP 2012)
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 and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations 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/Document	Drawn by	Dated	Received by Council
A-000 Cover Page Issue K	Loucas Architects	15/09/2022	20/09/2022
A-0200 Site Plan Issue K	Loucas Architects	15/09/2022	20/09/2022
A-1000 Basement 2 Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1010 Basement 1 Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1020 Ground Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1030 L1 Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1040 L2 Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1050 L3 Floor Plan Issue L	Loucas Architects	26/10/2022	26/10/2022
A-1060 L3 Roof Plan Issue K	Loucas Architects	15/09/2022	20/09/2022

A-2000 Elevations 01 Issue L	Loucas Architects	26/10/2022	26/10/2022
A-2100 Elevations 02 Issue L	Loucas Architects	26/10/2022	26/10/2022
A-2500 Section 1 Issue K	Loucas Architects	15/09/2022	20/09/2022
A-2600 Section 2 Issue K	Loucas Architects	15/09/2022	20/09/2022
A-2700 Detail Façade Section Issue K	Loucas Architects	15/09/2021	20/09/2022
A-3000 Adaptable & Livable Unit details Issue K	Loucas Architects	15/09/2021	20/09/2022
A-3100 Accessible Boarding Room Details Issue K	Loucas Architects	15/09/2021	20/09/2022
A-3200 Livable Unit Details Issue K	Loucas Architects	15/02/2021	20/09/2022
A-4400 Driveway section Issue K	Loucas Architects	15/09/2021	20/09/2022
2022040-LD-DA000 Rev 2 Cover sheet design Statement	Land and Form	14.10.22	22/10/2022
2022040-LD-DA001 Rev 2 Planting Schedule and Legends	Land and Form	14.10.22	22/10/2022
2022040-LD-DA100 Rev 2 Ground floor landscape plan	Land and Form	14.10.22	22/10/2022
2022040-LD-DA110 Rev 1 Level 3 landscape plan	Land and Form	15.08.22	20/09/2022
2022040-LD-DA200 Rev 1 Ground floor planting plan	Land and Form	15.08.22	20/09/2022
2022040-LD-DA210 Rev 1 Level 3 planting plan	Land and Form	15.08.22	20/09/2022
2022040-LD-DA900 Rev 1 Typical details & outline specifications	Land and Form	15.08.22	20/09/2022
Boarding House Plan of Management (Amended October 2022)	BMA Urban	Amended October 2022	26/10/2022
Acoustical Report	Koikas Acoustics Pty Ltd	4 August 2022	20/09/2022

BASIX Certificate No.	Dated	Received by Council
1162242M_03	22 August 2022	20/09/2022

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
- a. All privacy screens 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.
 - b. The Boundary fences along the east, west and south site boundaries shall be 1.8m high as measured from the ground level of the site. The barrier is to be constructed of a solid construction such as:
 - 9mm fibre cement sheets
 - Masonry
 - Modular wall panels
 - Alternate barrier material able to meet a minimum surface density of 15-20kg/m²
 - c. The landscaping plans are to be amended as required by these conditions of consent.
 - d. The Plan of Management (POM) for the boarding house shall be amended to include the relevant requirements of this consent.
 - e. The front fencing on Arthur Street must not exceed 1.8 metres in height above the existing ground levels with the upper two thirds to remain at least 30% open except for piers, and the lower solid portion not to exceed one third of the height of the fence.
 - f. Details of the retaining walls required between the Arthur Street public domain and the ground floor terraces to the residential apartments must be provided.
 - g. The affordable rental housing component of the development is to be recalculated so that the communal corridors are not included in the area calculated as affordable housing for the purposes of calculation of the affordable rental housing floor space ratio under clause 13 of the SEPP (Affordable Rental Housing) 2009. At least 492.5m² (50% of the gross floor area of the non-boarding house component of the proposal), not including communal corridors, is to be set aside as affordable rental housing. Details of the dwellings to be dedicated as affordable housing are to be provided to Council.

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 relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

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

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

Section 7.12 Development Contributions

5. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$13,025,216 the following applicable monetary levy must be paid to Council: \$130,252.15.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

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

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

Security Deposits

7. The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:
- \$10,000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash 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 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.

