

Randwick Local Planning Panel (Public) Meeting

Thursday 9 February 2023



RANDWICK LOCAL PLANNING PANEL (PUBLIC)

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 9 February 2023 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

D1/23 169 Rainbow Street, Randwick (DA/424/2022) 1

Kerry Kyriacou
ACTING GENERAL MANAGER

Development Application Report No. D1/23

Subject: 169 Rainbow Street, Randwick (DA/424/2022)


Executive Summary

Proposal:	Alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works.
Ward:	East Ward
Applicant:	Mr J Spiteri
Owner:	Mr M A Archer & Ms C Christian
Cost of works:	\$165,000
Reason for referral:	More than 10 unique submissions by way of objection were received

Recommendation

- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/424/2022 for alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works, at No. 169 Rainbow Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/424/2022 - 169 Rainbow Street, RANDWICK

D1/23

D1/23



1. Executive summary

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

The proposal seeks development consent for alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works.

Amended plans were received on 24 October 2022, with revisions to the proposed deep soil area.

Note: The development application does not include the proposed pool and associated retaining walls and landscape works. As notated on the proposed plans, these works are subject to a separate Complying Development Certificate application.

The key issues associated with the proposal relate to earthworks and privacy.

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

- The louvre panels on the eastern and western elevation of the proposed patio must be fixed, with either:
 - Individual openings not more than 30mm wide;
 - Individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- This development consent relates to the new roofed patio and lower ground floor store room only. This consent does not grant approval for the swimming pool and associated retaining walls and landscaping. The plans are to be amended prior to the issue of the Construction

Certificate which clearly identifies the proposed works only and deletes all references to the swimming pool and associated works. The Construction Certificate plans should note that the swimming pool is under a separate development consent.

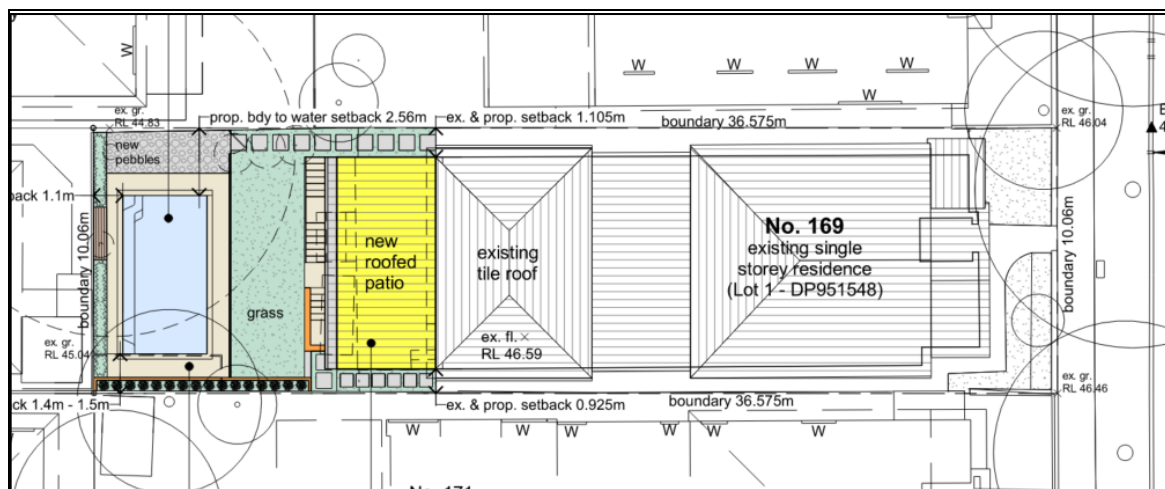


Figure 1. Proposed site plan – 169 Rainbow Street, Randwick



Figure 2. Streetscape view – 169 Rainbow Street, Randwick
(Source: Google Street View, February 2021)

2. Site Description and Locality

The site is identified as Lot 1 DP 951548, 169 Rainbow Street, Randwick. The site is located on the southern side of Rainbow Street, between Avoca Street to the west and Canberra Street to the east. The site is rectangular in shape, with an area of 367.9m² and a frontage width of 10.06m. The site depth is 36.575m. The land falls approximately 1.7m from the front boundary to the rear boundary.

Existing on the site is a single storey dwelling house, with a timber deck attached to the rear. The front and rear yard is landscaped with lawn.

The surrounding area is characterised by low density residential development. The site is adjoined to the west, east and rear by dwelling houses.

3. Relevant history

The site has been used for residential purposes for an extended period of time. A search of Council's records reveals the following relevant applications:

- CDC/303/2022 – Complying Development Certificate No. CDC/303/2022 was approved on 7/09/2022 for proposed inground pool and associated landscaping works.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works.

