

# Randwick Local Planning Panel (Public) Meeting

Thursday 23 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, 23 February 2023 at 1pm

### **Acknowledgement of Country**

*I would like to acknowledge that we are meeting on the land of the Bidjigal and the Gadigal peoples who occupied the Sydney Coast, being the traditional owners. On behalf of Randwick City Council, I acknowledge and pay my respects to the Elders past and present, and to Aboriginal people in attendance today.*

### **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 Report**

D6/23      38 Dudley Street, Coogee (DA/145/2021)..... 1

Roman Wereszczynski  
**ACTING DIRECTOR CIY PLANNIING**

## Development Application Report No. D6/23

**Subject:** 38 Dudley Street, Coogee (DA/145/2021)

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### Executive Summary

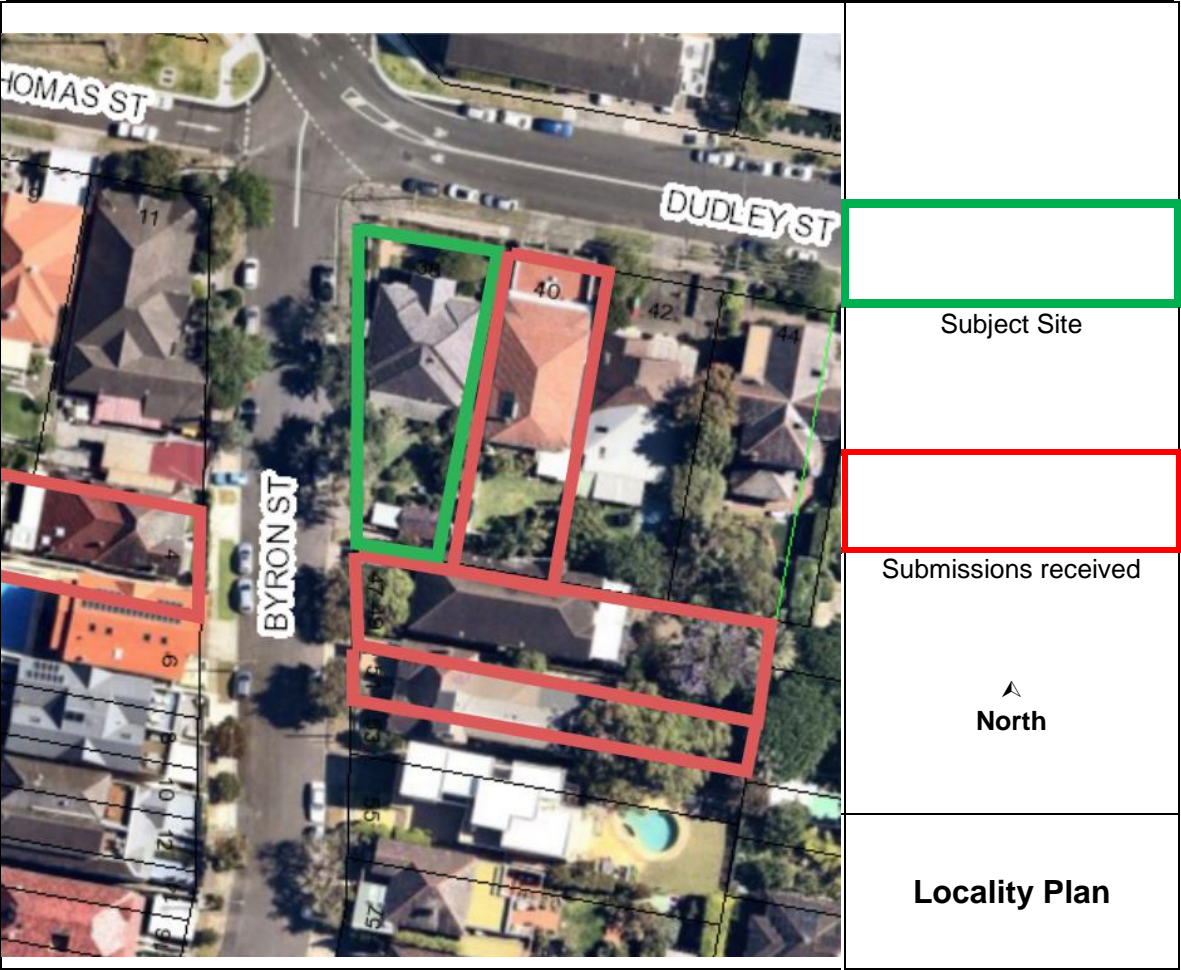
<b>Proposal:</b>	Alterations and additions to an existing dwelling including a first floor addition, swimming pool and garage
<b>Ward:</b>	East Ward
<b>Applicant:</b>	Mr Andrew Kidd
<b>Owner:</b>	Mr Kidd
<b>Cost of works:</b>	\$1,485,000
<b>Reason for referral:</b>	Demolition of a heritage item and 10 or more 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/145/2021 for alterations & additions to an existing dwelling including a first floor addition, swimming pool & garage. Parts of the existing residential dwelling are to be demolished., at No. 38 Dudley Street, Coogee, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/145/2021 - 38 Dudley Street, COOGEE NSW 2034 - DEV - Randwick City Council



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves partial demolition of a heritage item and 11 unique submissions by way of objection were received.

The proposal seeks development consent for alterations and additions to an existing dwelling including a first floor addition, swimming pool and garage.

There were 11 submissions in objection to the proposal, including a submission from the Randwick Heritage Action Group. The key issues raised in the submissions relate to heritage, streetscape/design, car parking and amenity impacts.

The key assessment issues relate to heritage, built form and residential amenity impacts.

The site is listed as a heritage item by Schedule 5 Part 1 of the Randwick Local Environmental Plan 2012 (RLEP 2012). It is also located within the Dudley Street Heritage Conservation Area as defined by Schedule 5 Part 2 of the RLEP 2012. The applicant submitted a Heritage Impact Statement (HIS) with the application. Council’s external heritage consultant raised no objection to the proposal from a heritage perspective.

The built form complies with the key development standards in terms of FSR and Building Height under RLEP 2012. The proposal generally complies with the planning and building objectives and controls under Randwick Development Control Plan 2013 (RDCP). Despite the minor variation to the numerical controls in relation to site coverage, deep soil landscape area, setbacks and external wall height, the proposal achieves the objectives of the controls.

Council's external heritage consultant raised no objection to the provision of a double garage forward of the existing dwelling from a heritage perspective. The proposed garage is contextually appropriate for the site and is therefore supported.

The proposal will not result in any unreasonable overshadowing, visual bulk or view loss impacts to the surrounding properties. Subject to the implementation of mitigation measures, the proposal is acceptable in terms of visual privacy impacts.

The proposal is recommended for approval subject to conditions including the need to have all existing sandstone blocks on Dudley Street carefully dismantled, stored, and reused on site.

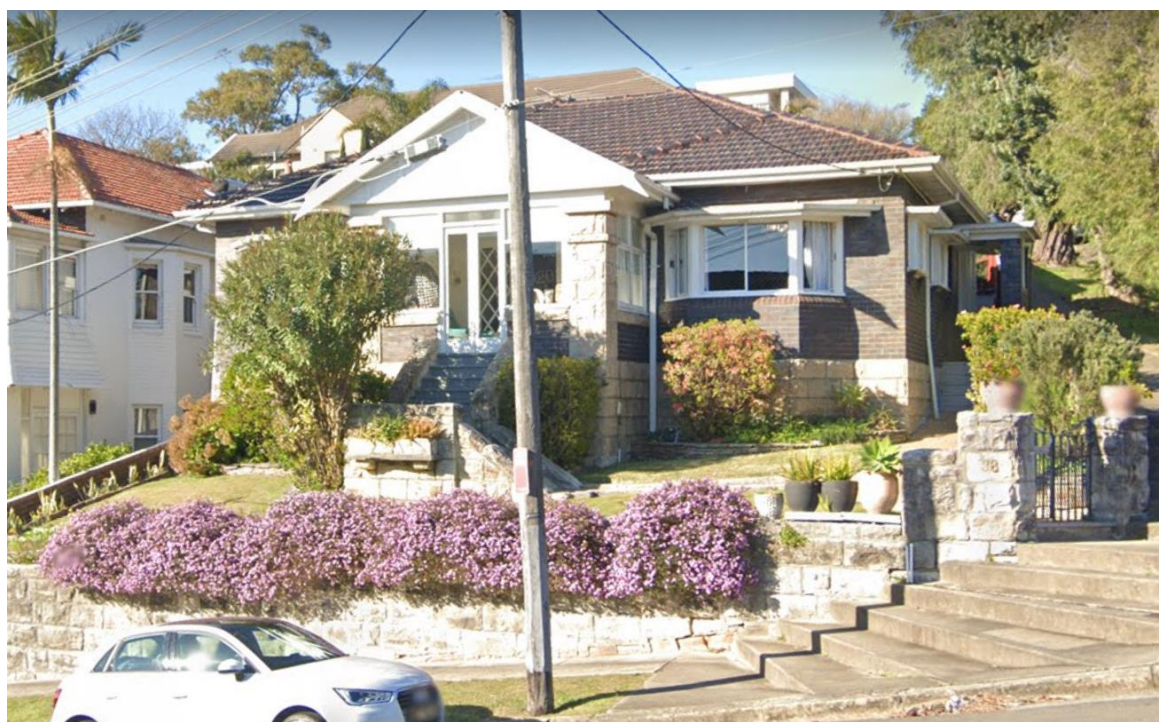
## 2. Site Description and Locality

The subject site is known as 38 Dudley Street and is legally described as Lot 17 in DP 6489. The site is 600.7m<sup>2</sup>, is a corner allotment and has a 17.68m frontage to Dudley Street to the north and a 42.175m frontage to Byron Street along its western boundary. The site contains single storey brick dwelling house and a garage and carport accessed from Byron Street at the rear.

The site is listed as a heritage item by Schedule 5 Part 1 of the Randwick Local Environmental Plan 2012 (RLEP 2012). It is also located within the Dudley Street Heritage Conservation Area (HCA) as defined by Schedule 5 Part 2 of the RLEP 2012.

The site slopes down from the rear boundary to Dudley Street, representing a change in level of approximately 8m.

The adjoining property to the south at 47-49 Byron Street contains a two storey residential flat building elevated above the site. The adjoining property to the east at 40 Dudley Street contains a two storey dwelling house. The locality is predominately characterised by 1-2 storey dwellings houses and 3 storey residential flat buildings.



**Figure 1** – View of the site from the intersection of Dudley Street and Byron Street



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**Figure 2** – Existing boundary interface with 47-49 Byron Street to the south



**Figure 3** – Private open space at the rear of 40 Dudley Street adjoining to the eas

### 3. Relevant history

On 6 November 2019, a pre-DA meeting was held with Council officers. The key issues identified related to compliance with the built form controls, heritage and streetscape, landscape and site coverage and amenity impacts to the surrounding residential area.

### 4. Proposal

The proposal seeks development consent for alterations and additions to an existing dwelling including a first-floor addition, swimming pool and garage. Specifically, the works involve:

- removal of the existing carport and garage to the south of the site.
- construction of a double garage within the Dudley Street boundary wall of the site. The existing stepped wall will be vertically extended to create a level wall across the front of the site. The wall addition will be constructed of sandstone to match the existing wall and topped by a metal palisade fence.
- construction of an addition to the rear of the existing dwelling containing:
  - a stair and lift linking levels.
  - a plant room and a laundry to the rear of the lower ground floor of the addition.
  - an open plan living area to the upper ground floor.
  - a master bedroom with ensuite and walk in robe to the first floor.
- alterations and additions to the existing dwelling including:
  - two bedrooms with bathrooms and storage in the attic space of the existing dwelling.
  - stair to the master bedroom.
- pool and landscaping works will be undertaken with the rear yard.
- a lawn and perimeter planting will be added to the front yard.

