

Randwick Local Planning Panel (Electronic) Meeting

Thursday 8 February 2024



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held in the Coogee Room on Thursday, 8 February 2024

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

D2/24	10 Major Street, Coogee (DA/3/2023)	1
D3/24	147 Avoca Street, Randwick (DA/954/2023)	117
D4/24	35 Kensington Road Kensington (DA/879/2023)	161
D5/24	1125 Anzac Parade, Matraville (DA/197/2023)	189
D6/24	1/11 Mons Avenue, Maroubra (DA/839/2023).....	265
D7/24	66 Coogee Bay Road, Randwick (DA/490/2022/A).....	315
D8/24	153 Oberon Street, Coogee NSW 2034 (DA/750/2023)	325

Kerry Kyriacou
DIRECTOR CITY PLANNING

Development Application Report No. D2/24

Subject: 10 Major Street, Coogee (DA/3/2023)


Executive Summary

Proposal:	Alterations and additions to an existing residential flat building including the addition of 2 x 1-bedroom apartments to the ground floor with additional storage and waste areas, extension of the fourth floor terrace, refurbishment and extension of existing roof and balconies, building upgrade works, landscaping, and associated works. Amended proposal: reduction in glazing to some balcony windows, extended privacy screens to ground floor terraces, amended parking scheme plan and relocation of the clotheslines, other minor works.
Ward:	North Ward
Applicant:	Ms K Milliss
Owner:	The Owners - Strata Plan No. 2273
Cost of works:	\$7,004,562.00
Reason for referral:	The development contravenes the development standards for floor space ratio and building height by more than 10%.

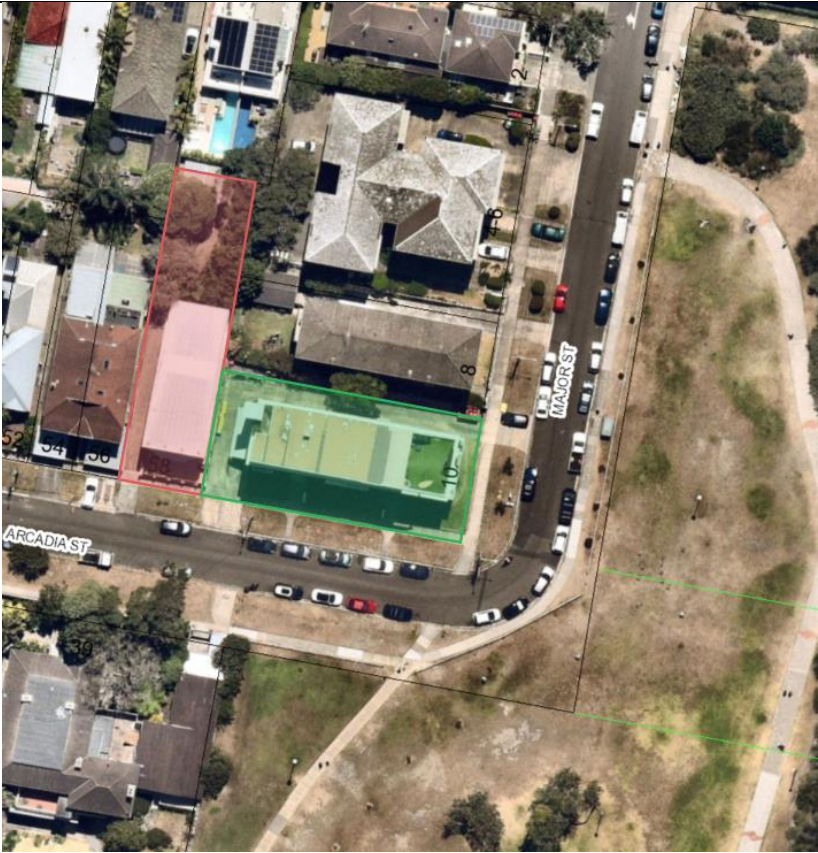
Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the building height development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Planning Secretary may be assumed.
- B. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Planning Secretary may be assumed.
- C. That the RLPP grant consent under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/3/2023 for alterations and additions to an existing residential flat building including the addition of x2 1-bedroom apartments to the ground floor with additional storage and waste areas, extension of the fourth floor terrace, refurbishment and extension of existing roof and balconies, building upgrade works, landscaping, and associated works, at No. 10 Major Street, Coogee NSW 2034, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/3/2023 - 10 Major Street, COOGEE NSW 2034 - DEV - Randwick City Council

D2/24



N.b. x1 submission from No. 58 Arcadia Street was received.