Electricity Substation

8. The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape plans.

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

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

Telecommunications Infrastructure

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

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

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

Survey Infrastructure

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

- (a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.
- (b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.
- (c) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

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

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

Street Tree Management

12. Approval is granted for the applicant to remove and dispose of (wholly at their own cost) the two juvenile trees from Council's Arthur Street nature strip, being a *Tristaniopsis laurina* (Watergum) in front of no.40, to the west of their existing driveway, given its conflict with the new basement ramp in this same location, as well as the *Grevillea 'Moonlight'* to its east, in front of no.42, also to the west of their existing layback and crossing, so as to allow for a consistent/uniform street tree species to be provided across the width of the site (see below), and must satisfy themselves as to the presence and location of any services, prior to the commencement of any external works.
13. The applicant must submit a payment of **\$321.75** (GST inclusive) to cover the costs for Council to supply, plant and maintain 3 x 25 litre *Tristaniopsis laurina* (Watergums) back on the Arthur Street verge, being one spaced equally between the driveway and central pedestrian entrance, one between the pedestrian entrance and power pole, then one equally between the power pole and eastern site boundary.

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 planting of these replacements upon the completion of all site works.

After this, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6843.

Protection of neighbours trees

14. In order to ensure retention of those trees that are located wholly on adjoining private properties, being firstly, to the east, on 46 Arthur Street, parallel with the dividing fence, from north to south, alternating *Banksia serrata* (Saw Toothed Banksia's) and *Elaeocarpus reticulatus* (Blueberry Ash, T2-15 in the Arborist Report), a single *Schefflera actinophylla* (Umbrella Tree, T16), two *Archontophoenix cunninghamiana* (Bangalow Palms, T17-18), a *Mangifera indica* (Mango, T19), then another *Mango* (T21) beyond the southeast corner of this development site, as well as the four *Thuja occidentalis* (Thuja, T35-38) that are to the south of 40 & 42 Arthur Street, wholly on 11-13 Blenheim Street, against the common boundary in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show their retention as well as the position and diameter of their trunks, canopies/crowns, SRZ's, TPZ's and Tree Identification Numbers, as taken from the Arboricultural Impact Assessment Report by Rain Tree Consulting, ref 20120, dated 07/12/20 (*the Arborist Report*) in relation to the site and all works.
 - b. Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 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, **Sections 2.2 - 2.3** of the Arborist Report as well as 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 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.
- d. All Construction Certificate plans must show that the footprint and setbacks of the Basement and Ground Floor Levels will be consistent with the rev L plans by Loucas Architects dated 26/10/22, with measurements in millimetres to be included to confirm compliance.
- e. The areas between the footprint of the new development and all site boundaries must be provided as undisturbed deep soil, for the purposes of landscaping only, as has been shown, with RL's to also be included to confirm that, with the exception of the new timber boardwalk, existing ground levels along the length of eastern side setback will be maintained.
- f. RL's must also be provided showing that the timber boardwalk, seating nooks and any associated works in the eastern side setback will be provided at or above existing grades.
- g. Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the eastern side setback must be located hard up against the footprint, and cannot involve major excavations for pits, detention tanks, absorption trenches and similar, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with these requirements.
- h. Demolition/removal of the eastern wall and footings/foundations of the existing dwelling, along with any structures, walls, surfacing or similar within no.44, as well as all initial excavations for footings for the timber boardwalk and associated works within their TPZ's must be personally supervised/performed by the Project Arborist.
- i. Following demolition, they are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels, at a 2m offset from the relevant property boundaries, to the satisfaction of the Project Arborist, and to the extent depicted at **Figure 1** of the Arborist Report, matching up with the dividing fencing so as to completely exclude them for the duration of works.
- j. This fencing shall then remain in place until completion, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
- k. Ground protection comprising strapped together rumble boards, sheets of plywood or similar must also be provided beyond the fenced off protection zones of **T2-19 & 21** described in point 'i' above, to the extent depicted at **Figure 1** of the Arborist Report and must remain in place for the duration of works, until such time as the approved landscaping is being installed.
- l. In order to prevent soil/sediment being washed over their root systems, erosion control measures must also be provided at ground level around the perimeter of the TPZ's.
- m. 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.

- n. Any new dividing fencing along the eastern boundary can only be a system which is supported on localised pads, not a continuous strip footing, with details confirming compliance to be shown on the Construction Certificate plans.
- o. Where roots are encountered which are in direct conflict with the approved works, the procedure outlined at **Section 2.3 point (e)** of the Arborist Report must be strictly followed, with any approved root pruning to be undertaken only by the Project Arborist, using hand-held tools, not machinery, with the affected areas to then be backfilled with clean site soil so that the cut ends of roots are not left exposed to the atmosphere.
- p. The Project Arborist and Principal Certifier must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of works, prior to any Occupation Certificate.