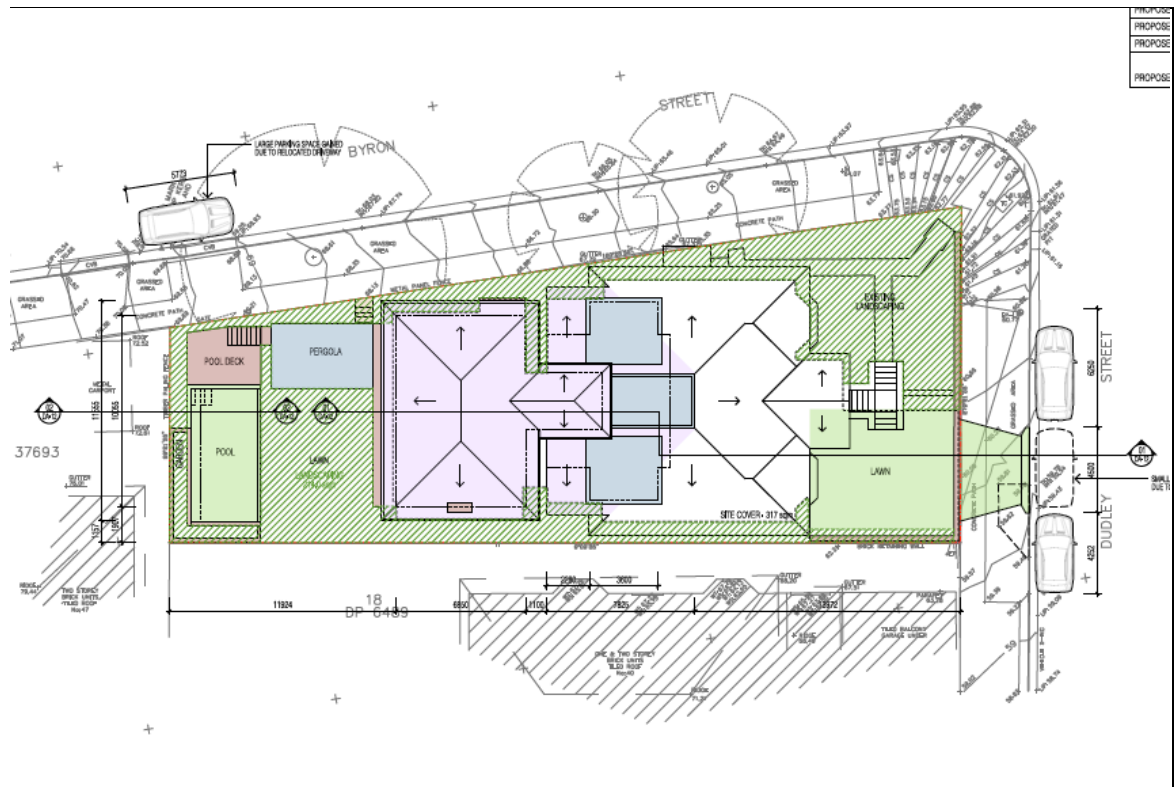
#### Amended Proposal

On 6 October 2022, the applicant submitted updated information and amended plans, including:

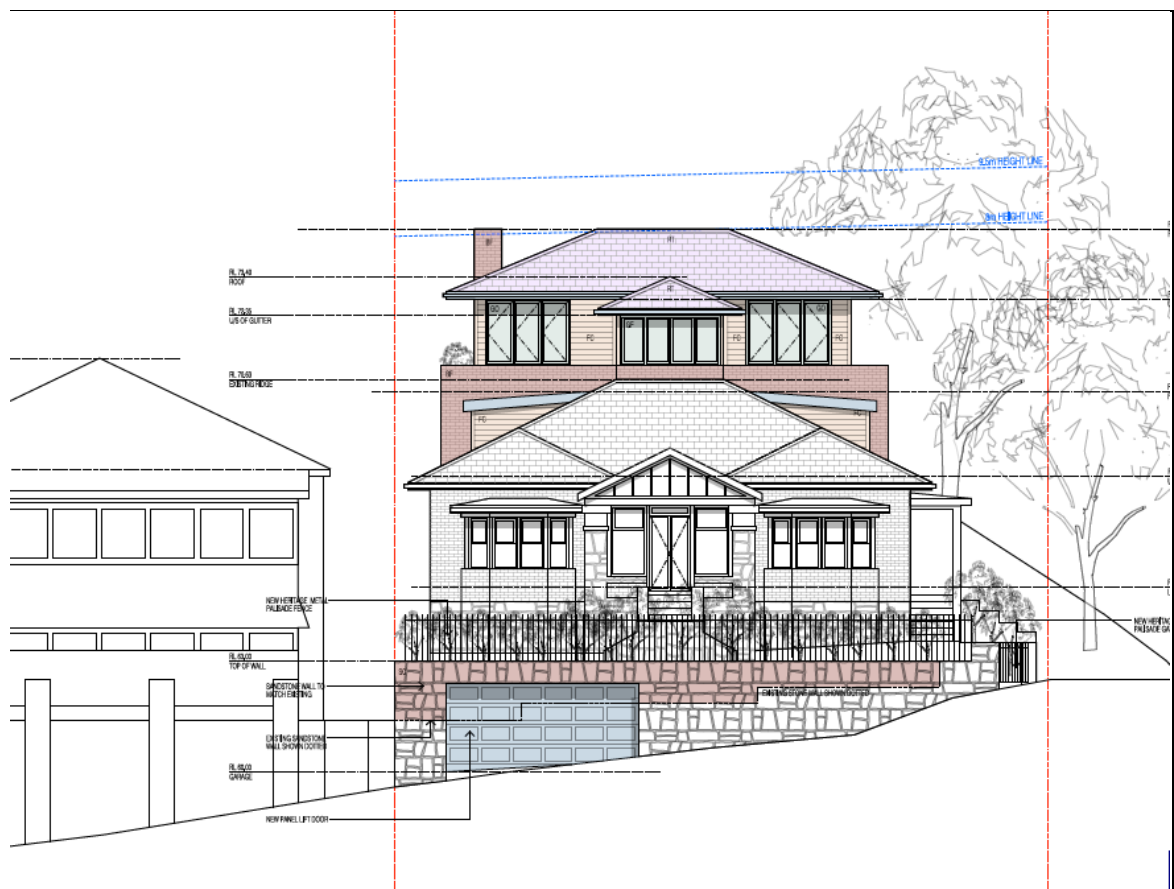
- a design solution for the relocation of the drainage pit in Dudley Street to make way for the new garage
- updated FSR calculation
- introduction of a staggered wall plane to Byron Street (new portion).

The amended plans form the basis of this assessment (dated 28 September 2022 Rev L). Refer to extract of the plans at **Figures 4 to 7**.

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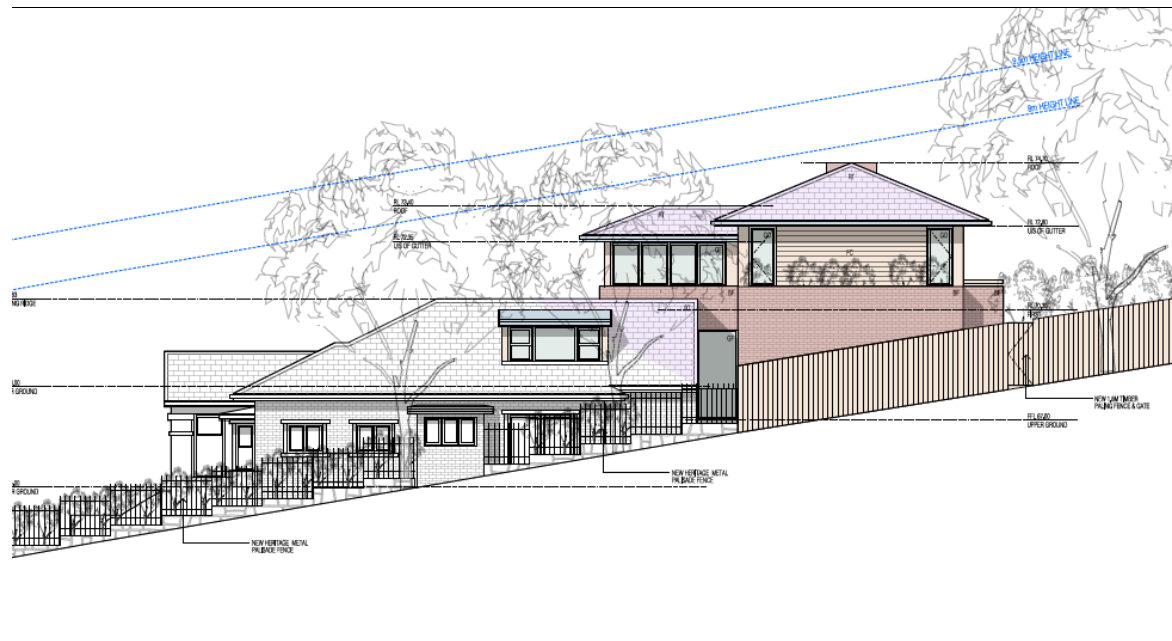


**Figure 4 – Site Plan**

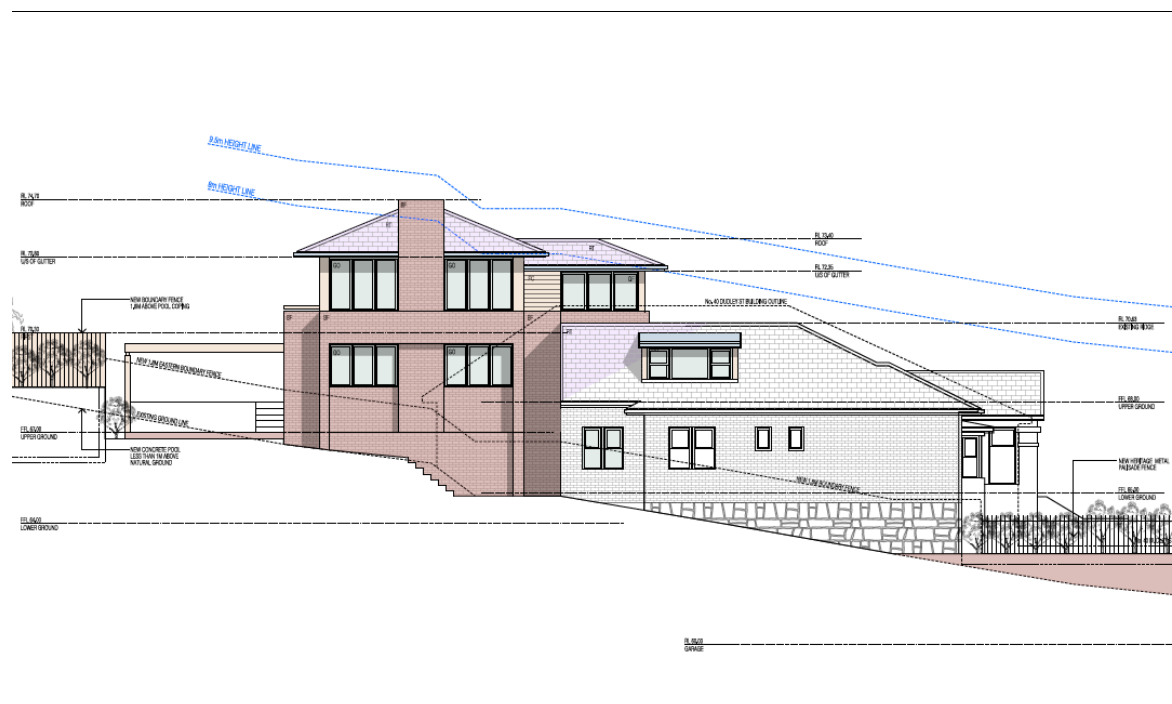


**Figure 5 – Dudley Street Elevation (new work shown coloured)**





**Figure 6 – Byron Street Elevation (new work shown coloured)**



**Figure 7 – Eastern Elevation (new work shown coloured)**

## 5. Notification

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

- 3/47-49 Byron Street

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Issue	Comment
Loss of natural light and overshadowing	The proposal will not result in any unreasonable overshadowing or loss of daylight to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Overlooking from balconies	The proposal will not result in any unreasonable visual privacy impacts to the adjoining properties, subject to the imposition of privacy measures as a condition of any consent. Refer to Section 8 Key Issues section of this report.
Noise from the use of the pool	The proposal will not result in any unreasonable acoustic privacy impacts to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Geo-technical impacts associated with the basement garage, including structural damage	The application is accompanied by a Geo-technical report. Structural engineering conditions are included in the recommended development consent to protect the existing dwelling and the adjoining properties.
Excessive height	The proposal complies with the Building Height control under RLEP 2012.
Blocking of views	The proposal will not result in any unreasonable view loss from to the surrounding properties. Refer to Section 8 Key Issues section of this report.
Adverse heritage impacts, in particular the sandstone façade along the street	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
Loss of street parking	The proposal would result in no net reduction in on-street parking. No objection was raised by Council's Development Engineer in relation to parking.
Establish undesirable precedent for other heritage listed properties	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
The owner uses the property to host staff for a business.	This matter has been referred to Council's Regulatory and Compliance section for investigation.

- 4 Byron Street

Issue	Comment
Use of the dwelling as a business to accommodate employees and not as a bona fide residence	This matter has been referred to Council's Regulatory and Compliance section for investigation.

- 4 Byron Street

Issue	Comment
Adverse impact on outlook and views	The proposal will not result in any unreasonable view loss from to the surrounding properties. Refer to Section 8 Key Issues section of this report.
Decrease the value of the house	This is not a relevant matter for consideration in the assessment of the application.

Issue	Comment
Dominates the heritage facade	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
Six bedrooms and ensuites and use as workers accommodation	The proposal is for a single dwelling and any future use beyond what has been approved would require approval under a separate application.
Add to parking congestion in the street	There will be no net reduction in on-street parking proposal. No objection was raised by Council's Development Engineer in relation to parking

- 8/62-64 Dudley Street

Issue	Comment
Adverse impact on the heritage significance of the existing dwelling and the Conservation Area	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
Site coverage	The non-compliance with the site coverage control is acceptable. Refer to Section 8 Key Issues section of this report.
Privacy	The proposal will not result in any unreasonable visual privacy impacts to the adjoining properties, subject to the imposition of privacy measures as a condition of any consent. Refer to Section 8 Key Issues section of this report.
FSR	The proposal complies with the FSR control under RLEP 2012.
Heritage	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.