Subject Site
Submissions received
North
Locality Plan

1. Executive summary

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

- The development contravenes the development standard for building height by more than 10%.
- The development contravenes the development standard for floor space ratio by more than 10%.
- The development is subject to SEPP 65 as the proposed substantial alterations and additions works are to a building that is 3 or more storeys and contains at least 4 dwellings.

The proposal seeks development consent for alterations and additions to an existing residential flat building, comprising refurbishment of the exterior of the building including the roof and new balconies, additions to the existing level 4 apartment and the ground floor level to include two (2) x 1 Bed apartments with courtyards, laundries, hardstand parking and storage and waste areas. The proposal includes ancillary landscaping works and the upgrade of the building to comply with building code requirements.

Throughout the assessment process, amended plans were received with proposed changes including a reduction in glazing to some balcony windows, extended privacy screens to ground floor terraces, an amended parking scheme plan and relocation of the clotheslines, along with other minor works.

The key issues associated with the proposal relate to the amenity of the proposed additional x2 ground floor units and the privacy of the ground and first floor units, as well as the privacy of the adjoining neighbour at No. 4/58 Arcadia Street, Coogee. In considering the constraints of providing x2 additional units within the existing building envelope, the proposal has sought to provide sufficient

amenity and privacy to the future unit occupants. The proposal is recommended for approval subject to non-standard conditions that require the following:

- a. The northern living room windows to Unit 14 and Unit 15 are to be fixed to a maximum height of 1.4m (measured above finished floor level). The portion of window above the 1.4m height is to be operable for cross-ventilation.
- b. The following windows will be required to be installed with double glazing:
 - Unit 14, northern living room window.
 - Unit 14, northern Bedroom 1 window.
 - Unit 15, northern living room window.
- c. The privacy screens provided to the southern ground floor terraces fronting Arcadia Street must be constructed with fixed lattice/slats with individual openings not more than 30mm wide.
- d. A privacy screen having a height of 1.6m (measured above finished floor level) shall be provided to western side of the southern balconies to Unit 1, 3 and 5. Privacy screen/s must be constructed with translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable).
- e. The following units are to be allocated the following minimum storage areas within the common storage rooms on the ground floor level:
 - Unit 14 - 1.7m³
 - Unit 15 - 6m³
- f. The remaining storage areas within the common storage rooms on the ground floor level are to either remain as shared storage or allocated proportionately to each unit, based on the unit entitlements in the strata plan, to the satisfaction of the Principal Certifier.

2. Site Description and Locality

The site is identified as Lot C, DP 4333 (being Lots 1-13 in SP 2273), No. 10 Major Street, Coogee NSW 2034. The site is located on the corner of the western side of Major Street and the northern side of Arcadia Street.

The site is a rectangular shaped allotment with an 18.288m primary frontage to Major Street, a 38.1m secondary frontage to Arcadia Street, a 37.916m northern boundary, an 18.288m western boundary, and a total site area of 695m².

The site falls across approximately 1m in a westerly direction from the Major Street boundary to the western boundary.

Existing on site is a five storey residential flat dwelling, consisting of the following layout:

- Level 1: (x4) storage rooms, (x2) bathrooms, (x2) common laundry rooms, and a large subfloor area.
- Level 2-4: (x4) 2-bedroom units to each floor.
- Level 5: (x1) 3-bedroom unit with a large partially enclosed terrace.

The main entrance to the dwelling is to Arcadia Street with the main access to units via an internal stairwell. The front setback area of the building to Major Street and Arcadia Street is a landscaped area.

Adjoining the building to the west is a single vehicle garage allotted to the unit on Level 5 and an external lift shaft that provide access from the inside of the garage to this unit. Along the northern boundary is a permanent bin structure to Major Street, (x4) uncovered vehicle parking spaces and a clothing line in the north-western corner of the allotment.

Along the western boundary is an historic Right-of-Carriageway (ROW) that was created in favour of the western adjoining neighbour, No. 58 Arcadia Street. The ROW is currently not being used for any access to No. 58 Arcadia Street.

The surrounding area is characterised by residential development, including dwelling houses and residential flat buildings. Adjoining the site to the north at No. 8 Major Street is a four storey residential flat building with (x6) units and to the west at No. 58 Arcadia Street is a two storey four storey residential flat building with (x4) units. Opposite the building to the eastern side of Major Street and southern side of Arcadia Street is Dunningham Reserve which makes up the northern headland of Coogee Bay.

The site is not listed as a Heritage Item or within a Heritage Conservation Area.