National Construction Code Assessment Report

15. The National Construction Code Assessment Report prepared by Building Certification Services (NSW) dated 21 December 2020 (Rev 2) is to be updated to take into account the approved plans and documents under "General Conditions". Those matters which are identified in the report to be required prior to the release of the Construction Certificate must be undertaken. A copy of the report must be provided to the *Principal Certifier* and Council prior to a construction certificate being issued.

Fire Engineering Report

16. The Provision for Fire Engineering Report prepared by Innova Services dated 22 December 2020 is to be updated to take into account the approved plans and documents under "General Conditions". A copy of the report must be provided to the *Principal Certifier* and Council prior to a construction certificate being issued.

Acoustic report for proposed mechanical plant noise emissions

17. A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates that mechanical plant and equipment noise emissions are selected, located and/or treated to ensure compliance with the project noise limits set out in the acoustic report of Koikas Acoustics dated 4 August 2022 (v2), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

A copy of the report must be provided to the *Principal Certifier* and Council prior to a construction certificate being issued.

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 2021*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Compliance with the Building Code of Australia & Relevant Standards

18. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and section 69 of the *Environmental Planning & Assessment Regulation 2021*, 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).

19. 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.

BASIX Requirements

20. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and section 75 of the *Environmental Planning & Assessment Regulation 2021*, 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.

Site stability, Excavation and Construction work

21. A report must be obtained from a suitably qualified and experienced *professional engineer*, which includes the following details, to the satisfaction of the Certifier for the development:-

- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjacent land.
- b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
- c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.
- d) The adjoining land and buildings located upon the adjoining land must be adequately supported at all times throughout demolition, excavation and building work, to the satisfaction of the *Principal Certifier*.
- e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the *Certifier*.

Traffic conditions

22. Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the *Principal Certifier*, are to be included in the construction certificate documentation.
23. The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The

Construction Certificate plans must demonstrate compliance with these requirements.

24. A traffic signaling system shall be designed for this development within and at the entrance to the basement carpark at a suitable location to the satisfaction of the Principal Certifier. Plans submitted for the construction certificate shall demonstrate compliance with this requirement.

The traffic signaling system must comply with the following minimum requirements;

- The traffic signaling system shall be set default to green for vehicles entering the carpark
- The traffic signaling system must be installed and operational prior to a occupation of the development.

Design Alignment levels

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

Vehicle Access

- **RL 57.20 AHD (western edge)**
- **RL 57.40 AHD (eastern edge)**

Pedestrian Access

- **Match the back of the existing footpath at all points opposite**

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

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

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

26. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$2121** calculated at **\$58.00** per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.
27. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:
- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited

- certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.
- c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
- i. Roof areas
 - ii. Paved areas
 - iii. Grassed areas
 - iv. Garden areas
- d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.
28. The site stormwater drainage system is to be provided in accordance with the following requirements;
- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
 - b) The stormwater must be discharged (by gravity) either:
 - i. Directly to the kerb and gutter in front of the subject site in Arthur Street; or
 - ii. To Council's underground street drainage system located in front of 32-34 Arthur Street via a new pit and concrete pipe on Council's street verge; or
 - iii. To Council's underground drainage system located at rear of 32-34 Arthur Street via a private drainage easement through adjoining land/premises; or
 - iv. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If the owner/applicant is able to demonstrate to Council that he/she has been unable to procure a private drainage easement through adjoining premises and the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to

drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.

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

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **20% AEP (1 in 5 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier. If discharging to the street gutter the PSD shall be restricted to the above or **25 L/S**, whichever the lesser.

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

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;
- i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.
 - ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.
 - iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)
 - iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. a road, laneway or reserve).
- e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

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

- f) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the

permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.

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

- g) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
- h) A sediment/silt arrester 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 arrester pits are to be constructed generally in accordance with the following requirements:

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

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

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

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

- j) The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):

- i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)
- ii. 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
- iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
- iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
- v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

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

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

Site seepage/Groundwater

29. Where the site is affected by groundwater/seepage flows (including during the course of construction), the following requirements must be satisfied:

- a) Groundwater and sub-soil drainage must not be connected or discharged to the stormwater detention tank or to Council's street gutter or drainage system, unless specific written approval has been obtained from Council beforehand, and
- b) Groundwater and sub-soil drainage must be restricted from entering the basement level/s and the stormwater drainage system, by tanking and waterproofing the basement areas of the building, and
- c) Adequate provisions must be made for the groundwater to drain around the basement level/s and ensure that the basement will not impede the movement of the ground water through the development site, and
- d) Details of the proposed methods of managing groundwater, tanking and waterproofing must be prepared by a suitably qualified and experienced Hydrogeological Engineer and be submitted to and approved by the Principal Certifier, prior to issuing the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier.**

Waste Management

30. The Waste Management plan has not been approved as part of this development consent. An amended Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.