- No address

Issue	Comment
Adverse heritage impact on the heritage value and character of the existing dwelling. The additions are not authentic and introduce new decorative elements not in keeping with the house, substantial changes to the materials and alterations to front of the dwelling, does not respect the original built form, removal of original roof, dominates the existing dwelling and visible from the front and sides	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.

- No Address

Issue	Comment
6 bedrooms and 3-4 bathrooms result in being used as a boarding house	The proposal is for a single dwelling and any future use beyond what has been approved would require approval under a separate application.

Issue	Comment
Additional parking should be provided to accommodate the demand generated by the proposal	There will be no net reduction in on-street parking proposal. No objection was raised by Council's Development Engineer in relation to parking.

- Randwick Heritage Action group

Issue	Comment
Adverse impact on the heritage significance of the existing dwelling	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
No overall heritage study of Randwick and Coogee suburbs has been done by Council to prevent demolition of heritage buildings.	This is not a relevant matter for consideration in the assessment of the application.

- 40 Dudley Street

Issue	Comment
Overshadowing and solar access – require hourly shadow diagrams	The proposal will not result in any unreasonable overshadowing or loss of daylight to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Overdevelopment	The proposal complies with the maximum FSR and Building Height controls under RLEP 2012 and the generally complies with the building envelope controls under RDCP 2013 and therefore is not considered to be an overdevelopment of the site.
Privacy	The proposal will not result in any unreasonable visual privacy impacts to the adjoining properties, subject to the imposition of privacy measures as a condition of any consent. Refer to Section 8 Key Issues section of this report.
FSR	The proposal complies with the FSR control under RLEP 2012.
Heritage	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.

- 1/47-49 Byron Street

Issue	Comment
Loss of light	The proposal will not result in any unreasonable overshadowing or loss of daylight to the adjoining properties. Refer to Section 8 Key Issues section of this report.
View loss	The proposal will not result in any unreasonable view loss from to the surrounding properties. Refer to Section 8 Key Issues section of this report.



Issue	Comment
Privacy	The proposal will not result in any unreasonable visual privacy impacts to the adjoining properties, subject to the imposition of privacy measures as a condition of any consent. Refer to Section 8 Key Issues section of this report
Noise from use of pool and entertainment area	The proposal will not result in any unreasonable acoustic privacy impacts to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Incompatible with the objectives for Building Height	The proposal complies with the Building Height control under RLEP 2012
Excessive bulk and scale	The proposed development is an appropriate in terms of bulk and scale noting the there are no heritage issues raised by Council's Heritage Advisor and there will be no adverse amenity impacts to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Loss of on-street parking	The proposal would result in no net reduction in on-street parking. No objection was raised by Council's Development Engineer in relation to parking
Undesirable precedent for other heritage properties	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.

- 51 Byron Street

Issue	Comment
Excessive size means it will be used for accommodation other than for families or guests	The proposal is for a single dwelling and any future use beyond what has been approved would require approval under a separate application.
Residents view loss	The proposal will not result in any unreasonable view loss from to the surrounding properties. Refer to Section 8 Key Issues section of this report.
4 storeys will change the character of the street	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
Undermine the stability of the hilltop	The application is accompanied by a Geo-technical report. Subject to adherence to the imposition of appropriate conditions of consent, the proposal will not result in any adverse structural impacts to the surrounding area.

- 4/47-49 Byro Street

Issue	Comment
It won't be used as a family home but as a business office and accommodation with 6 bedrooms and up to 12 people that could live on the site	The proposal is for a single dwelling and any future use beyond what has been approved would require approval under a separate application.

Issue	Comment
Add to parking congestion in the surrounding streets	There will be no net reduction in on-street parking proposal. No objection was raised by Council's Development Engineer in relation to parking.
Adverse visual impact on the streetscape	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
Block views from the building	The proposal will not result in any unreasonable view loss from to the surrounding properties. Refer to Section 8 Key Issues section of this report.
Heritage	Council's external heritage consultant raised no objection to the proposal from a heritage perspective. Refer to Section 8 Key Issues section of this report.
loss of light and overshadowing	The proposal will not result in any unreasonable overshadowing or loss of daylight to the adjoining properties. Refer to Section 8 Key Issues section of this report.
Noise from use of the pool	The proposal will not result in any unreasonable acoustic privacy impacts to the adjoining properties. Refer to Section 8 Key Issues section of this report.

## 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. State Environmental Planning Policy (Resilience and Hazards) 2021

#### *Chapter 4 Remediation of Land*

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

A site inspection identified that the site is currently occupied by a residential building. The HIS submitted with the application indicates that the site has been used for this purpose since 1930. In conclusion, the site is suitable for the proposed development in accordance with contamination requirements of the Resilience and Hazards SEPP.

### 6.3. State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The aims of Chapter 2 are:

- “(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.”*

Clause 7(1) requires a permit to be granted by the Council for the clearing of vegetation in non-rural areas (such as City of Randwick). Council's Landscape Officer raised no objection to the removal of existing trees on the site.

#### 6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will continue to provide housing; not adversely impact the heritage significance of the existing dwelling within the streetscape; and will not result in any unreasonable amenity impacts to the surrounding 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)	0.6:1	0.6:1  (GFA plans have been verified by Council officers)	Yes
Cl 4.3: Building height (max)	9.5m	8.9m  (measured from the top of the chimney on the eastern elevation to existing ground directly below)	Yes

##### 6.4.1. Clause 5.10 - Heritage conservation

As discussed in **Section 2**, the site is listed as a heritage item by Schedule 5 Part 1 of the RLEP 2012. It is also located within the Dudley Street Heritage Conservation Area as defined by Schedule 5 Part 2 of the RLEP 2012. The applicant submitted a Heritage Impact Statement (HIS) with the application. Council's external heritage consultant raised no objection to the proposal from a heritage perspective. The heritage aspects are discussed in **Section 8**.

#### 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 <b>Sections 6</b> and <b>7</b> and key issues below.

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

### Heritage

The site is listed as a heritage item by Schedule 5 Part 1 of the RLEP 2012. It is also located within the Dudley Street HCA as defined by Schedule 5 Part 2 of the RLEP 2012. The statement of significance from the Draft Heritage Inventory Form states the existing dwelling is a notable example of an Inter War freestanding residence. The site is not a rare example but has a scale, quality and response to setting that demonstrates the historic evolution of the Inter War House.

The applicant submitted a HIS with the application. Council's external heritage consultant reviewed the HIS and concluded that *"the proposed development is generally consistent with the heritage objectives of Randwick LEP and Randwick DCP, and is therefore supported in relation to heritage."*

Council's external heritage consultant recommends conditions in relation to provision of a photographic archival record, schedule of conservation works and details in relation to structural engineering, the dormer windows and the garage door opening in the sandstone wall along the front boundary, and the need to reuse the existing sandstone blocks on site. These conditions have been included in the recommended development consent.



Subject to the imposition of the heritage conditions, the proposal is considered to be acceptable from a heritage perspective.

### Car Parking and Access

Clause 6 of Part C1 of RDCP 2013 establishes objectives and controls for parking facilities. The proposal is for a new double garage off Dudley Street, located forward of the front façade. Clause 6.1 stipulates that parking facilities should be provided from the secondary street frontage for corner allotments where available. If not available, then the parking facilities must be located behind the front façade alignment, either integrated within the dwelling or positioned to the side of the dwelling. There is a single brick garage in the south-eastern corner of the site. A concrete driveway, off Byron Street, runs into this garage along the southern boundary of the site. There is a flat top metal carport in front of the garage.

The proposed development involves the construction of a swimming pool at the rear of the site and as a result the parking facilities are now proposed to be relocated to the front of the site on Dudley Street. This will involve construction of a double garage within the Dudley Street boundary wall of the site. The existing stepped wall will be vertically extended to create a level wall across the front of the site. The wall addition will be constructed of sandstone to match the existing wall and topped by a metal palisade fence.

Clause 6.2 of the car parking controls stipulates that where the provision of parking facilities behind the front façade alignment is not feasible (due to absence of rear lane or secondary street access, narrow site width, irregular allotment configuration, or retention of an existing dwelling), a single uncovered car space or carport can be provided forward of the building alignment, subject to the provision of suitable landscape area.

Council's external heritage consultant raised no objection to the proposed garage opening in the front boundary wall along Dudley Street. The heritage advice provided the following comments in relation to the double garage:

*"The existing sandstone fence and retaining wall would be retained and adapted to form a double width garage entrance. The sandstone wall would be aligned with garages to its west and continue to define part of the south side of Dudley Street, between Byron and Mount Streets."*

*"The stone boundary wall would be adapted, and the north garden retained. Additions and building modifications are located to the south of the existing house. Despite proposed changes the main elevation of the house, the stone wall and garden would be recognisable as part of the Inter-War character of this section of Dudley Street HCA."*

Clause 6.3 requires garages to comply with the side setback controls under Section 3.3 of RDCP 2013. A minimum 1.2m side setback applies to the proposed garage. The proposed garage will be setback 257mm from the eastern side boundary. However, the controls allow a garage built to the side boundary where it is deemed to be compatible with the streetscape character. The proposed garage will be located adjacent to an external stair/pathway and garage on the adjoining property to the east at 40 Dudley Street. The proposal is compatible with the streetscape character and the reduced setback is acceptable.

The proposed garage door will be set 900mm behind the external face of the front boundary wall to minimise its visual dominance within the streetscape. A maximum internal width of 6m applies to the proposed garage. The internal width of the proposed garage is 6.8m, which exceeds the maximum width control. It is recommended that the size of the garage is reduced to a maximum width of 6m.

The removal of one car space on Dudley Street will be offset by the addition of one car space on Byron Street following the removal of the existing vehicular crossover, resulting in no net reduction in on-street parking.

The proposed garage is consistent with the existing garages at Nos. 40, 42 and 44 Dudley Street to the east of the site. Refer to **Figures 8 and 9**. The proposed garage is contextually appropriate for the site and therefore supported.

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**Figure 8 – Existing garages at Nos 42 and 44 Dudley Street**



**Figure 9 – Existing garages at No 40 Dudley Street****Site Coverage**

The site has an area of 600.7m<sup>2</sup> (title survey). Clause 2.3 of Part C1 of RDCP 2013 establishes a maximum site coverage of 45% for lots with an area of 601m<sup>2</sup> or above. The proposed development has a site coverage of 53.8%, which exceeds the maximum 45%. However, it is noted the site area is on the cusp of the controls and a maximum of 50% applies to lots less than 600m<sup>2</sup>. In any event, the proposal represents a non-compliance with the numerical site coverage control. The Statement of Environmental of Effects (SEE) submitted with the application contends the proposal provides sufficient private open space and unbuilt upon area for deep soil landscape. The objective of the control seeks to ensure there is an adequate provision of unbuilt upon areas for private open space (POS), deep soil planting, permeable surface and ancillary development.

The proposal includes the provision of suitably configured private open space with dimensions of 11m x 11m which outperforms the minimum POS requirement of 8m x 8m. The proposal will also provide adequate landscape area and good site amenity (refer to the discussion below). On that basis, the proposal is consistent with the objectives of the site coverage control and the non-compliance is acceptable.

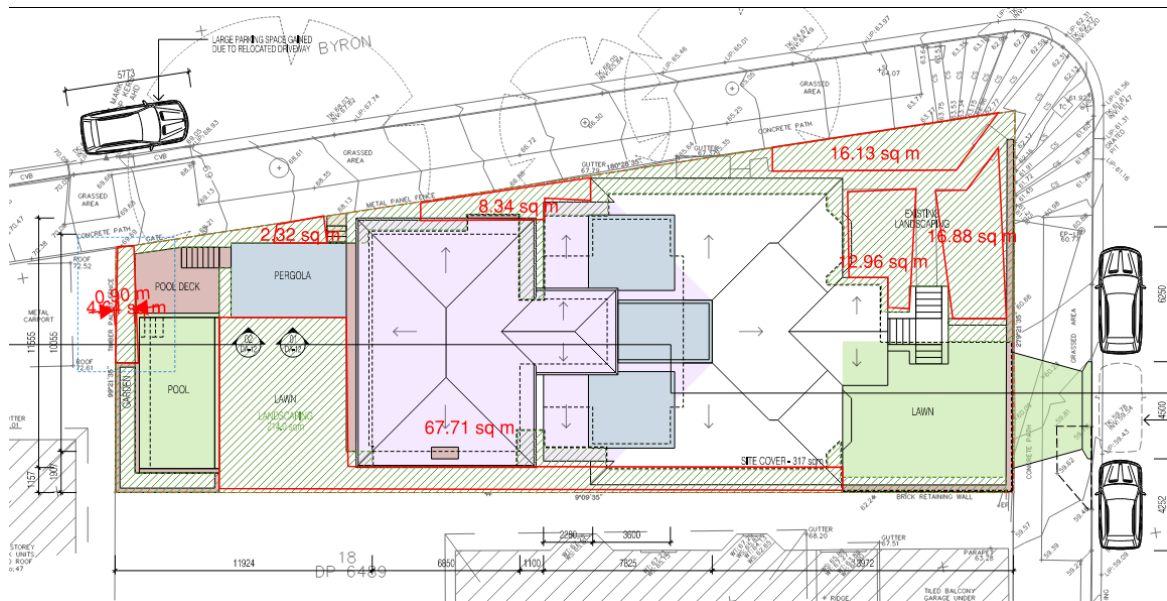
**Deep Soil Landscape**

Clause 2.4 of Part C1 of RDCP 2013 establishes minimum deep soil landscape area of 35% for lots with an area of 601m<sup>2</sup> or above. The proposed development will have a deep soil landscape area of 21%. However, it is noted the site area is on the cusp of the controls and a maximum of 30% applies to lots less than 600m<sup>2</sup>. In any event, the proposal represents a non-compliance with the numerical control. The Statement of Environmental of Effects (SEE) submitted with the application contends the proposal complies with the minimum 35% landscape control. Council's calculation equates to 131m<sup>2</sup> or 21% as the definition of deep soil landscape excludes paved areas, planters and areas with a width of less than 900mm (refer to **Figure 10**). The objectives of the control seek to ensure landscaped areas are effectively distributed on the site to achieve a visual balance between building structures and open space, planting and natural stormwater infiltration. Despite the variation to the numerical deep soil landscape area control, the proposal is consistent with the objectives in that the provision of lawn area above the garage, planters and areas less than 900mm in width along Byron Street will combine to contribute to the overall site amenity to ensure an appropriate visual balance between the built form and open space when viewed from the public domain and the adjoining residential properties.