Figure 1: Photo of the existing building to Major Street – 10 Major Street, Coogee (Source: Randwick City Council)



Figure 2: Photo of the existing building to Arcadia Street – 10 Major Street, Coogee (Source: Randwick City Council)



Figure 3: Photo of the existing building to Arcadia Street and No. 58 Arcadia Street – 10 Major Street, Coogee (Source: Randwick City Council)

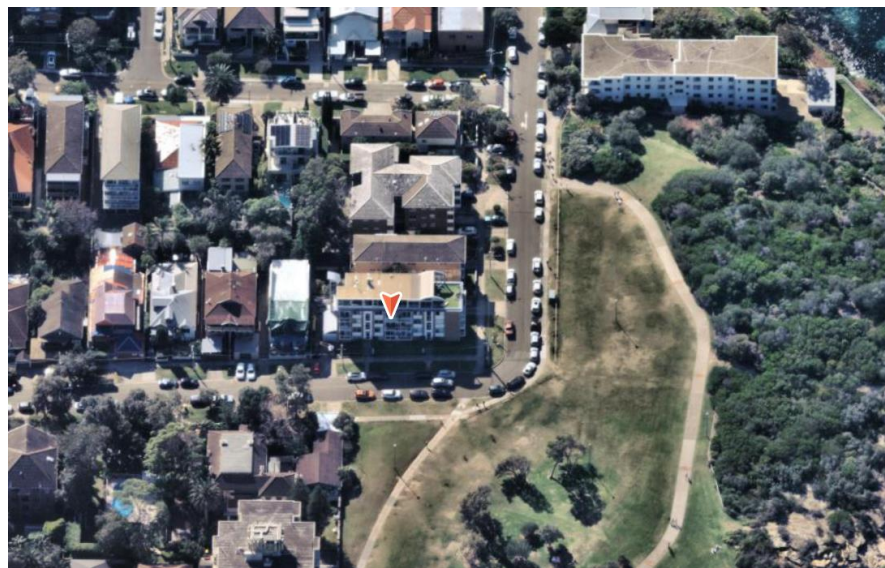


Figure 4: North oblique view of the subject neighbourhood (May 2023) – 10 Major Street, Coogee (Source: Nearmap)

3. Relevant history

The following is a table outlining a brief history of applications relevant to the subject allotment:

Application Number	Status	Description of works
BA/482/1959	Approved	Residential Flat Building - 13 Units
BA/73/1960	Approved	Additional Flat - Penthouse
BA/777/1986	Approved	Replacing Window Wall & Bracing
BA/777/1986/A	Approved	Replacing Windows - Unit 13
BA/398/1987	Approved	Alterations to the Roof Unit 13
BA/687/1987	Approved	Window Replacement
DA/217/2003	Approved	Replace existing garage and install a new lift to the external northern face of the building
DA/217/2003/A	Approved	Section 96(2) - Retain the existing garage but with new roof lift shaft reduced and new glass panels along southern side of the

D2/24

		lift.
DA/666/2007	Approved	Reconstruction of existing first and second floor balconies on eastern elevation.
PL/39/2021	Advice Provided - 9/11/2021	Amended plans received: reconfigured units, addition of motorcycle parking, and additional analysis provided. Original pre-lodgement: Pre-lodgement application for alterations and additions to existing residential flat building, including partial demolition, upgrades to existing units balconies, reconfiguration of the ground floor including two additional units and new storage space, plus an additional car parking space and associated works (variations to building height and FSR of the RLEP 2012).

Pre-lodgement Application - PL/39/2021

On 28 June 2021, the Pre-Lodgement Application No. PL/39/2021 was lodged with Council. Snippets of the proposed architectural plans have been reproduced below:



Figure 5: Proposed ground floor plan in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

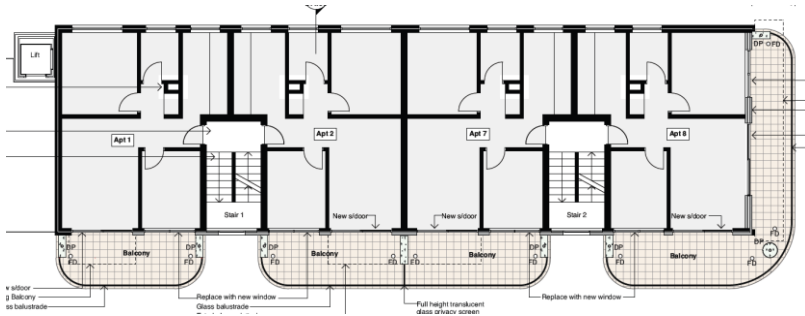


Figure 6: Proposed first-third floor plan in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