The proposed patio (finished floor level RL 46.54) replaces the existing rear timber deck (finished floor level RL 46.57). The proposed patio has a depth of 3.75m and a width of 8.03m. External stairs provide access to the rear garden and subfloor storage area below.

The development application does not include the proposed pool and associated retaining walls and landscape works. As notated on the proposed plans, these works are subject to a separate Complying Development Certificate application.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan 2019. The following submissions were received as a result of the notification process:

- 32 Bundock Lane, Randwick

Issue	Comment
The planned pool is located right on the corner of our property. Our bedrooms and home office are approximately 1-2m from this pool. The noise emanating from use of the pool, and pool equipment, would be invasive to our privacy and peace.	The pool proposal does not form part of this development application. As notated on the proposed plans, these works are subject to a separate Complying Development Certificate application.
In addition, we are concerned that any flooding as a result of the pool overflowing in a downpour would impinge upon our property. We are below the level of the proposed pool.	The pool has been approved under Complying Development Certificate No. CDC/303/2022.

- 30 Bundock Lane, Randwick

Issue	Comment
<p>Firstly, we feel that the proposed pool will affect our property as the pool is extremely close to our house. It will have an impact on both our living space and back bedrooms. The tenants of our property have already voiced their concerns regarding privacy and noise.</p> <p>My next issue is with the amount of excavation that will be required to add the pool.</p> <p>We request a formal dilapidation report be undertaken from a structural engineer before works commence and after the building works have been completed so that there would not be any dispute about potential damage to our property.</p> <p>The other point that needs to be considered is any runoff water from the pool.</p>	<p>The pool proposal does not form part of this development application. As notated on the proposed plans, these works are subject to a separate Complying Development Certificate application.</p> <p>The pool has been approved under Complying Development Certificate No. CDC/303/2022.</p>
<p>The back patio, which is to be rebuilt and extended with a roof on top and storage below, will result in additional noise when in use and possibly light issues.</p>	<p>The proposed patio maintains a width consistent with existing. The proposed patio depth is 3.75m. The pergola and screens on either side of the patio assists in acoustic attenuation.</p> <p>Conditions of consent shall be imposed to minimise the impact of light spill.</p> <p>Hourly shadow diagrams demonstrate that neighbouring properties will maintain a minimum 3 hours of direct sunlight to the private open space and north-facing windows; in compliance with the DCP requirements.</p>

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.46:1 (167.64m ²)	Yes
Cl 4.3: Building height (max)	9.5m	4.19m	Yes

6.2.1. Clause 6.2 - Earthworks

The objective of Clause 6.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The development satisfies Clause 6.2(3) in that:

- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability and adjoining structures.
- The proposed excavation area is 8.03m by 3.75m, which is suitably scaled for the subject site. The size of the excavation does not have an adverse impact on the likely future use or redevelopment of the land.
- The site has been used for residential purposes for an extended period of time and there is unlikely to be contamination issues with the quality of the soil.
- Conditions of consent are imposed to manage demolition and waste removal.
- The proposed excavation does not have an adverse impact on the amenity of adjoining properties. The excavation is located beneath the proposed patio, which has a lower finished floor level than the existing rear deck. Therefore there is no adverse visual bulk impact.
- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area nor is listed as a heritage item.
- The scale and siting of the proposal minimises impact on waterways, water catchments and environmentally sensitive areas.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.

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

8.1. Discussion of key issues

Earthworks

As per Clause 4.6, Part C1 of the DCP, excavation within the building footprint must be limited to a depth of 1m. Excavation is proposed for the storeroom to an approximate depth of 1.7m.

This is acceptable because the storeroom is contained within the footprint of the new patio. The proposed patio level of RL 46.54 is lower than the existing level of RL 46.57. The proposed earthworks therefore do not give rise to adverse bulk impact. The existing ground levels are maintained adjacent to the external walls of the storeroom.

Thus, the proposed earthworks meet the following objectives of Clause 4.6, Part C1 of the DCP and are satisfactory in this instance:

- To maintain or minimise change to the natural ground levels.
- To ensure excavation and backfilling of a site do not result in unreasonable structural, visual, overshadowing and privacy impacts on the adjoining dwellings.
- To ensure earthworks do not result in adverse stormwater impacts on the adjoining properties.

9. Conclusion

That the application for alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013

- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and does not have an adverse impact on the streetscape or neighbouring properties.

D1/23

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for a small extension at the rear of the house and an inground swimming pool in the back yard at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by J Spiteri and dated 16/08/2022;
- Statement of Environmental Effects by J Spiteri;
- Detail & Level Survey by Ballenden Surveyors dated 13.04.2022.