The new landscape regime will provide good site amenity and adequate areas for the filtration of natural rainwater and opportunities for the planting of trees and shrubs. No objection has been raised by Council's external heritage consultant in relation to the visual setting and landscape character of the existing heritage listed dwelling. On that basis, the proposal is consistent with the objectives of the control and the non-compliance is acceptable.



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**Figure 10 – Council's Deep Soil Landscape calculation**

### External Wall Height

Clause 3.2 of Part C1 of RDCP 2013 establishes a maximum external wall height of 8m for the site. The proposed addition complies with the external wall height control, except for the chimney extension at the eastern elevation that will have a height of 8.9m. The non-compliance relates to the vertical rise of the chimney which is 1.5m in width and equates to 22% of the wall length. The proposed chimney element will not result in any adverse visual bulk and amenity impacts in terms of overshadowing, privacy or view loss. In that regard the non-compliance with the external wall height control is acceptable.

### Front Setback

Clause 3.3.1 of Part C1 of RDCP 2013 establishes a minimum 1.5m front setback to Byron Street (secondary frontage). The proposed addition will be staggered with a minimum setback of 900mm to Byron Street. The SEE submitted with the application notes that the existing dwelling has a minimum setback of 900mm to Byron Street. The SEE contends the non-compliance with the setback control is acceptable for the following reasons:

- *The proposal will maintain the consistent rhythm of street setbacks and front gardens that contribute to the character of the street.*
- *The rear addition, which encroaches the western side setback, is set back 11.5m from the rear boundary of the site, which is the common boundary with the nearest property on Byron Street, allowing for a significant garden between the properties.*
- *The form and massing of the dwelling will complement and enhance the streetscape character by retaining the significant portion of the heritage item and providing a contemporary rear addition, which will not overwhelm the existing dwelling, assisted by the connection between the two components set back more than 5m from the western boundary.*
- *The western setback as proposed will not affect the visual or acoustic privacy of or solar access to adjoining properties.*
- *The proposal will provide a more than adequate rear private open space and allow for adequate deep soil planting within the site.*
- *The proposed setback will not affect view sharing.*

Despite the non-compliance with the setback control along Byron Street, the staggered wall associated with the new addition provides building articulation to assist in reducing the perceived bulk and scale of the development within the streetscape. A compliant setback of 1.5m is likely to



result less building articulation and an inferior design outcome for the site. In that regard the non-compliance with the secondary street frontage setback is acceptable.

## Earthworks

Clause 4.6 of Part C1 of RDCP 2013 establishes a maximum excavation depth of 1m unless the site is too steep to reasonably construct a dwelling within this extent of site modification. The proposal includes earthworks up to 3m in depth for the proposed basement garage and associated internal access and circulation space. The SEE submitted with the application contends the excavation will not result in unreasonable structural, visual, overshadowing or privacy impacts.

The site slopes down steeply from the rear boundary to the street, representing a change in level of approximately 8m. The application is accompanied by a Geo-technical Report. Based on site investigation it is anticipated the majority of the excavation will be through fill and sand. The Geo-technical report states:

*Based on the proposed development, assessment of the subsurface conditions, insufficient space between the proposed basement walls and adjoining infrastructures, and potential for elevated groundwater levels underlying the site, it is assessed that the use of temporary or permanent batter slopes are not suitable for the proposed development, and consideration should be given to a suitable retention system such as a contiguous pile wall solution, with piles sufficiently embedded into the estimated dense (or better) sandy soils underlying the site...*

*Based on the proposed development and assessment of the subsurface conditions, it is recommended that a piled foundation system be adopted, with the proposed building footings supported on piles sufficiently embedded into the underlying estimated medium dense to dense (or better) natural sandy soils underlying the site.*

The Geo-technical report includes the following recommendations:

- Dilapidation survey report on adjacent properties and infrastructures.
- Geotechnical and structural inspections of the existing building foundation system prior to construction and excavations within the site.
- Monitoring and supervision of excavations within the site.
- The composition, depth/thickness and consistency/strength of the underlying soils should be confirmed during construction by further borehole drilling and appropriate testing (i.e. CPT/DCP), predominately in areas and at depths not assessed during the geotechnical investigation.
- Geotechnical inspections of exposed materials at bulk level excavation.
- Geotechnical inspections of shoring wall piles installations.
- Geotechnical inspections of foundations (shallow and pile foundations) to confirm the preliminary bearing capacities have been achieved.
- Monitoring of any groundwater inflows into the excavation areas within the site.
- Provision for longer term groundwater monitoring within the site.
- Classification of all excavated material transported from the site.
- A meeting to be carried out to discuss any geotechnical issues and inspection requirements.
- Final architectural and structural design drawings are provided to GCA for further assessment.

The objectives of the excavation controls seek to maintain or minimise change to the natural ground levels and to ensure excavation and backfilling of a site does not result in unreasonable structural and amenity impacts to adjoining dwellings, enable the provision of usable private open space and no adverse stormwater impacts to the adjoining properties.

Subject to the imposition of standard structural engineering conditions, Council is satisfied the proposed excavation will not result in any adverse structural or amenity impacts to the adjoining properties. Conditions to this effect are included in the recommended development consent.

## Overshadowing

Clause 5.1 of Part C1 of RDCP 2013 establishes the overshadowing controls to protect the amenity of the adjoining properties. Concerns have been raised in the submissions regarding overshadowing impacts of the proposed development. The application is accompanied by shadow diagrams which demonstrate the overshadowing impacts at the winter solstice. In the morning, between 9:00am and midday, the additional shadow cast by the proposal will fall on Byron Street to the west and within the site. At 4:00pm, the proposal will cast additional shadow over the southeast corner of the rear POS and small part of the roof of the existing dwelling at 40 Dudley Street. Despite the additional shadow cast by the proposal, a portion of the rear POS at 40 Dudley Street will continue to receive a minimum of 3 hours direct sunlight at the winter solstice and the proposal therefore complies with the overshadowing controls. Furthermore, the proposal largely complies with the building envelope controls in terms of FSR, height and setbacks and any additional overshadowing can be reasonably expected. On that basis, the proposal will not result in any unreasonable overshadowing impacts to the adjoining properties.

## Visual Privacy

Clause 5.3 of Part C1 of RDCP 2013 establishes the visual privacy controls to protect the amenity of the adjoining properties. Concerns have been raised in the submissions regarding privacy impacts. The potential privacy impacts are discussed as follows:

### *Eastern Elevation*

The proposal will result in potential overlooking from the master bedroom windows at the first floor and the living room and bedroom windows at the upper ground floor to the rear of the adjoining property at 40 Dudley Street. The subject windows are proposed to be openable. These windows should be fixed and screened to mitigate potential privacy impacts to the rear of 40 Dudley Street. A condition to this effect is included in the recommended development consent.

### *Southern (rear) Elevation*

The proposed balcony/windows at the first floor will not result in any unreasonable privacy impacts to the adjoining property to the south at 47 Byron Street as the viewers eye will primarily capture the front setback of that property which is already visible from the street. In any event, the balcony is relatively narrow in depth (less than 1m) and serves a bedroom where occupants generally spend less waking time. Furthermore, the balcony is setback 11.7m to the common southern boundary with 47 Byron Street, which outperforms a minimum rear setback of 8m, even though the control does not apply to corner allotments. Notwithstanding, the eastern edge of the balcony should include a privacy screen to mitigate overlooking to the rear of 40 Dudley Street. A condition to this effect is included in the recommended development consent.

## Acoustic Privacy

Clause 5.4 of Part C1 of RDCP 2013 establishes the acoustic privacy controls to protect the amenity of the adjoining dwellings. The controls stipulate that dwellings must be sited and designed to limit the potential for excessive noise transmission to the sleeping areas of adjacent dwellings. Accordingly, main living room windows, barbeques, swimming pools and spa pools must not be located immediately adjacent to the bedroom windows of the adjoining dwellings. Concerns have been raised in the submissions regarding acoustic privacy impacts associated with the proposed swimming pool and entertaining areas at the rear of the dwelling. The proposed swimming pool and surrounds are located adjacent to the common boundary with 47 Byron Street. The location of the pool will be largely offset from the building at 47 Byron Street and a 1.8m high fence above the pool coping together with a planter along the eastern and southern edge will afford some opportunity for planting to achieve both visual and acoustic privacy to the adjoining properties. In any event, the proposal is not expected to generate adverse noise impacts from the outdoor areas over and above what would normally be expected from the use of a single dwelling.

## View Impacts

Clause 5.6 (View Sharing) of Part C1, RDCP 2013

Part C1 Section 5.6 of RDCP 2013 establishes the concept of view sharing to ensure equitable distribution of views between development and neighbouring dwellings and the public domain.

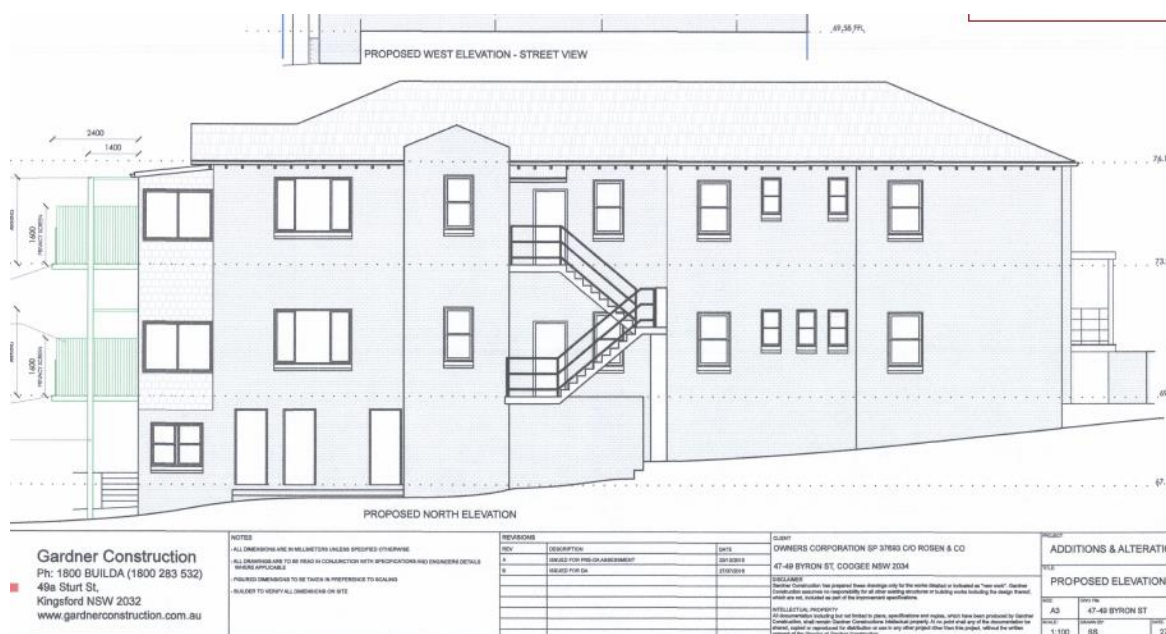
The NSW Land and Environment Court has developed a planning principle relating to view sharing based on the case of *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140. Where view loss is likely to occur development proposals must address the view impact requirements of RDCP 2013 and the planning principle.

Concerns were raised from the neighbours at four properties including No. 4 Byron Street and units 1, 3 and 4 No. 47-49 Byron Street and in relation to view impact.

No 4 Byron Street is located to the southwest on the opposite side of the street. When standing on the footpath in front of No. 4 Byron Street it is evident any view impacts from the elevated front verandah would be negligible due to topography and intervening vegetation and structures.