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

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

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

31. The garbage room shall be sized to contain a total of 40 x 240 litre bins (comprising 20 garbage bins, 17 recycle bins and 3 FOGO bins) and with adequate provisions for access to all bins as well as an area dedicated to bulky waste. Larger bin sizes may also be accepted however consideration will then need to be given to transporting the heavier bins kerbside for collection. Details showing compliance are to be included in the construction certificate and Waste Management Plan.
32. All waste bins are to be presented kerbside for collection by Council at Council's designated frequencies. Details showing compliance are to be included in the amended waste management plan.
33. The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Public Utilities

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

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

Undergrounding of Site Power

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

Revised Landscape Plans

36. The Landscape Plans by Land and Form, dwg's 2022040-LD-DA000, DA001, DA100 rev 2, dated 14/10/22 and drawings DA100, DA200, DA210 and DA900 dated 15/8/22 must be amended to include the following additional details:
- a. In order to adequately sustain the **planting that is shown on podium at both Ground Level and at Level 3**, construction details, notations, sections and similar must be included showing that a minimum soil depth of 600mm will be provided for all smaller plants and shrubs, with a minimum soil depth of 900mm to be provided for trees;
 - b. Be revised where necessary so as to be consistent with all elements of the rev L architectural plans dated 26/10/22.
 - c. Include landscape plans for the planter boxes on levels 1 and 2 consistent with the rev L architectural plans dated 26/10/22.
37. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that this revised scheme, submitted for the Construction Certificate, complies with the requirements specified above, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.
- Acoustic report for proposed mechanical plant noise emissions**
38. The recommendations for materials and construction set out in the acoustic report of Koikas Acoustics dated 4 August 2022 (v2), and any recommendations regarding the mechanical plant and equipment as a result of the acoustic report to be provided prior to the Construction Certificate, are to be included in the construction certificate documentation.

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 2021* and to provide reasonable levels of public health, safety and environmental amenity.

Certification and Building Inspection Requirements

39. 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 and any applicable requirements of the *Home Building Act 1989* must be satisfied accordingly; and

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

Dilapidation Reports

- 40. A dilapidation report (incorporating photographs of relevant buildings) must be obtained from a *Professional Engineer*, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site (including the heritage item at 17 Blenheim Street) and any other property or public land which may be affected by the works, 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 Site Management Plan

- 41. 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.

Construction Noise & Vibration Management Plan

- 42. A *Construction Noise & Vibration Management Plan*, prepared in accordance with the Environment Protection Authority (EPA) Guidelines for Construction Noise and Assessing Vibration, by a suitably qualified person, is to be developed and implemented prior to commencing site work and throughout the course of construction, in accordance with the following requirements:

- a) Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

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

- b) The *Construction Noise & Vibration Management Plan* must include details of measurements, analysis and relevant criteria and demonstrate that the noise and vibration emissions from the work satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997*, current EPA Guidelines for Construction Noise and Assessing Vibration and Councils conditions of consent.
- c) A further report/correspondence must be obtained from the consultant as soon as practicable upon the commencement of works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to Council and the *Principal Certifier*.

A copy of the *Construction Noise & Vibration Management Plan* and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to Council and the *Principal Certifier* accordingly.

Public Liability

- 43. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$10 million and a copy of the Insurance cover is to be provided to the *Principal Certifier* and Council.

Construction Traffic Management

- 44. An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Arthur Street for the duration of the demolition & construction works.

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

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

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

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

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

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

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

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

Public Utilities

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

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

Environmental Amenity

48. 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.

49. 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.*

50. Hazardous or intractable wastes arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:

- *Work Health and Safety Act 2011;*
- *Protection of the Environment Operations Act 1997 (NSW);*
- *NSW EPA Waste Classification Guidelines (2014);*
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Randwick City Council 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.

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 2021* and to provide reasonable levels of public health, safety and environmental amenity during construction.

Inspections during Construction

51. 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 section 61 of the *Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

Building & Demolition Work Requirements

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

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

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

Removal of Asbestos Materials

53. 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

54. 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 (including but not limited to the heritage item at 17 Blenheim Street).