Tree Management Comments

On Council's Rainbow Street verge, between the western site boundary and centrally located pedestrian access gate is a mature, 10m tall *Lophostemon confertus* (Brush Box) of good health and condition, which is protected by the DCP as well as being part of a significant single species avenue planting along both sides of the roadway, which as a group, are the main feature of this streetscape.

Despite there being no external works that would pose a direct threat to this tree, in recognition of its importance to the avenue planting, as well as the fact that all materials will need to be brought in through the access gate just to its east, protection conditions and a bond have been imposed so as to avoid secondary impacts associated with damage from deliveries, trucks and similar.

The other Brush Box street trees to the east and west of this site are offset far enough away that they should not be affected.

While the survey and plans show an established, 14m tall tree in the rear setback, in the southwest site corner, the site inspection of 17 September 2022 confirmed that a Peppercorn has already been physically removed as part of a separate approval process issued on 17/08/22 (TA/183/2022), due to being '*dead/dying, causing property damage and its inappropriate location*', so no comments are required for this application as no vegetation will be impacted.

Further, while a new pool is shown across the rear boundary, this will form part of a separate approval process (CDC), that is unrelated to this application, so no comments are required for any vegetation in and adjoining this part of the site.

Appendix 2: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 367.9m ² Proposed = 51.4%	Yes
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 367.9m ² Proposed = 25.5%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Compliance demonstrated.	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	Site area = 367.9m ² Proposed FSR = 0.46:1 (167.63m ²) Includes storeroom, which is not at basement level, as per LEP definition.	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 4.19m	Yes
3.3	Setbacks		
3.3.2	Side setbacks: Semi-Detached Dwellings: <ul style="list-style-type: none"> Frontage less than 6m = merit Frontage b/w 6m and 8m = 900mm for all levels Dwellings: <ul style="list-style-type: none"> Frontage less than 9m = 900mm Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 900mm Proposed = 925mm	Yes

DCP Clause	Controls	Proposal	Compliance
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 8m Proposed = 9.2m	Yes
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	The proposed addition is located to the rear of the dwelling. The side elevation of the patio comprises Colorbond louvre panels which provide articulation to the façade.	Yes
4.4	Roof Design and Features		
	<i>Rooftop terraces</i> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side) <i>Dormers</i> iii) Dormer windows do not dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <i>Clerestory windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.	The proposed flat roof is sympathetic to the existing dwelling.	Yes
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective.	Conditioned	Conditioned

DCP Clause	Controls	Proposal	Compliance
	iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	Excavation to an approximate depth of 1.7m is proposed for the storeroom. This is acceptable because the storeroom is contained within the footprint of the new patio. The proposed patio level of RL 46.54 is lower than the existing level of RL 46.57. The proposed earthworks therefore do not give rise to adverse bulk impact.	Acceptable on merit.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	3 hours of direct sunlight maintained to private open space.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern	The submitted shadow diagrams demonstrate that neighbouring properties will maintain a minimum 3 hours of direct sunlight to the private open space and north-facing windows.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i></p>	Compliance demonstrated.	Yes
5.3	Visual Privacy		
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>The proposed patio level of RL 46.54 is lower than the existing level of RL 46.57.</p> <p>Screens are proposed to the sides of the patio.</p> <p>Thus, the privacy impact of the patio is minimised.</p>	Yes
5.4	Acoustic Privacy		
	<p>i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> Locate noise-generating areas and quiet areas adjacent to each other. 	The patio replaces the existing deck, albeit with larger dimensions, in the existing private open space.	Yes

DCP Clause	Controls	Proposal	Compliance
	- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.	The patio roof and side walls/screens provide acoustic attenuation.	

Responsible officer: Eunice Huang, Environmental Planning Officer

File Reference: DA/424/2022

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/424/2022
Property:	169 Rainbow Street, RANDWICK NSW 2031
Proposal:	Alterations and additions to the existing dwelling house including new rear roofed patio with subfloor storage area and associated works.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
A01	John Spiteri	20/10/2022
A04	John Spiteri	20/10/2022
A05	John Spiteri	20/10/2022
A06	John Spiteri	20/10/2022
A07	John Spiteri	20/10/2022

BASIX Certificate No.	Dated
A467429	1 August 2022

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The louvre panels on the eastern and western elevation of the proposed patio must be fixed, with either:
 - Individual openings not more than 30mm wide;
 - Individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.

3. This development consent relates to the new roofed patio and lower ground floor store room only. This consent does not grant approval for the swimming pool and associated retaining walls and landscaping. The plans are to be amended prior to the issue of the Construction Certificate which clearly identifies the proposed works only and deletes all references to the swimming pool and associated works. The Construction Certificate plans should note that the swimming pool is under a separate development consent.