Unit 4/47-49 Byron Street is located on the southern side of the apartment complex and there are no view impacts from this property.

Units 1 and 3 No. 47-49 Byron Street overlook the subject site. No internal access was attained to these units to assess the view impacts. This assessment is based on the views attained from the external stairwell along the northern elevation (refer to **Figure 11**). The existing views attained from the external stair landing at each level provides an accurate basis to assess the potential view impacts from Units 1 and 3.



**Figure 11 – Northern elevation at 47-49 Byron Street**

To assess whether the extent of view loss resulting from the proposed development is reasonable, an analysis has been undertaken with reference to the Land and Environment Court Planning Principle established in the matter of *Tenacity Consulting v Warringah* (2004) NSWLEC 140:

The view loss assessment is carried out against the following four step process:

### 1. Quality of Views:

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*



The existing views are described in the table below and illustrated in **Figures 12** and **13**.

Address	Type of View	Location/Position
1/47-49 Byron Street (first floor)	<ul style="list-style-type: none"> <li>The views to the north across the top of the existing dwelling on the subject site capture Baker Park and the district beyond</li> </ul>	<ul style="list-style-type: none"> <li>standing on the landing of the external stairwell</li> </ul>
3/47-49 Byron Street (ground floor)	<ul style="list-style-type: none"> <li>the views to the north across the top of the existing dwelling on the subject site capture the tree canopy at Baker Park</li> </ul>	<ul style="list-style-type: none"> <li>standing on the landing of the external stairwell</li> </ul>



**Figure 12** – View from the external stair landing at Unit 3 No.47-49 Byron Street





**Figure 13** – View from the external stair landing at Unit 1 No.47-49 Byron Street

## **2. Reasonable Expectation of View Retention:**

*The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The existing views to the north are attained from the external stair in a standing position across the side boundary from both units. Note that similar views to the north would also be attained from the bedroom, kitchen, living and dining room windows along the northern elevation.

## **3. Extent of Impact:**

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

The proposal will result in a minor loss of view to Baker Park and the tree canopy to the north.

## **4. Reasonableness of Proposed Development:**

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one*

*or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbors. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The proposed development generally complies with the building envelope controls in terms of FSR, Building Height and setbacks. The minor non-compliances associated with the setbacks to Byron Street and the external wall height of the chimney element at the eastern elevation would not have any significant bearing on the views attained from Units 1 and 3 47-49 Byron Street. In the context of existing views retained from the living area windows along the northern elevation and the balconies along the eastern elevation of both units, the proposal is acceptable and view sharing is reasonable.

## **9. Conclusion**

That the application for alterations and additions to an existing dwelling including a first floor addition, swimming pool and garage 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 it will continue to provide housing, does not adversely affect the heritage significance of the existing dwelling within the streetscape and protects the amenity of surrounding residents.
- The proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. External Heritage Consultant



City Plan Heritage P/L  
ABN 46 103 185 413

11 August 2021

Our Ref: H-21071

Mr David Ongkili  
Coordinator Strategic Planning  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031  
David.Ongkili@randwick.nsw.gov.au

Dear David,

**RE: DA ASSESSMENT - HERITAGE REFERRAL FOR DA/145/2021  
38 DUDLEY STREET COOGEE NSW 2034**

City Plan Heritage (CPH) has been engaged by Randwick City Council to undertake a heritage assessment of the Development Application (DA/145/2021) for alterations and additions to the existing residence located at 38 Dudley Street in Coogee. The works are described in the Development Application as:

*Alterations & additions to an existing dwelling including a first floor addition, swimming pool & garage. Parts of the existing residential dwelling are to be demolished.*

The following sections provide an assessment of the subject Development Application (DA) in relation to heritage matters.

#### LOCATION OF THE SITE

The subject site is located at 38 Dudley Street, Coogee, and is described in the documents held by NSW Land Registry Services as Lot 17 in Deposited Plan 6489 (Parish of Alexandria, County of Cumberland).

The site is trapezoidal in plan and is bounded to its north by Dudley Street, to its east by a freestanding two storey residence, to its south by a two-storey residence, and to the east by Byron Street. The site is located at the southeast corner of the intersection of Dudley and Byron Streets and accommodates a freestanding one-storey brick house with sandstone detailing and a separate garage building.

The subject site is zoned as R2 - Low density Residential under Randwick LEP 2012.

Level 6, 120 Sussex St, Sydney NSW 2000  
P +61 2 8270 3500  
CITYPLAN.COM.AU  
M:\CPH\Heritage\CPH-2021\01-095 38 Dudley St, Randwick\3. Report\Heritage referral\_38 Dudley St, Coogee\_DA145\_2021.docx

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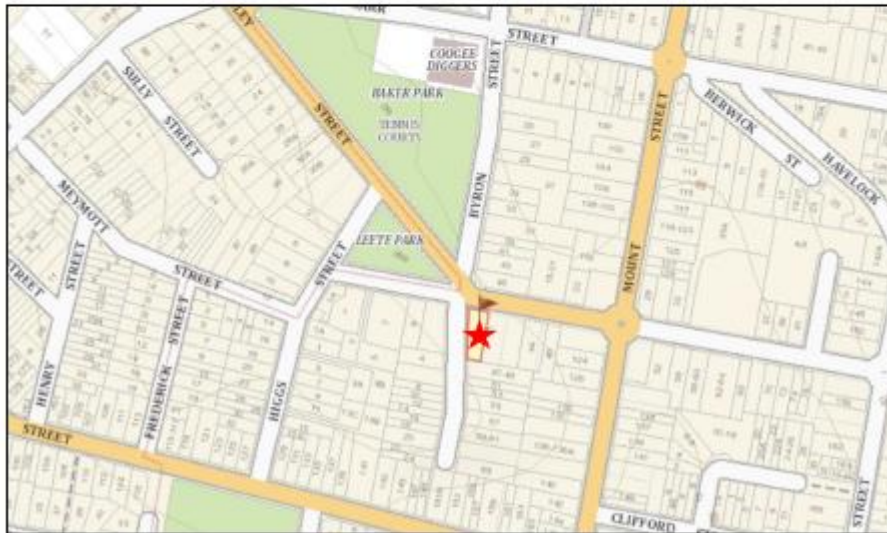


Figure 1 Map showing the location of the subject site, 38 Dudley Street, Coogee NSW 2034. (Source: SIX Maps, <https://maps.six.nsw.gov.au>)

#### HERITAGE STATUS AND SIGNIFICANCE

The subject site is identified as a heritage item (No. 1467) under Schedule 5 of the *Randwick Local Environmental Plan (LEP) 2012*. It is situated within the 'Dudley Street Heritage Conservation Area' (C9), which is identified as under Part 2 of Schedule 5 attached to *Randwick LEP 2012* and protected under the *Environmental Planning and Assessment Act 1979* (NSW).

The following statement of significance for 38 Dudley Street is taken from the Draft Heritage Inventory Form prepared by Colin Brady (January 2018):

*The residence at 38 Dudley Street Coogee erected in the period 1929-30 is a notable example of an Inter War freestanding residence. The residence, incorporating aspects of the Inter War Georgian Style, demonstrates the form, style, relationship to site and streetscape settings of Inter War period [1919-1939] freestanding houses. The symmetry, historic reference to Georgian antecedents, and layering of materials provide a dramatic shift from the forms and massing of Federation Housing that dominated Coogee of the earlier 20th Century.*

*The house is not rare there being comparable examples in other areas of Randwick Municipality but, has a scale, quality and response to setting which serve to demonstrate the historic evolution of the Inter War House and the last stages of suburban consolidation of Coogee in the first half of the 20th Century.*

*The site and residence are of local heritage significance.*





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Figure 2. Extract from Heritage Map-Sheet HER\_007 attached to the Randwick LEP showing the location of 38 Dudley Street, Coogee within the Dudley Street Heritage Conservation Area (C9). (Source: [https://planning.nsw.gov.au/core/windows.net/pdfmaps/6550.COM.HER\\_007\\_010\\_20200402.pdf](https://planning.nsw.gov.au/core/windows.net/pdfmaps/6550.COM.HER_007_010_20200402.pdf))

The 'Dudley Street Heritage Conservation Area' (HCA) contains representative examples of houses from the Federation and Inter-war periods demonstrating aesthetic, historical and social significance, and the following historical themes:

- Speculation and promotion
- Suburbanisation

#### THE PROPOSAL

The proposed additions and alterations are shown in the DA/145/2021 documentation lodged with Randwick Council and include the following:

##### Demolition works

- Demolition of the existing carport and garage.
- Partial demolition and adaptation of the Dudley Street boundary wall and construction of a new garage opening. Works include partial extension of the sandstone wall and construction of metal palisade fence.
- Excavation to form basement level garage, utility spaces, and circulation.

##### Construction of an addition

- Internal stair and lift.
- A plant room and a laundry at lower ground floor level.

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- An open plan living area at upper ground floor
- A master bedroom with en-suite and WIR at first floor level.
- Proposed external finishes include Bowral blue bricks, timber, glass, fibre cement cladding, metal sheet roofing, graphite roof tiles, metal palisade fencing, timber fencing and sandstone block wall.

#### Adaptation of the existing residence

- Construction of two bedrooms with bathrooms and storage in roof space of the existing residence.
- Dormer windows will be added to the east and west of the roof.
- Internal stair and robe/storage.

#### Setting

- Construction of an inground swimming pool and associated deck
- Construction of a pergola
- Adaptation of hard and soft landscaping
- Adaptation of the Dudley Street boundary wall and construction of a new garage opening, partial extension of the sandstone wall, and construction of metal palisade fence.

### BACKGROUND

No background research into the previous development applications for the property has been undertaken and is not considered necessary for the purposes of the assessment of the current DA.

### SUBMISSION

Documentation submitted to Randwick City Council available online at

<https://planning.randwick.nsw.gov.au/Pages/XC.Track.Advanced/SearchApplication.aspx?id=744491>

has been provided by the Council and reviewed in the assessment of the proposed development. This assessment has taken into consideration the following documents and statutory instruments:

- *Randwick Local Environmental Plan 2012.*
- *Randwick Development Control Plan 2013.*

### ASSESSMENT OF THE PROPOSED DEVELOPMENT

Following review of the documentation submitted as part of the current development application (DA/145/2021), we have assessed the proposed development against the relevant heritage provisions and controls contained in the Randwick LEP 2012 and Randwick DCP 2013 respectively.

Randwick LEP 2012 Clause 5.10 Heritage Conservation	Discussion
<p><b>5.10 (2) Requirement for consent</b></p> <p><i>Development consent is required for any of the following -</i></p> <p><i>(e) erecting a building on land -</i></p>	<ul style="list-style-type: none"> <li>▪ A Development Application (DA/145/2021) has been lodged with Randwick Council, the consent authority, to obtain consent to undertake works to 38 Dudley Street in Coogee.</li> <li>▪ The subject site is identified as a heritage item (No. 1467) under Schedule 5 of the LEP.</li> </ul>



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Randwick LEP 2012 Clause 5.10 Heritage Conservation	Discussion
<p>(i) on which a heritage item is located or</p> <p>(ii) that is within a heritage conservation area.</p>	<ul style="list-style-type: none"> <li>The subject site is also located within the 'Dudley Street Heritage Conservation Area'.</li> </ul>
<p><b>5.10 (5) Heritage assessment</b></p> <p>The consent authority may, before granting consent to any development -</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraphs (a) or (b).</p>	<ul style="list-style-type: none"> <li>A Heritage Impact Statement (HIS), prepared by Weir Phillips (January 2021) was submitted as part of the Development Application to assist Council in determining DA/145/2021.</li> </ul>

The following table addresses the relevant controls of the Randwick DCP 2013.