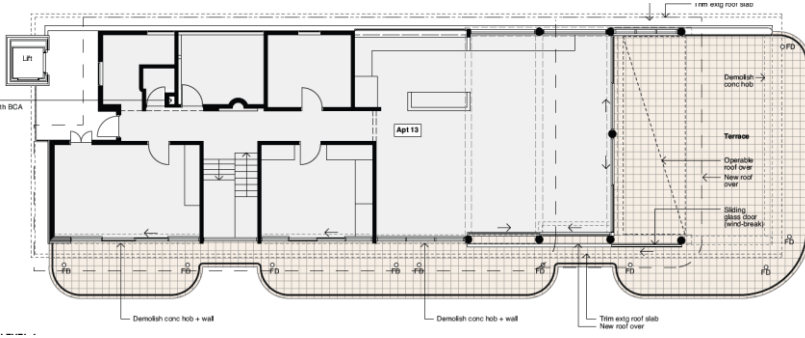


Figure 7: Proposed fourth floor plan in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

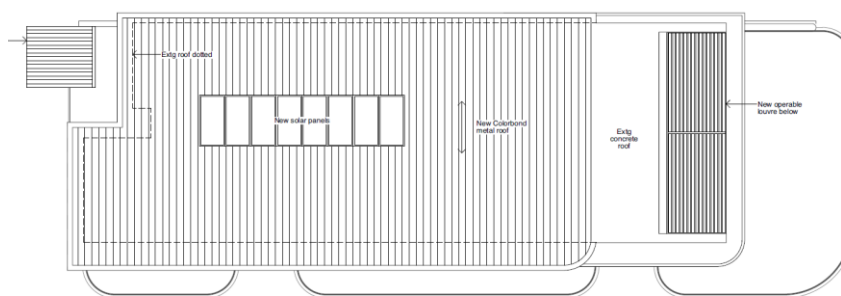


Figure 8: Proposed roof plan in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)



Figure 9: Proposed southern elevation in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

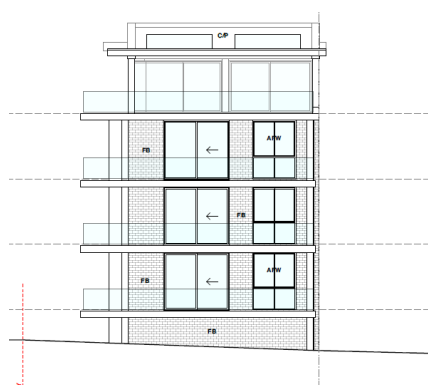


Figure 10: Proposed eastern elevation in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

On 09 November 2021, following a meeting with the applicant, Council provided formal written advice on the proposal. The relevant issues to this subject DA have been reproduced below:

Apartment Design Guide (ADG): Ground level apartments – Apt 14 and Apt 15 (new)

Floor to ceiling heights:

The ADG indicates that the minimum dimensions for floor to ceiling heights contribute to amenity and the perception of space. That ceiling heights are directly connected to achieving sufficient ventilation and daylight access to habitable rooms.

The proposed 2.31m floor to ceiling heights (measured from the Pre-DA plans) do not comply with the 2.7m control in Objective 4C of the Apartment Design Guide (ADG). Although it is noted that the plans indicate a 2.4m floor to ceiling height. A formal DA is required to include reflected ceiling plans showing floor and roof linings noting that certain acoustic measures may be required. If a 2.4m floor to ceiling height is provided or able to be achieved, then it is

important that level of amenity for the new apartments is able to be demonstrated in terms of providing for reasonable level of solar access (2 hours as per Objective 4A of the ADG) noting also that natural cross ventilation (objective 4B of the ADG) is also required.

If any form of excavation is proposed to achieve appropriate floor to ceiling heights, then a future DA should also provide a Geotechnical report and Engineers assessment that states the existing building is able to be supported with the depth of excavation required and measures of support required.

Solar access

The new apartments (living rooms and POS) will not receive 2 hours solar access between 9am to 3pm in accordance with the Objective 4A – solar and daylight access in the ADG. A natural constraint of the site is the subdivision and development pattern on an east-west axis which means it is unavoidable that overshadowing will occur to the middle floor unit. This may mean that this unit is not able to achieve appropriate levels of solar access therefore it is recommended that a formal DA either delete this middle unit or only seek development for the purpose of a single unit that is able to be configured to attain required levels of solar access.

Important note: as these are new apartments, Council is obliged to consider whether that new apartment/s will respond to appropriately to environmental and energy needs which is a key objective of the FSR standard that needs to be demonstrated as being achieved. If this cannot be adequately demonstrated, then it will mean that the variation to the FSR standard under a clause 4.6 is unlikely to be supported and therefore result in a refusal of the DA.