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 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

4. 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

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

External materials, finishes and colours of the building are required to match, as closely as possible, the existing building and any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.

Section 7.12 Development Contributions

6. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$165,000 the following applicable monetary levy must be paid to Council: \$825.00.

The levy must be paid in **cash, bank cheque** or by **credit card** prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone **9093 6000** or **1300 722 542** for the indexed contribution amount prior to payment.

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

Council's Development Contributions 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

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

Sydney Water

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

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

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

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

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/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.

Street Tree Protection

9. In order to ensure retention of the mature *Lophostemon confertus* (Brush Box) that is located out on Council's Rainbow Street nature strip, between the western site boundary and centrally located pedestrian gate in good health, the following measures are to be undertaken:
- a. All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of both its trunk and canopy to be clearly shown.
 - b. This tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing panels, which shall be located a minimum distance of **1.5 metres** to its east and west, matching up with the back of the kerb to its north, and pedestrian footpath to its south to completely enclose the tree for the duration of works.
 - c. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".

- d. If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall be placed around their circumference, and are then to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- e. The applicant is not authorised to perform any other works to this public tree and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar appear necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, **GIVING UP TO SIX WEEKS NOTICE**, with payment to be received prior to pruning or any Occupation Certificate.
- f. Within the TPZ, there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
- g. The Principal Certifier must ensure compliance with all of these requirements, both on the plans as well as on-site during the course of works, and prior to any Occupation Certificate.
- h. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$500.00** must be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a Construction Certificate being issued for the development** to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the tree.

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

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

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 relevant construction certificate for the development.

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

Building Code of Australia

- 10. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 69 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).

Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.

BASIX Requirements

11. In accordance with section 4.17(11) of the *Environmental Planning and Assessment Act 1979* and section 75 of the *Environmental Planning and 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.

Stormwater Drainage

12. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
 - b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;
 - d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
 - e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.
13. Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.
14. A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:
- when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land;
 - when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);

- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and
- as otherwise may be required by the Certifier for the development.

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

Building Encroachments

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

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

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 public health, safety and environmental amenity.

Building Certification & Associated Requirements

16. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
 - a) a *Construction Certificate* must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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 Registered (Building) Certifier must be appointed as the *Principal Certifier* for the development to carry out the necessary building inspections and to issue an occupation certificate; and
 - c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the *Home Building Act 1989*, and the Principal Certifier and Council must be notified accordingly (in writing); 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 Principal Certifier and Council, in writing, prior to commencing any works.

Home Building Act 1989

17. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and sections 69 & 71 of the *Environmental Planning and Assessment Act 1979*

Assessment Regulation 2021, in relation to residential building work, the requirements of the *Home Building Act 1989* must be complied with.

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

Dilapidation Reports

18. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises;
- demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and
- as may be required by the Principal Certifier for the development.

The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.

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

Construction Noise & Vibration Management Plan

19. Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.

A *Construction Noise & Vibration Management Plan Guideline* must be prepared by a suitably qualified person in accordance with the Environment Protection Authority *Construction Noise* and the *Assessing Vibration: A Technical Guideline* and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.

Demolition Work Plan

20. A demolition work plan must be developed and be implemented for the demolition works in accordance with AS2601 (2001)- Demolition of Structures.

The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.

The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).

A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

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

Restriction on Working Hours

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm • Sunday & public holidays - No work permitted
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm (maximum) • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

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

Demolition Work

25. Demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.

Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the *Protection of the Environment Operations Act 1997* and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works.

Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

Public Safety & Site Management

26. Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:
- 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) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
 - c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
 - d) 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.
 - e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to 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.

Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.

If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.
- j) 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.
- k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Building Encroachments

- 27. There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place, or neighbouring land.
- 28. This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:
 - the consent of the owners of such adjoining or supported land to trespass or encroach, or
 - an access order under the *Access to Neighbouring Land Act 2000*, or
 - an easement under section 88K of the *Conveyancing Act 1919*, or
 - an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

Road / Asset Opening Permit

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

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

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation 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 and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

30. 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 and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

BASIX Requirements

31. In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

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

Council's Infrastructure, Vehicular Crossings, street verge

32. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
33. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings

and Entrances – Contributions Policy” and “Residents’ Requests for Special Verge Crossings Policy” and the following requirements:

- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council’s conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
34. That part of the nature-strip upon Council's footway which is damaged during the course of works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

OPERATIONAL CONDITIONS

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

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

Use of Premises

35. The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.
36. The store room at the lower ground floor level must not be used for habitable purpose at any time.

External Lighting

37. External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.

Plant & Equipment

38. Noise from the operation of all plant and equipment upon the premises shall not give rise to an ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.