Randwick DCP 2013 - Section B2 - 2.1 Heritage Items and Heritage Conservation Areas	Discussion:
<p><b>Controls</b></p> <p><b>All Development</b></p> <p>i) Development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area (as detailed in the statements of significance and key characteristics outlined in this section of the DCP).</p>	<ul style="list-style-type: none"> <li>The front (north) elevation of the subject heritage item would be retained, and the rear (southern) section of the house will be adapted and extended under the current DA.</li> <li>The first floor level and two dormer windows would be visible from some views in Dudley Street and in views from Byron Street.</li> <li>The partial demolition of the southern section of 38 Dudley Street would result in the loss of building fabric.</li> <li>The new work is designed in a contemporary architectural style to distinguish it from the original building fabric. New exterior materials are generally compatible with the existing residence. New concrete roof tiles are shown 'shingle' style rather than the profile of the existing roof.</li> <li>The building setbacks and roof pitch are in keeping with the identified character of the Dudley Street HCA.</li> <li>The palette of materials includes face brick, painted compressed cement boarding, concrete roof tiles in imitation slate, and flat</li> </ul>



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Randwick DCP 2013 - Section B2 - 2.1 Heritage Items and Heritage Conservation Areas	Discussion:
	roof areas finished with metal sheeting in standing seams.
<p><i>ii) Common elements and features of the streetscape are to be identified in a streetscape analysis and incorporated into the design (e.g. view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations).</i></p>	<ul style="list-style-type: none"> <li>▪ The existing sandstone fence and retaining wall would be retained and adapted to form a double width garage entrance. The sandstone wall would be aligned with garages to its west and continue to define part of the south side of Dudley Street, between Byron and Mount Streets.</li> <li>▪ The sandstone wall would be extended to a height of RL60.00m, and topped with a metal palisade fence.</li> <li>▪ The northern section of the existing house and the north garden and gate would be retained.</li> <li>▪ The proposed hard and soft landscaping are, subject to resolution of design detail, are generally consistent with the character of the HCA. No gardens, significant trees or fences would be removed or altered. The existing entrance and driveway would be retained.</li> </ul>
<p><i>iii) New development should be consistent with important horizontal lines of buildings in the streetscape, in particular ground floor levels and eaves lines, where appropriate.</i></p>	<ul style="list-style-type: none"> <li>▪ The ground floor level of the proposed addition would be 2 metres above the existing ground floor level to facilitate stepless access to the south garden area.</li> <li>▪ The change in floor level, while taking into consideration the topography of the site, increases the prominence of the addition in views from Dudley Street and Byron Street.</li> </ul>
<p><i>iv) Large blank areas of brick or rendered walls should be avoided. Where this is not possible in the design, contrasting building materials and treatments must be used to break up the expanse of wall.</i></p>	<ul style="list-style-type: none"> <li>▪ External walls include a range of materials and windows to reduce their potential visual impact on views within the HCA.</li> <li>▪ Original windows would be retained in the north elevation, and in the retained sections of the east and west elevations.</li> <li>▪ New windows are shown as casement windows, with elongated proportions compatible with the original double hung windows.</li> </ul>





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Randwick DCP 2013 - Clause B2.3 Scale & Form	Discussion:
<p><b>Controls</b></p> <p><b>All Development</b></p> <p><i>i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.</i></p> <p><i>ii) Attic style additions may be permissible, but there should be no visible alteration to the front of previously unaltered buildings. Front dormer windows are especially discouraged where a building itself is a heritage item, or part of a relatively unaltered semi-detached pair or row</i></p> <p><i>iii) Dormer windows and skylights must not be located to street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style of the building.</i></p>	<ul style="list-style-type: none"> <li>▪ The HCA includes one- and two-storey residential development. The proposed addition would be located at the south side of the house to enable the scale of the original house to be recognised.</li> <li>▪ The subject site is located on a corner allotment and the two proposed dormer windows inserted into the original roof space would be visible in views from Dudley Street and Byron Street.</li> <li>▪ Details of the dormer windows are not required as part of the DA submission.</li> <li>▪ The proposed dormers are set back from the north elevation of 38 Dudley Street and subject to the resolution of detailed design, would allow the original Dudley Street streetscape to be understood by visitors.</li> </ul>
Randwick DCP 2013 - Clause B2.4 Siting and Setbacks	Discussion:
<p><b>Controls</b></p> <p><b>All Development</b></p> <p><i>i) Development must conform to the predominant front setbacks in the streetscape.</i></p> <p><i>ii) Development must respect side setbacks and rear alignments or setbacks of surrounding development.</i></p> <p><i>iii) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features.</i></p>	<ul style="list-style-type: none"> <li>▪ 38 Dudley Street was constructed as a single residence in the 1920s, and demonstrates the scale and materiality of other buildings in the HCA.</li> <li>▪ The existing setback of the residence to Dudley Street would be maintained.</li> <li>▪ There is no heritage concern in relation to the side or rear setbacks proposed.</li> <li>▪ The stone boundary wall would be adapted, and the north garden retained. Additions and building modifications are located to the south of the existing house.</li> <li>▪ Despite proposed changes the main elevation of the house, the stone wall and garden would be recognisable as part of the Inter-War character of this section of Dudley Street HCA.</li> </ul>



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<b>Randwick DCP 2013 - Clause B2.4 Siting and Setbacks</b>	<b>Discussion:</b>
<i>iv) Any significant historical pattern of subdivision and lot sizes must be retained. Subdivision or site amalgamation involving heritage items or contributory buildings must not compromise the setting or curtilage of buildings on or adjoining the site.</i>	<ul style="list-style-type: none"> <li>No changes to the subdivision pattern or lot size are proposed.</li> </ul>
<b>Randwick DCP 2013 - Clause B2.5 Detailing</b>	<b>Discussion:</b>
<b>Controls</b> <b>All Development</b> <i>i) Only detailing which is known to have been original to your building is acceptable. Do not add what was never there.</i>	<ul style="list-style-type: none"> <li>The works have been designed in a contemporary style to be readily distinguished from the original building. Proposed external finishes include brick to match the original residence.</li> <li>Details of the two proposed dormer windows should be submitted as part of a construction certificate. The dormer roof should be revised to reduce the distance it extends outwards from the roof plane.</li> </ul>
<b>Randwick DCP 2013 - Clause B2.6 Materials, Finishes and Colour Schemes</b>	<b>Discussion:</b>
<b>Controls</b> <b>All Development</b> <i>i) Materials for pathways and driveways must be consistent with the character of the heritage item or heritage conservation area.</i>	<ul style="list-style-type: none"> <li>The proposed garage access from Dudley Street would read as a new opening in an existing wall.</li> <li>The boundary fence treatment in Byron Street is compatible with the scale, materials and details of rear and side boundary fences within the Dudley Street HCA.</li> <li>New paths and driveways would not be visible in significant views to 38 Dudley Street or within the Dudley Street HCA.</li> </ul>
<b>Randwick DCP 2013</b> <b>Clause B2.7 Roofs and Chimneys</b>	<b>Discussion:</b>
<b>Controls</b> <b>All Development</b> <i>i) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations.</i>	<ul style="list-style-type: none"> <li>The proposed dormer windows would be visible from both Dudley Street, and the western dormer would be visible from Byron Street.</li> <li>The dormers would not, subject to resolution of detail, dominate the street presentation of the original north and west elevations of 38 Dudley Street. The adaption of the roof space</li> </ul>



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<b>Randwick DCP 2013</b> <b>Clause B2.7 Roofs and Chimneys</b>	<b>Discussion:</b>
	would reduce the footprint of the proposed addition to 38 Dudley Street.
<b>Randwick DCP 2013 - Section. 4.4.3:</b> <b>Dudley Street Heritage Conservation Area</b>	<b>Discussion:</b>
<b>Landscape and public domain</b> <i>Front gardens, steep and undulating topography, and palm, pine and fig tree plantings in the parks contribute to the aesthetic quality of the setting</i>	<ul style="list-style-type: none"> <li>▪ The site slopes upwards towards the south boundary, and the addition would be visible in views to 38 Dudley Street from Baker Park.</li> <li>▪ The works would retain the garden frontage consistent with adjacent properties.</li> </ul>
<b>Scale and form</b> <i>Large detached houses, single storey and two storey.</i>	<ul style="list-style-type: none"> <li>▪ The proposed addition has been located to facilitate direct access from the new living room space to the south garden area, increasing the new ground floor level 2metres above the original ground floor level, and increasing the height of the proposed addition above the existing roof line of the original house.</li> </ul>
<b>Siting and setbacks</b> <i>Houses generally well set back from and elevated above street.</i>	<ul style="list-style-type: none"> <li>▪ We have no heritage concerns in regard to this matter.</li> </ul>
<b>Roof</b> <i>Traditional pitched roofs, includes a number of steeply pitched gabled roofs.</i>	<ul style="list-style-type: none"> <li>▪ No issues arising from the roof of the proposed addition. The new roof would match the pitch of the existing roof.</li> </ul>
<b>Materials</b> <i>Walls predominantly face brickwork, some stucco. Terracotta tiles and slate roofing.</i>	<ul style="list-style-type: none"> <li>▪ The DA submission indicates the use of concrete 'shingle' roof tiles. although the history contained in the HIS refers to a tiled roof. Existing roof tiles are to be retained, and where appropriate salvaged and reused.</li> <li>▪ Other external materials are compatible with the character of the existing house and HCA.</li> </ul>
<b>Detailing</b> <i>Predominantly timber decoration to verandahs, gables etc.</i>	<ul style="list-style-type: none"> <li>▪ The documentation indicates cement fibre boards in dormer windows and the addition.</li> </ul>



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Randwick DCP 2013 - Section. 4.4.3: Dudley Street Heritage Conservation Area	Discussion:
<b>Verandahs and balconies</b> <i>Front verandahs integral to each of the architectural styles which are represented in the area.</i>	<ul style="list-style-type: none"> <li>The proposed addition would affect the southern side of the residence and would retain and further adapt the original verandah.</li> </ul>
<b>Carparking</b> <i>Steep topography allows for garages to be provided within a retaining wall, below the level of the house.</i>	<ul style="list-style-type: none"> <li>No heritage issues in relation to the location of the garage access subject to details of the new opening in stonework.</li> </ul>
<b>Fences</b> <i>Fence design varies according to style of dwelling and contributes to the quality of the setting. Many sandstone fences.</i>	<ul style="list-style-type: none"> <li>No heritage issues in relation to the stone fencing. The sandstone fence associated with 38 Dudley Street would be retained and adapted.</li> <li>The proposed palisade fence should be of contemporary design and recognisable as new fabric.</li> </ul>

#### CONCLUSIONS AND RECOMMENDATIONS

Having reviewed the heritage aspects of development application documentation submitted as DA/145/2021, we are of the opinion the proposed development is generally consistent with the heritage objectives of Randwick LEP and Randwick DCP, and is therefore **supported** in relation to heritage matters. We recommend the following issues are reviewed to mitigate potential adverse heritage impacts on established architectural character of the Dudley Street Heritage Conservation Area generally:

- A digitally based photographic archival record of the property (externally and internally) shall be prepared and submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2008 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. Two USB or DVD copies of the endorsed archival recording shall be presented to Council, one of which shall be placed in the Local History Collection of Randwick City Library.
- A Schedule of Conservation Works for the existing building shall be prepared in accordance with the principles embodied in the Australia ICOMOS Burra Charter and the methodology outlined in J.S. Kerr's The Conservation Plan. The Schedule is to set out the conservation approach, original building fabric to be salvaged for reuse on site, and methodologies for the repair of original finishes retained in situ. This Schedule shall be prepared by an architect suitably qualified and experienced in heritage conservation, and shall be to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- A suitably experienced heritage consultant is to undertake periodic inspections of the works during opening up and construction phases to confirm the works are consistent with best practice





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heritage principles. Evidence of the engagement is to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. The heritage consultant is to be involved in the resolution of detailing and fabric treatment required for the subject development throughout detailed design and construction phases.

- A suitably experienced engineer is to be engaged to provide methodology for the temporary protection of the existing building and to confirm the removal of internal walls and to maintain the structural stability of the existing building during the excavation, investigation/opening up works, and construction works. The Structural engineer's methodology for temporary protection and confirmation of structural integrity of the existing building including roof structure is to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- Details of the dormer windows is to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. . The dormer roof should be revised to reduce the distance it extends outwards from the roof plane.
- Details of the garage door opening in stone work are to be submitted to and approved by Council's Director City Planning, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

I trust the above heritage assessment will assist the Council in its assessment of the proposed development (DA/145/2021) at 38 Dudley Street Coogee. Should you have any questions or require any further information on the heritage aspects of the proposal please do not hesitate to let me know.