A formal DA could also consider the following measures to maximise solar access:

- Re-arranging layout such that solar access is maximised to living spaces
- Provide new or larger windows to living rooms keeping in mind that acoustic privacy amenity is compromised by the nearby parking and driveway (objective 4D apartment size and layout, and objective 4H Acoustic privacy).
- Potentially provide recessed balcony to the north western corner or at least demonstrate that a courtyard to the southern side is the most appropriate in terms of overall amenity.

Private open spaces (POS)

The proposed new courtyards on the southern street frontage does not allow for solar access and there are challenges to making this area private from passing pedestrian traffic. Consideration could be given to providing for a recessed secondary area of POS at the northern western corner of the site adjacent to the lift and additional landscaping and privacy screening for south facing courtyard/s. It is noted that this application will be required to be sent to the Design Excellence Advisory Panel (DEAP) for comment.

Overall, the application Pre DA is considered unsatisfactory in relation to the amenity principle of SEPP 65, in that the proposal does not represent provision of adequate amenity with regards to floor to ceiling heights, room dimension of bedroom 1 for apartment 15, solar access to living rooms and POS (noting that unit 15 will not receive any solar access), and acoustic amenity in terms of the new units location in close proximity to driveway and vehicle parking spaces.

Acoustic amenity

Objective 4H Acoustic Privacy and 4J Noise and Pollution of the Apartment Design Guide are key elements of the ADG which seek to ensure acoustic privacy for future occupants and physical separation from noise sources respectively.

The key issue with the proposed unit/s are that they are located alongside the driveway.

It is recommended that attempts be made to minimise the noise impact from being alongside the driveway by including plantation shutters across the window openings. These are operable and can achieve a reduction in noise impacts associated with the proximity of the driveway. Given that there are several window openings along the driveway there may be instances where the plantation shutters may be strategically closed to minimise the noise to

the main living area whilst opening plantation shutters at another part of the unit to allow for light and ventilation.

R3 Medium Density Residential Zone Objectives

The main concern with the proposal relates to whether the proposal will be able to protect the amenity of residents which includes both occupants and neighbours.

In regard to occupants, the relevant advice is contained in the earlier section under SEPP 65 and ADG design criteria and guidance and other sections further below in relation to FSR variation, and RDCP sections.

In regard to neighbours, the proposed enlarged balconies and terrace areas have the potential to result in view loss due to additional privacy measures required at both ground level for the new apartments and the increased size and depth of balconies, noting that the SEE indicates that there will be privacy screens located to the western side of balconies.

Height of Buildings (HOB)

There are concerns that the proposal may incorporate blade walls/privacy screens to the balconies (not clearly identified as new works on the elevations) whilst providing for some level of privacy measures and functional separation, they may end up resulting in adverse impacts on views from No. 58 Arcadia Street and other properties further west as well as No. 8 Major Street. A future DA is required to clearly show any built form elements proposed and to consider these in an assessment of views that may be impacted from neighbouring properties.

Floor Space Ratio (FSR)

It is noted that the proposed additional floor area will not result in any direct impacts on the amenity of adjoining and neighbouring land in terms of habitable floor area however there are secondary impacts associated with the proposed courtyards and balconies particularly if the proposal relies on additional privacy protection measures such as privacy screens and planting that may impact on views.

Randwick Development Control Plan 2013 - RDCP

The main considerations in relation to the RDCP relate to the following aspects:

- External wall heights associated with the blade walls whilst noted as being an architectural feature may potentially result in view loss.
- Study rooms – a future DA shall ensure that this room shall be opened up and used as part of the living area incorporating a study nook instead.
- Parking requirements (Part B7): The proposed additional 2 x 1-bedroom unit on the ground floor and increases the parking demand by 2 spaces. Under separate cover Council's Development Engineer will provide advice on the issues surrounding the parking deficiency.
- Waste Management (part B6): Under separate cover, Council's Development engineer will provide advice on this matter.

Design Ideas for Rejuvenating Flat Building

The policy contains concepts and design principles, to upgrade and extend the life of buildings and enhance the quality of living for the residents. Key design principles aim to ensure high quality design outcomes are achieved, focusing on better amenity for the residents, better environmental performance of the building and improvements to the buildings appearance and streetscape presentation. Council acknowledges the need to carry out necessary maintenance work to these old strata buildings to meet changing needs and lifestyle of residents or to meet safety requirements.