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

55. In accordance with section 4.17 (11) of the *Environmental Planning & Assessment Act 1979* and section 74 of the *Environmental Planning & Assessment Regulation 2021*, 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

56. 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

57. 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

58. 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

59. 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

60. 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

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

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

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and

include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Survey Requirements

62. 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

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

Site Seepage & Stormwater

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

Details must include the following information:

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

Road/Asset Opening Permit

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

- a) A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in

any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

- b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.
- c) Relevant *Road / Asset Opening Permit* fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,
- d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a *final occupation certificate* or occupation of the development (whichever is sooner).
- e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.
- f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.
- g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.
- h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.
- i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.
- j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.
- k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.

Roadway

66. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Traffic Management

67. 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.

68. All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.

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

Stormwater Drainage

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

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

Vegetation

71. Approval is granted for removal of the following vegetation from within this development site, subject to full implementation of the amended Landscape Plans:

- a) Those within the front setback, being two *Celtis* (T1 & T28, within no.44), then a *Schefflera arboricola* (Miniature Umbrella Tree, T29) and a *Magnolia x soulangeana* (Magnolia, T30, both within no.42), as they are exempt weeds and insignificant respectively;
- b) Within the rear setback (no.44), the small row/hedge of *Camelia's* (T20) along the eastern boundary, the *Celtis* (Hackberry, T23) on the opposite, western side as it is an exempt weed, with the *Tree Fern* (T26) and *Celtis* (Hackberry, T27) that are both in the western side setback also being exempt due to small size/location/weed species, as well as being in direct conflict with all levels and aspects of the works;
- c) The same also applies to those at the rear of no.42, along its eastern boundary, being from south to north, a *Frangipani* (T22), an *Oleander* (T24) and a *Dracaena* (T25), as well as those along its western boundary, including the row/small hedge of *Syzygium sp.* (T33), a *Howea forsteriana* (Kentia Palm, T32) and a *Schefflera arboricola* (Miniature Umbrella Tree, T31);
- d) Halfway across the rear boundary of no.42, being a mature *Persea americana* (Avocado, T34) given its significant decline/poor health and condition due to existing structural wounds and will then allow the more desirable native species and landscape treatment that is proposed as part of the new landscape scheme to be installed in its place in this same area.

Pruning of neighbours' trees

72. Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the western aspects of the row of **T2-21** that are located wholly on the adjoining private property site to the east, no.46, only where needed to avoid damage to the trees/palms; or interference with the works.

73. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of these trees, the applicant must negotiate with the neighbours/tree owners for access to perform this work.

74. All pruning must be undertaken by the Project Arborist, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the 'Principal 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 2021*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

75. 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

76. 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 (Development Certification and Fire Safety) Regulation 2021*. 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

77. 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.

BASIX Requirements & Certification

78. In accordance with Section 44 of the *Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021*, 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.

Noise Control Requirements & Certification

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

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s

under consideration by more than 5dB(A) in accordance with relevant NSW Environment Protection Authority (EPA) Noise Control Guidelines.

80. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings & Road Openings

82. The owner/developer must meet the full cost for a Council approved contractor to:
- a) Construct a full width concrete heavy duty vehicular crossing and layback at kerb opposite the vehicular entrance to the premises to Council's specifications and requirements.
 - b) Remove any redundant concrete vehicular crossings and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
 - c) Re/construct a 1.3m wide concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
83. Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
84. 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.

Survey Infrastructure – Restoration

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

The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.

Service Authorities Sydney Water

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

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

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

Undergrounding of Power

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

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

Stormwater Drainage

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

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
 - b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
 - c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.
89. 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).
90. 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.
91. Should the site be affected by groundwater/seepage flows, the applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement level/s and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter or underground drainage system.
- Waste Management**
92. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.
93. The waste storage areas shall be clearly signposted.
- Landscape Certification**
94. 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 Amended Landscape Plans by Land and Form, dwgs 2022040-LD-DA000, DA001, DA100 rev 2, dated 14/10/22 and drawings DA100, DA200, DA210 and DA900 dated 15/8/22, as well as any relevant conditions of consent.

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

Project Arborist Certification

97. Prior to any Occupation Certificate, the Project Arborist must submit to, and have approved by, the Principal Certifier, written certification which confirms compliance with the conditions of consent and Arborists Report Recommendations, the dates of attendance and works performed/supervised relating to retention of **T2-21 & T35-38**.