Yours faithfully,

## 1.2. Development Engineer

Council's Development Engineer and Landscape Officer provided the following comments

### *Parking/Drainage Comments – Dudley Street Frontage*

*The proposed new garage entrance in Dudley Street is opposite a Council Gutter Converter. The applicant has been advised that approval is required from Council's Drainage Assets Engineer to have the Council Gutter Converter reconstructed/relocated upstream to the west of the garage opening.*

*Council's Drainage Assets Engineer (Paramesh Halaradhya) has approved the concept of the relocation subject to detailed construction drawings by a suitably qualified Chartered Professional Engineer. An e-mail dated 7/12/22 from P Halaradhya to Helia Arian advised her accordingly (see below)*

From: Paramesh Halaradhya <[Paramesh.Halaradhya@randwick.nsw.gov.au](mailto:Paramesh.Halaradhya@randwick.nsw.gov.au)>  
Sent: Wednesday, 7 December 2022 9:11 AM  
To: Helia Arian <[helia@ajkoutfitters.com.au](mailto:helia@ajkoutfitters.com.au)>  
Cc: Andrew Chapman <[andrew@chapmanarchitecture.com.au](mailto:andrew@chapmanarchitecture.com.au)>; Peter Cormican <[Peter.Cormican@randwick.nsw.gov.au](mailto:Peter.Cormican@randwick.nsw.gov.au)>; Bryce Foott <[Bryce.Foott@randwick.nsw.gov.au](mailto:Bryce.Foott@randwick.nsw.gov.au)>  
Subject: RE: DA/145/2021 - 38 Dudley Street, Coogee

Hi Helia,

*I had a look at the drawings*

*Proposed relocating of the outlet converter,*

*Noted: Proposed outlet converter is same as the existing one with same capacity openings and is only moved to few meters upstream.*

*This relocation is okay and it doesn't change any hydraulic characters of the flow,*

*In the sense, I'm okay for the relocation as long as the construction quality to be maintained, to industry standards.*

*Make sure stormwater from new converter should not enter the proposed driveway.*

*At the time of construction, detailed construction drawings, with actual levels, long section should be submitted to council and get it approved.*

Regards

Paramesh Halaradhya  
Drainage Engineer  
Randwick City Council  
0290936671

[Paramesh.Halaradhya@randwick.nsw.gov.au](mailto:Paramesh.Halaradhya@randwick.nsw.gov.au)  
[www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au)

*Development Engineering has included a relevant condition which requires the construction drawings being submitted to Council prior to the commencement of any building works.*

*Undergrounding of power lines to site*

*At the ordinary Council meeting on the 27<sup>th</sup> 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 however it is noted that the proposed works are located towards the rear and there are no alterations or additions proposed at the front of the dwelling where the existing electricity supply connects. It is therefore considered a nexus cannot be established between the council resolution and the proposed works and subsequently the condition has not been recommended in this instance.*

#### *Tree Management & Landscape Comments*

*There is a row of three mature, 6-8m tall trees spaced evenly along the length of the secondary frontage, Byron Street, comprising from north to south, an Agonis flexuosa (Willow Myrtle) closest to the corner of Dudley Street, a slightly larger Banksia serrata (Saw Toothed Banksia) adjacent the southwest corner of the existing dwelling, then another Willow Myrtle towards the existing vehicle crossing and garage.*

*All three are automatically protected by the DCP due to their location on public property, with the site inspection revealing that they have been recently pruned, and while they would not be directly affected by this application given that the only works will be removal of the existing crossing and gutter bridge to the south of the most southern street tree, protection measures and a bond have still been imposed in order to protect Council's assets from secondary impacts.*

*All vegetation within this development site was observed to be insignificant, so will not pose a constraint in any way to the works, including the Oleander centrally in the front setback, which is an undesirable, poisonous species that is exempt from the DCP, as well as being in direct conflict with the new basement level, with the same also applying to the various shrubs/small trees throughout the rear setback due to their size and being weeds (Celtis sp) with the rear extension, pool and other improvements shown as occupying this same area, so no objections are raised to their removal subject to full implementation of the approved Landscape Plans which indicate both a high level treatment and suitable replacement planting which will be of benefit to occupants.*

*While the survey indicates a canopy tree in the rear setback of this site (Bottlebrush), towards the southeast site corner and existing garage, a review of aerial and street-view images confirms this tree was removed 2-3 years ago.*

*While not represented on the survey or plans, the inspection also identified a mature Bangalow Palm wholly in the front/side setback of the adjoining private property to the east, no.40, which despite its position near the common boundary, and adjacent an area where excavations and civil works will be undertaken for the new basement level, it will not be affected as the existing brick wall on the common boundary would have already acted as physical barrier to prevent root growth extending into the development site, so conditions are not needed.*

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## Appendix 2: DCP Compliance Table

### 3.1 Section B2: Heritage

The relevant provisions under Section B2 of the DCP have been addressed in the external heritage consultant's referral in Appendix 1 above.

### 3.2 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	
<b>2.3</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 600.7m  Proposed = 53.8%	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>
<b>2.4</b>	<b>Landscaping and permeable surfaces</b>		
	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 = 600.7m  Proposed = 21%	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>
<b>2.5</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Site = 600.7m  Proposed = 11m x 11m	<b>Complies.</b>
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.6:1</b>	0.6:1	<b>Complies</b>
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m</b>	Proposed = 8.9m	<b>Complies.</b>
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 8.9m	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b>		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	<u>Dudley Street</u> Minimum = 6m Proposed = 6.09m to existing dwelling (no change), nil setback to proposed garage (see clause 6.2 for further comment).  <u>Byron Street</u> Minimum = 1.5m	<b>Complies.</b>  <b>Does not comply.</b>



DCP Clause	Controls	Proposal	Compliance
		Proposed = Maintenance of existing setbacks, 900mm to new portions.	<i>See Key Issues for further discussion.</i>
<b>3.3.2</b>	<b>Side setbacks:</b> Semi-Detached Dwellings: <ul style="list-style-type: none"> <li>Frontage less than 6m = merit</li> <li>Frontage b/w 6m and 8m = 900mm for all levels</li> </ul> Dwellings: <ul style="list-style-type: none"> <li>Frontage less than 9m = 900mm</li> <li>Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</li> <li><b>Frontage over 12m = 1200mm (Gnd &amp; 1<sup>st</sup> floor), 1800mm above.</b></li> </ul> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 1.2m  Existing = 0.98m  Proposed = Maintenance of existing setbacks, new portions shall be 1.2m at Lower and Upper Ground Floor, and 1.9m to First Floor level.	<b>Acceptable.</b>
<b>3.3.3</b>	<b>Rear setbacks</b> <ol style="list-style-type: none"> <li>Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</li> <li>Provide greater than aforementioned or demonstrate not required, having regard to:               <ul style="list-style-type: none"> <li>Existing predominant rear setback line</li> <li>reasonable view sharing (public and private)</li> <li>protect the privacy and solar access</li> </ul> </li> <li>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.</li> <li>For irregularly shaped lots = merit assessment on basis of:-               <ul style="list-style-type: none"> <li>Compatibility</li> <li>POS dimensions comply</li> <li>minimise solar access, privacy and view sharing impacts</li> </ul> </li> </ol> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum = 8m  Proposed = 10.7m  The subject site is a corner allotment and therefore the southern boundary acts as a side boundary with No. 47-49 Byron Street and a rear boundary when considered in relation to No. 40 Dudley Street. Notwithstanding, the proposed setback of 10.7m to the southern boundary is considered acceptable.	<b>Complies.</b>
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> <li>articulated to enhance streetscape</li> <li>stepping building on sloping site,</li> <li>no side elevation greater than 12m</li> <li>encourage innovative design</li> </ul>	No wall length is greater than 12m in length with the proposed elevations suitably articulated. The proposed development is stepped down the site in accordance with the slope of the land, respecting	<b>Complies.</b>

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DCP Clause	Controls	Proposal	Compliance
		the natural topography of the site.	
<b>4.4</b>	<b>Roof Design and Features</b>		
	<p><i>Rooftop terraces</i></p> <ul style="list-style-type: none"> <li>i) on stepped buildings only (not on uppermost or main roof)</li> <li>ii) above garages on sloping sites (where garage is on low side)</li> </ul> <p><i>Dormers</i></p> <ul style="list-style-type: none"> <li>iii) Dormer windows do not dominate</li> <li>iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</li> <li>v) Multiple dormers consistent</li> <li>vi) Suitable for existing</li> </ul> <p><i>Clerestory windows and skylights</i></p> <ul style="list-style-type: none"> <li>vii) Sympathetic to design of dwelling</li> </ul> <p><i>Mechanical equipment</i></p> <ul style="list-style-type: none"> <li>viii) Contained within roof form and not visible from street and surrounding properties.</li> </ul>	<p>Two (2) dormer windows are proposed. The proposed dormers extend approximately 3.4m from the roof. Concerns have been raised by Council's external Heritage Consultant regarding the extent of the protrusion of the proposed dormers and a condition of consent is recommended for the distance of the dormers from the roof to be reduced.</p>	<b>Complies, subject to condition.</b>
<b>4.5</b>	<b>Colours, Materials and Finishes</b>		
	<ul style="list-style-type: none"> <li>i) Schedule of materials and finishes</li> <li>ii) Finishing is durable and non-reflective.</li> <li>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</li> <li>iv) Articulate and create visual interest by using combination of materials and finishes.</li> <li>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</li> <li>vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)</li> </ul>	<p>The proposed works will be constructed of Bowral blue bricks, timber, glass, fibre cement cladding, metal sheet roofing, graphite roof tiles, metal palisade fencing, timber fencing and sandstone block wall.</p> <p>The proposed colours and materials are supported by Council's external Heritage Consultant and are considered to be compatible with the heritage significance of the original dwelling.</p>	<b>Complies.</b>
<b>4.6</b>	<b>Earthworks</b>		
	<ul style="list-style-type: none"> <li>i) Excavation and backfilling limited to 1m, unless gradient too steep</li> <li>ii) Minimum 900mm side and rear setback</li> <li>iii) Step retaining walls.</li> <li>iv) If site conditions require setbacks &lt;</li> </ul>	<p>Substantial earthworks are proposed for the proposed garage and associated</p>	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>

DCP Clause	Controls	Proposal	Compliance
	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.	internal access and circulation space.	
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Due to the north-south orientation of the site the existing formal living and dining areas and sunroom shall retain solar access in excess of 3 hours.	<b>Complies.</b>
	<b>Solar access to neighbouring development:</b>		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> <li>Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>Topography of the subject and adjoining allotments.</li> <li>Location and level of the windows in question.</li> <li>Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	Concerns have been raised regarding overshadowing impacts of the proposed development.	<b>Acceptable.</b> <i>See Key Issues for further discussion.</i>
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like)	A BASIX Certificate has been submitted with the	<b>Complies.</b>

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DCP Clause	Controls	Proposal	Compliance
	<p>and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> </ul> <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>	<p>application.</p> <p>Natural lighting and ventilation shall be facilitated through the design of the dwelling.</p>	
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> <li>- windows are offset or staggered</li> <li>- minimum 1600mm window sills</li> <li>- Install fixed and translucent glazing up to 1600mm minimum.</li> <li>- Install fixed privacy screens to windows.</li> <li>- Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	Concerns have been raised regarding potential overlooking from the proposed development.	<b>Acceptable, subject to condition.</b> <i>See Key Issues for further discussion.</i>
	<b>Balcony</b>		
	<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>	Concerns have been raised regarding potential overlooking from the proposed development.	<b>Acceptable, subject to condition.</b> <i>See Key Issues for further discussion.</i>
<b>5.4</b>	<b>Acoustic Privacy</b>		
	<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"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>	Concerns have been raised by neighbours in relation to noise emanating from the use of the pool and entertainment area	<b>Acceptable,</b> <i>See Key Issues for further discussion.</i>
<b>5.5</b>	<b>Safety and Security</b>		



DCP Clause	Controls	Proposal	Compliance
	i) Dwelling's main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	The formal entry is located on the Byron Street frontage, with a secondary entrance on the Dudley Street elevation. Windows are located on both street frontages and casual surveillance shall be achieved.	<b>Complies.</b>
<b>5.6</b>	<b>View Sharing</b>		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)	Concerns have been raised in submissions regarding view loss impacts as a result of the proposed development. It is considered that the proposal shall not result in any unreasonable view loss impacts.	<b>Acceptable</b> <i>See Key Issues for further discussion.</i>
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	The proposal includes a new double garage off Dudley Street, located forward of the front façade.	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment (if other options not available)</b>		
	i) The following may be considered: - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double	A double garage is provided.	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>

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DCP Clause	Controls	Proposal	Compliance
	width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> <li>- There is no alternative, feasible location for accommodating car parking;</li> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> </ul>		
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> <li>- nil side setback on adjoining property;</li> <li>- streetscape compatibility;</li> <li>- safe for drivers and pedestrians; and</li> <li>- Amalgamated driveway crossing</li> </ul>	The proposed garage is located 257mm from the eastern side boundary.	<b>Does not comply.</b> <i>See Key Issues for further discussion.</i>
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: <ul style="list-style-type: none"> <li>- Single driveway – 3m</li> <li>- Double driveway – 5m</li> </ul> Must taper driveway width at street boundary and at property boundary	The driveway shall be 5m tapering to 4m at the street kerb.	<b>Complies.</b>
<b>6.5</b>	<b>Garage Configuration</b>		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> <li>- Single garage – 3m</li> <li>- Double garage – 6m</li> </ul> iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	The proposed garage shall be 6.5m in width, however it is considered that there is no planning justification for the proposed width. As such it is recommended that the garage be reduced to a maximum width of 6m in accordance with the control. The parapet shall be 600mm.	<b>Acceptable, subject to condition.</b>
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	The proposed fencing is supported by Council's external Heritage Consultant and is considered to be appropriate in this instance.	<b>Acceptable.</b>

DCP Clause	Controls	Proposal	Compliance
<b>7.2</b>	<b>Front Fencing</b>		
	<p>i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers.</p> <p>ii) light weight materials used for open design and evenly distributed</p> <p>iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> <p>iv) 150mm allowance (above max fence height) for stepped sites</p> <p>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible</p> <p>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</p> <p>vii) Gates must not open over public land.</p> <p>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</p>	<p>The existing sandstone wall along Dudley Street will be extended to accommodate a new double garage. The existing sandstone wall along Byron Street forward of the existing dwelling is to be retained although the submitted Landscape Plan notates it as proposed. The existing metal fence along Byron Street will be replaced with a 1.8m high timber fence. A new feature privacy sandstone wall is proposed adjacent to the rear POS/pool area. The existing garage at the southern boundary will be removed and new 1.8m timber fence erected along the boundary.</p> <p>The proposed boundary fencing shall replace the existing fencing and be of similar visual impact, however will upgrade the materials and visual appearance of the fence.</p>	<b>Acceptable, subject to condition.</b>
<b>7.3</b>	<b>Side and rear fencing</b>		
	<p>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	<p>Insufficient detail has been provided with regards to the proposed fencing. A condition of consent is recommended for further details.</p>	<b>Acceptable, subject to conditions of consent.</b>