The concepts contained in the policy vary between minimal to extensive alterations and reconfiguration. The proposed Pre DA is for contemporary visual improvements to the existing building with amenity improvements limited to new larger balconies for units. It is noted that these improvements are largely dependent on the provision of additional FSR to pay for these works.

Parking Provision Comments

The proposed development will be adding 2 x 1 bedroom units to the site which will increase parking demand by 2.0 spaces to a total of 21 spaces under the DCP.

As 1 additional space above the existing situation being a total of 6 spaces has been provided, this still leaves a shortfall of 1.0 space for the proposal or a total of 15 spaces when considering the site as a whole.

The shortfall (1 space) may not be numerically significant but due to the site's location within an area of very high demand for on-street parking and the current illegal parking that is occurring on the council verge, this will likely only add to the significant parking pressures in the locality. The proposal would likely not be supported in its present form on this basis.

The applicant will need to find ways to mitigate the parking shortfall by looking at measures to reduce the vehicle parking demand on the site as much as possible. It is suggested additional motorbike and bicycle parking be provided wherever possible.

Although not strictly applicable to the existing units, under Part B7 of the DCP, the current rate for bicycle parking is 1 space per 2 units plus 1 visitor space per 10 units. This should be used as a guide to provide an appropriate amount of bicycle parking (if possible) to assist in mitigating the vehicle parking shortfall.

Although not strictly applicable to the existing units, under Part B7 of the DCP, the current rate for motorbike parking is 5% of the vehicle parking requirements. This should be used as a guide to provide an appropriate amount of motorbike parking (if possible) to assist in mitigating the vehicle parking shortfall.

Parking Layout Comments

The carpark areas appear to have restricted manoeuvring paths and clearances. Swept paths may be required for some of the new spaces to demonstrate satisfactory access can be achieved.

On 03 December 2021, Council received amended architectural plans that addressed some of the concerns above. The amended proposal was referred to the Randwick Design Excellence Advisory Panel (DEAP) for additional comments. Snippets showing the amended architectural plans have been reproduced below:

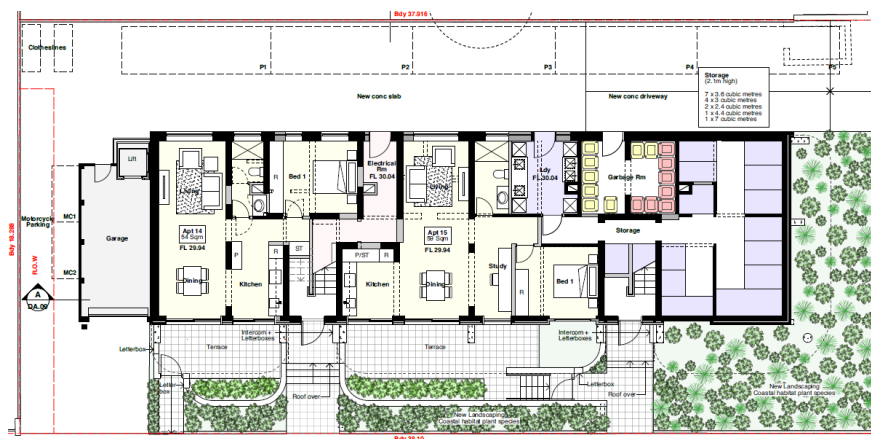


Figure 11: Revised ground floor plan in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

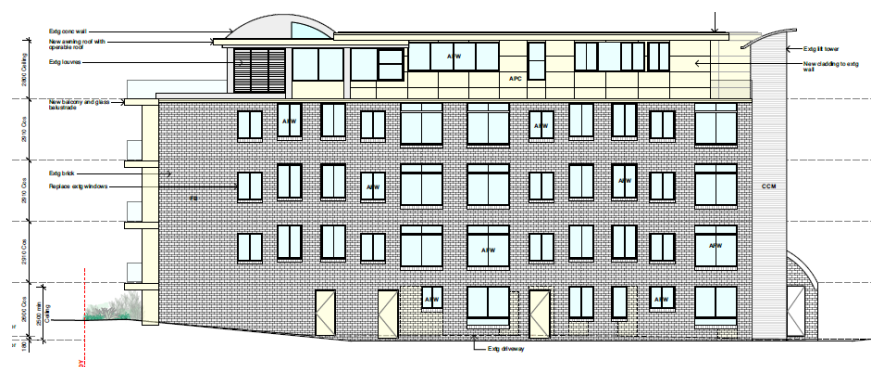


Figure 12: Revised northern elevation in PL/39/2021 – 10 Major Street, Coogee (Source: Ken Powell Architect)

On 14 February 2022, the DEAP provided the following relevant comments on the proposal:

The proposal features the conversion of disused ground floor space into two additional units, with the existing upper level units being modified to include external balconies off the living spaces (along the eastern and southern elevations). Limited landscape improvements are proposed, and no additional parking is provided.