Affordable Rental Housing Component

98. In order to comply with Clause 13 of SEPP (Affordable Rental Housing) 2009 requiring a minimum 50% of the gross floor area of the residential apartment development, to be used for affordable housing dwellings, the affordable rental housing component of the development is to be recalculated so that the communal corridors are not included in the area calculated as affordable housing for the purposes of calculation of the affordable rental housing floor space ratio under clause 13 of the SEPP (Affordable Rental Housing) 2009. At least 492.5m² (50% of the gross floor area of the residential apartment component of the proposal), not including communal corridors, is to be set aside as affordable rental housing:
- a. The dwellings to be used for the purposes of 'affordable rental housing' (as per Condition 2.g. above) and in accordance with the provisions of the SEPP (Affordable Rental Housing) 2009 shall be used as such for at least 10 years from the date of the issue of the Occupation Certificate.
 - b. The affordable rental housing component (secured for a minimum of 10 years) must be managed by a registered Community Housing Provider (CHP).
 - c. The CHP must ensure compliance with the occupant restriction and other provisions of the regulatory code established through regulations under the Housing Act 2001.
 - d. A restriction must be registered, before the date of the issue of the occupation certificate, against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 that will ensure that the requirements a. and b. are met and that the terms of restriction may not be varied without Council's consent.
 - e. Prior to an Occupation Certificate being granted, evidence must be provided to Council demonstrating that the Section 88E covenant has been registered on the title stating that the affordable rental housing component must be used for affordable rental housing and managed by a registered CHP.

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 2021*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Use of parking spaces

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

Management of parking on-site

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

Strategies and measures may include:

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

Fire Safety Statements

101. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council (at least on an annual basis) in accordance with the requirements of the *Environmental Planning & Assessment (Development Certification and Fire Safety) Regulation 2021*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a competent fire safety practitioner and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

Environmental Amenity

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

In this regard, the operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Department of Environment & Climate Change Noise Control Guidelines.

103. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

104. The Common Room use is restricted as follows:

- It is not to be used after 10pm or before 7am (weekdays) and not after 10pm and before 8am (weekends);
- The windows are to be closed at all times;
- The common room door shall be closed at all times between 6pm to 10pm except when being used for ingress/egress; and
- An automatic door closing device is to remain installed on the common room door.

105. The use of all outdoor areas are restricted to:
Monday- Sunday 7:00am – 10:00pm

106. Outdoor common areas must not exceed the occupancy levels as set out below:

Area	Maximum number of persons in common areas during each period		
	Day	Evening	Night
BBQ area	30	20	0
East common area on the ground level	10	8	0
Level 3 outdoor common area	10	5	0
"Day" = 7am to 6pm (weekdays) and 8am to 6pm (weekends) "Evening" = 6pm to 10pm (all days) "Night" = 10pm to 7am (weekdays) and 10pm to 8am (weekends)			

107. No live or amplified music is permitted in the communal open space area nor is music to be audible beyond individual rooms. The boarding house manager is to ensure that internal noise levels generated by music or the television are maintained at reasonable levels at all times.
108. Any 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.
109. A report prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **3 months after occupation certificate being issued for the development and from time to time**, which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the Protection of the Environment Operations Act 1997, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.
110. The Plan of Management (POM) shall be complied with at all times. A copy of the POM shall be forwarded to Council.
111. The manager of the boarding house accommodation must be a responsible person over the age of 18 years and must remain on site.
112. The manager shall ensure that a notice is placed near the entrance to the property in a visible position to the public advising of the manager's name and after hours contact number.

113. Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management) and that no variation shall be permitted without the further approval of Council.
 114. The manager shall maintain a record of all residents with details of their names, length of stay & number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.
 115. All residents in the boarding house accommodation are to sign a lease or licence agreeing to comply with the Plan of Management (POM) for the boarding house, with the length of the lease to be determined by the management.
 116. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
 117. 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*.
 118. The individual rooms, common areas, shared facilities and common areas are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.
 119. Boarding Houses and other types of Shared Accommodation must comply with the *Local Government (General) Regulation 2005* and the *Boarding Houses Act 2012* and the premises must also be registered with NSW Fair Trading and Council (as applicable) prior to issuing an occupation certificate.
 120. 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.
 121. The written approval of council must be obtained prior to the installation of any cooling towers.
- Stormwater Detention/Infiltration System**
122. The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.
- Residential Parking Permits**
123. All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.
 124. A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.
- Waste Management**
125. Adequate provisions are to be made within the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council.
- The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.
- A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.

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