D6/23

D6/23

DCP Clause	Controls	Proposal	Compliance
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	<ul style="list-style-type: none"> <li>i) Locate behind the front building line</li> <li>ii) Minimise damage to existing tree root systems on subject and adjoining sites.</li> <li>iii) Locate to minimise noise impacts on the adjoining dwellings.</li> <li>iv) Pool and coping level related to site topography (max 1m over lower side of site).</li> <li>v) Setback coping a minimum of 900mm from the rear and side boundaries.</li> <li>vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks.</li> <li>vii) Position decking to minimise privacy impacts.</li> <li>viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.</li> </ul>	The swimming pool is located at the rear of the site close to existing ground level with a 1.1m setback to the side and rear boundary.	<b>Complies</b>
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	<ul style="list-style-type: none"> <li>i) Located behind the front alignment and not be prominently visible from the street</li> </ul>	Clothes drying facilities can be incorporated within the site.	<b>Complies.</b>

**Responsible officer:** Thomas Mithen, Environmental Planner

**File Reference:** DA/145/2021



## Development Consent Conditions (Dwellings and Dual Occupancies)



<b>Folder /DA No:</b>	DA/145/2021
<b>Property:</b>	38 Dudley Street, COOGEE NSW 2034
<b>Proposal:</b>	Alterations & additions to an existing dwelling including a first floor addition, swimming pool & garage
<b>Recommendation:</b>	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

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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
DA-03 Proposed Roof Plan (Site Plan) Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-04 Proposed Basement Plan Analysis Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-05 Proposed Lower Ground Floor Plan Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-06 Proposed Upper Floor Ground Plan Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-07 Proposed First Floor Plan Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-08 Proposed North Elevation Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-09 Proposed West Elevation Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-10 Proposed East Elevation Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-11 Proposed South Elevation & External Finishes Rev L	Chapman Architecture	28 September 2022	6 October 2022
DA-12 Proposed Long	Chapman	28 September 2022	6 October 2022

Section Rev L	Architecture		
<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>	
A371622	11 March 2021	25 March 2021	

**Amendment of Plans & Documentation**

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

- a. A privacy screen having a height of 1.6m (measured above finished floor level) shall be provided to the eastern edge of the first floor rear facing balcony.

Privacy screen/s must be constructed with either:

- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
  - Fixed lattice/slats with individual openings not more than 30mm wide;
  - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- b. The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
- Living room windows at the upper floor ground along the eastern elevation
  - Bedroom 3 dormer window at the upper floor ground along the eastern elevation
  - Main bedroom windows at first floor along the eastern elevation
- c. Details of the dormer windows including revised dormer roof to reduce the distance it extends outwards from the roof plane.
- d. Details of the garage door opening in the sandstone wall along the Dudley Street frontage of the site.
- e. Details of proposed boundary fencing along all boundaries including the Dudley Street and Byron Street frontages of the site.
- f. A digitally based photographic archival record of the property (externally and internally). This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. Two USB or DVD copies of the endorsed archival recording shall be presented to Council, one of which shall be placed in the Local History Collection of Randwick City Library.
- g. A Schedule of Conservation Works for the existing building shall be prepared in accordance with the principles embodied in the Australia ICOMOS Burra Charter and the methodology outlined in J.S. Kerr's The Conservation Plan. The Schedule is to set out the conservation approach, original building fabric to be salvaged for reuse on site, and methodologies for the repair of original finishes retained in situ. This Schedule shall be prepared by an architect suitably qualified and experienced in heritage conservation.

- h. Evidence of engagement of a suitably experienced heritage consultant to undertake periodic inspections of the works during opening up and construction phases to confirm the works are consistent with best practice heritage principles. The heritage consultant is to be involved in the resolution of detailing and fabric treatment required for the subject development throughout detailed design and construction phases.
- i. A suitably experienced engineer is to be engaged to provide methodology for the temporary protection of the existing building and to confirm the removal of internal walls and to maintain the structural stability of the existing building during the excavation, investigation/opening up works, and construction works. Provide details of the Structural engineer's methodology for temporary protection and confirmation of structural integrity of the existing building including roof structure.

The amended plans and additional documentation/details required in Condition 2 must be submitted for approval by Council's Manager of Development Assessment.

**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.

**Heritage Conservation**

4. A suitably qualified professional stonemason shall be appointed to supervise and direct all proposed works to the front sandstone retaining wall in conjunction with the architect for the project. Details of the professional stonemason are to be provided to Council prior to the issue of a construction certificate.
5. The appointed professional stonemason shall undertake a photographic archival recording of the current sandstone wall, with each of the sandstone block to be catalogued, itemised and provided with a serialised identification to be submitted to Council for approval prior to issue of construction certificate.

**External Colours, Materials & Finishes**

6. 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**

7. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$440,000 the following applicable monetary levy must be paid to Council: \$4,400.

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

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

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

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

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

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

Council's Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

**Long Service Levy Payments**

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

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.

**Security Deposit**

9. 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*:

- \$5000.00 - Damage / Civil Works Security Deposit

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

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

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



**Design Alignment Levels**

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

- **Match the back of the existing Council footpath levels along the full site frontages.**

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

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

11. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of **\$176**. This amount is to be paid prior to a construction certificate being issued for the development.

**Internal Driveway Design**

12. The gradient of the internal access driveway and garage slab must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate documentation.

**Stormwater Drainage**

13. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.
14. Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.

The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the relevant conditions of this development approval.

**Landscape Plans**

15. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Aspect Designs, sheets L/00 – 05, dated 22/05/20, with both this statement and plans to then be submitted to, and be approved by, the Principal Certifier.

**Street Tree Protection**

16. In order to ensure retention of the row of three mature trees that are spaced evenly along the length of the Byron Street frontage, comprising from north to south, an *Agonis flexuosa* (Willow Myrtle) closest to the corner of Dudley Street, a slightly larger *Banksia serrata* (Saw Toothed Banksia) adjacent the southwest corner of the existing dwelling, then another Willow Myrtle towards the existing vehicle crossing and garage in good health, the following measures are to be

undertaken:

- a. All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown on all plans in relation to the site and works.
- b. Each tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which shall be located a minimum distance of **2 metres** to their north and south, matching up with the back of the kerb to their west and footpath to their east to completely enclose them 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. Within the TPZ's there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
- f. The applicant is not authorised to perform any other works to these trees and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, with payment to be received prior to pruning or any Occupation Certificate.
- g. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.
- h. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$2,500.00** 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 trees.

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 trees during the course of works or prior to an Occupation Certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

### **Sydney Water Requirements**

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

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

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

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

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

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

### **REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the 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**

18. 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**

19. 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.

#### **Excavations & Support of Adjoining Land**

20. 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.
21. 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*.

#### **Swimming/Spa Pools**

22. Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the *Building Code of Australia* and be provided with a child-resistant barrier in accordance with the *Swimming Pools Act 1992*; the *Swimming Pools Regulation 2018* and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools). Details of compliance are to be provided in the Construction Certificate.

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

*Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.*

23. Swimming pools are to be designed, installed and operated in accordance with the following general requirements:
- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.
  - Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance.



- Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.
- Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.

#### 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

24. 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

25. 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 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 Report**

26. A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a *Professional Engineer*, detailing the current condition and status of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the *Principal Certifier* for the development.

The dilapidation report must be submitted to the *Principal Certifier*, 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 Site Management Plan**

27. 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 and hoardings
- location of site storage areas, sheds, plant & equipment
- location of building materials and stock-piles
- tree protective measures
- dust control measures
- details of sediment and erosion control measures
- site access location and construction
- methods of disposal of demolition materials
- 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
- measures to be implemented to ensure public health and safety.

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

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.

28. A *Sediment and Erosion Control Plan* must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for *Managing Urban Stormwater – Soils and Construction*, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.

**Construction Noise & Vibration Management Plan**

29. 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**

30. A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:

- a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.
- b) The Demolition Work Plan must include the following details (as applicable):
  - The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
  - Details of hazardous materials in the building (including materials containing asbestos)
  - Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)
  - Measures and processes to be implemented to ensure the health & safety of workers and community
  - Measures to be implemented to minimise any airborne dust and asbestos
  - Methods and location of disposal of any hazardous materials (including asbestos)
  - Other measures to be implemented to ensure public health and safety
  - Date the demolition works will commence/finish.

The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

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

**Notes:** *it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.*

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

**Public Utilities**

31. 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.
32. 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.

**Council Gutter Converter Relocation/Drainage Design**

33. Prior to the commencement of any building works the applicant is to have a suitably qualified Chartered Professional Engineer submit to Council's Drainage

Assets Engineer (Mr Paramesh Halaradhya - [Paramesh.Halaradhy@randwick.nsw.gov.au](mailto:Paramesh.Halaradhy@randwick.nsw.gov.au)) detailed construction drawings with levels (existing and designed), long sections details of the relocated Council gutter converter in Dudley Street including and changes to drainage pipe network upstream etc.

The Principal Certifier is to ensure compliance with this requirement.

*Note: Once the drainage design plans are approved by Council's Drainage Assets Engineer (a Design Checking Fee may be charged) the applicant can submit a Civil Works Application Form to Council which will address all fees/bonds/supervision fees etc associated with the civil works in Dudley Street and Byron Street including the new driveway in Dudley, removal of the old driveway in Byron St and the approved drainage plan works in Dudley St*

#### 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.

#### Heritage Consultant - Inspections

34. A suitably experienced heritage consultant is to undertake periodic inspections of the works during opening up and construction phases to confirm the works are consistent with best practice heritage principles (refer to Condition 2). The heritage consultant is to be involved in the resolution of detailing and fabric treatment required for the subject development throughout detailed design and construction phases.
35. All sandstone blocks that are to be removed and deconstructed from the existing front sandstone wall shall be carefully dismantled, stored, and re-used and installed in the proposed vertical extension to the existing sandstone wall to create a level wall across the front of the subject site. This work shall be carried out under the supervision and direction of the appointed professional stonemason.

#### Structural Engineer

36. A suitably experienced engineer is to be engaged to provide methodology for the temporary protection of the existing building and to confirm the removal of internal walls and to maintain the structural stability of the existing building during the excavation, investigation/opening up works, and construction works (refer to condition 2).

#### Site Signage

37. 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

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

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

*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.*

### Construction Site Management

39. Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.

Temporary site fences 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); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.

Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.

All site fencing, hoardings and barriers 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.

#### Notes:

- Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.
- 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.

40. Public safety and amenity 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) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
- g) 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.
- 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) 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.
- j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

#### **Demolition Work & Removal of Asbestos Materials**

41. 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 10m<sup>2</sup> 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.

*A copy of Council's Asbestos Policy is available on Council's web site at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

**Excavations and Support of Adjoining Land**

42. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.

Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

**Building Encroachments**

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

**Survey Report**

44. 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:

- prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,
- prior to construction (pouring of concrete) of new floor levels,
- prior to issuing an *Occupation Certificate*, and
- 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.

**Tree Management**

45. No objections are raised to the removal of all vegetation from within this development site as they were confirmed to be insignificant and exempt from the DCP due to either their small size or being undesirable/weed species, as well as in direct conflict with the new works in these same areas as shown, and includes the Oleander centrally in the front setback, as well as the various shrubs/small trees throughout the rear setback, and is subject to full implementation of the approved Landscape Plans.

**Road / Asset Opening Permit**

46. 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

47. 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*.

#### Heritage Conservation

48. A photographic archival recording clearly indicating the existing sandstone blocks that have been re-used and installed and their location in the construction of the vertical extension to the existing sandstone retaining wall shall be submitted to Council for approval prior to issue of the occupation certificate.

#### BASIX Requirements & Certification

49. 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 any relevant BASIX commitments and requirements have been satisfied.

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

#### Council's Infrastructure, Vehicular Crossings, street verge

50. The applicant must meet the full cost for a Council approved contractor to:
- Construct a new concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site to Council's specifications and requirements.
  - Remove the redundant concrete vehicular crossing and gutter bridge in Byron Street and to reinstate the area with turf and integral kerb and gutter to Council's specifications and requirements.
  - Relocate the existing gutter converter drainage pit in Dudley Street to the west of the new vehicular crossing. The location of the gutter converter and associated realignment of Council drainage pipeline system are to be to Council's specifications and requirements and in accordance with the approved design reviewed by Council's Drainage Assets Engineer.

51. 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.
52. 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 10 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.

**Landscape Certification**

53. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Aspect Designs, sheets L/00 – 05, dated 22/05/20.
54. Suitable strategies must then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
55. That part of the nature-strips upon Council's footways which are 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.

**Swimming Pool Safety**

56. Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the *Swimming Pools Act 1992*; the *Swimming Pools Regulation 2018* and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).
57. A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the *Swimming Pools Regulation 2018*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

58. The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the *Swimming Pools Act 1992*. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

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

#### 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.

#### External Lighting

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

#### Waste Management

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

#### Plant & Equipment

61. The operation of all plant and equipment (including air conditioners and pool pumps or other equipment) on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

#### Use of parking spaces

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