The existing building is already over the current planning controls (height and FSR), however, the proposal has limited environmental impacts given the nature and orientation of the proposed changes to the existing building.

Principle 1: Context and Neighbourhood Context

The design would benefit from a more considered analysis and response to the local context and the relationship this prominent site has to the built form character along Arcadia and Major Streets. Similarly, analysis of the views across the Reserve to the site should also be considered, focusing on the alignment of street-wall with neighbouring properties, and the treatment of the top floor of the subject site. The views on DA.01 provide a good starting point for this work.

Principle 2: Scale and Built Form

The additional two units occupy existing space within the building and have limited impact and contribution to the overall composition of the building. There are some concerns with the amenity of these two units; ceiling heights and direct sunlight to the primary living spaces. However, given the site's location within a high-valued area, and the capacity for improving the entire building, the Panel feel these short-comings are justified.

Other items include:

- Rationalise the treatment of the top level to include a single roof profile that reads consistently along the southern and eastern elevations. The current elevations show the roof to step part-way along the living room, where it appears columns have been introduced, potentially as part of a past extension. The curved roof feature and high-level window to the east also detracts from the potential of a more holistic treatment to the top level. To reduce the perceived height of the building, the Panel would prefer these elements are removed and replaced with a single, more visually recessive element that better relates the buildings relationship to its context (see above).
- Extension of the eaves to the north along the top floor to create solar protection and express this level from the solid brick base of the lower floors.
- Review aluminium cladding system at the top floor – this is not an ideal material for a coastal setting and detracts from the honest brick materials of the lower levels.
- Planning and form of the balconies should be the subject of 1:20 sections and further details on drainage and transition from the units to balcony spaces.
- Renders show a white concrete column in the south-eastern corner to support the balconies, however, on the plans this is noted as a down-pipe and appears to be under-sized for its structural role – this needs to be clarified.

Principle 3: Density

The Panel support the provision of the two units in principle, as they occupy as existing space, have a negligible environmental impact, and have adequate amenity (supplemented by the coastal setting). However, this additional density must be accompanied by a commensurate investment in the rest of the building, beyond the addition of balconies and new cladding system.

Principle 4: Sustainability

The Panel note the addition of solar panels on the roof, and believe there's scope to improve the environmental performance of the building in a number of ways:

- Ceiling fans in all bedrooms, and if possible, living spaces.
- Outdoor drying areas to reduce the demand on dryers.
- Additional secure bike parking and storage

Principle 5: Landscape

Further refinement of the ground floor plan is required, and the Panel encourage the appointment of a qualified landscape architect to ensure the species selected will survive in those exposed coastal location. Other items that should be captured in the Landscape Plan:

- Fence detail and footpath interface to improve privacy and tie into streetscape characters of Major and Arcadia, and the architecture of the building.
- Where possible, reduce the extant of hardscape and introduce additional soft landscaping.
- Provide some communal spaces in locations that mitigate impacts on the new units, and remain highly valued (i.e. secure and private).
- Opportunities for more established trees to provide some privacy to the lower level units, whilst ensuring the views are retained.

Principle 6: Amenity

The Panel recognise that the solar access to the proposed unit 15 at ground may be limited, given its positioning in the centre of the site and overshadowing from No. 8 Major Street. Given these ground floor units are occupying available space within the existing building, these limitations are either supported, or the unit is removed and the opportunity to improve the site as part of a holistic regeneration project is eroded. Given the site's location, proximity to high levels of amenity, and the potential of the ground floor terrace at Unit 15, the limited solar access in mid-winter can be supported. This position is also subject to the other points noted in this report being adequately addressed.

Principle 7: Safety

The Panel has no comments in relation to this principle.

Principle 8: Housing Diversity and Social Interaction

The Panel has no comments in relation to this principle, other those relating to the design of the ground floor and landscape.

Principle 9: Aesthetics

The replacement of the corrugated iron cladding to all elevations with a new aluminium cladding system isn't supported by the Panel. This appears to be swapping one fallible material with a contemporary version – compounded by the harsh coastal location. Given the site's prominence and high-value, the preference is see a more robust and tactile material that relates to the buildings modernist influences. Similar comments have been made about the top floor treatment, which the Panel would like to see as being a lighter framed element (for example a darker mansard form) articulated from and sitting on the heavier brick base. The continuation of aluminium cladding up each elevation isn't supported.

Further resolution around the entrances, signage and lobby spaces also needs to take place as part of the next design iteration. Similarly with the material selection, there are opportunities to tie these elements into a broader narrative for the site and its contribution to the area.

SUMMARY AND RECOMMENDATIONS

Overall, the Panel support additional two units at ground and balconies to the existing upper level units. Further work needs to be undertaken on the design of the ground plan, including the landscaping, access area, lobby and street interfaces.

The Panel would like to see greater care and consideration given to the treatment of the building and its relationship to the immediate and broader urban context. The site's prominence and highly valued location deserves an architectural response that brings life into the building and sets a benchmark for this type and form of development. Replacing corrugated iron cladding with aluminium gladding doesn't do the building justice. Also, the treatment of the top level should be revisited, as the success of this project will be determined by the manner in which the mistakes of the past (renovations) can be mended through a clear design vision.

Subject Development Application DA/3/2023

Additional Information Request

On 26 May 2023, Council sent a formal additional information request to the applicant outlining issues with the protection of the amenity of the new ground floor dwelling occupants, privacy, planting, sustainable design measures, as well as the proposed parking scheme and layout. In addition, comments from the DEP reiterated issues with the amenity of the new ground floor dwelling occupants and privacy from the streetscape.

On 24 August 2023, the applicant provided a formal response to the additional information request addressing all of the concerns raised above.

N.b. The amended plans did not significantly increase the external bulk or built form of the proposal or result in additional non-compliances with SEPP65 or RDCP 2013. Therefore, re-notification of the proposal was not required.

On 11 November 2023, Council raised further concerns regarding locating parking spaces on the existing (however redundant) ROW along the western side of the allotment.

On 01 December 2023, final amended architectural plans and documentation were provided to amend the parking scheme on the site.

As the amended scheme sought to increase the number of hardstand parking spaces along the northern boundary from 4 to 6 spaces, the changes in parking configuration could impact upon the amenity of neighbouring properties. As such, Council required that the proposed development be re-notified to adjoining properties, in accordance with Council's Community Engagement Strategy.

Between 11/01/2024 to 25/01/2024, the proposed development was re-notified to adjoining neighbours. It is noted that no submissions were received during this period.

4. Proposal

The proposal seeks development consent for alterations and additions to an existing residential flat building, comprising refurbishment of the exterior of the building including the roof and new balconies, additions to the existing level 4 apartment and the ground floor level to include (2x) 1 Bed apartments with courtyards, laundries, hardstand parking and storage and waste areas. The proposal includes ancillary landscaping works and the upgrade of the building to comply with building code requirements.

Specifically, the proposal is seeking the following:

Ground Floor

- Demolition of the existing ground floor plan including the internal layout and windows/doors.
- Excavation of the existing sub-floor area and further excavation of the existing non-habitable rooms within the building footprint.
- Addition of a new ground floor layout including
 - Upgrade of the existing dwelling entrances to Arcadia Street.

- 2x 1 Bedroom Units with terraces fronting Arcadia Street (being Units 14 & 15)
- Shared laundry room.
- Garbage room.
- Storage rooms.

First, Second and Third Floors

- Demolition of all existing balconies to both the Major Street and Arcadia Street sides of the building.
- Replacement of all existing windows to the northern and western side of the building.
- Construction of enlarged balconies with a translucent glass balustrade to both the Major Street and Arcadia Street sides of the building. Addition of a full-height translucent glass privacy screen to the adjoining balconies to Units 2 & 7, 4 & 9, 6 & 11, respectively.
- Demolition of existing doors and windows to the eastern and southern side of the building, and replacement with enlarged windows and doors to the adjoining balconies.
- Demolition of all windows to the stairwells on the southern side of the building and replacement with enlarged windows.
- Internal modification to the stairwells and landing areas to upgrade the building in compliance with BCA requirements, including step dimensions, handrails, flooring, exit signage and emergency lighting.

Fourth Floor

- Demolition of all existing balconies to both the Major Street and Arcadia Street sides of the building.
- Demolition of the eastern external façade wall and windows.
- Extension of the living room by 2.85m to the eastern side and 430mm to the southern side of the unit to provide an extended kitchen/living/dining room with new floor-to-ceiling sliding doors to the eastern and southern façade.
- Extension of the existing terrace fronting Major Street creating a new wrap-around balcony.
- Addition of a new balcony adjoining the main bedroom of the unit fronting Arcadia Street with new doors and window glazing.
- Internal modification to the stairwells and landing areas to upgrade the building in compliance with BCA requirements, including services riser.
- Addition of a new entrance door on the stairwell landing for access to Unit 13.

Roof

- Modification of the existing roof over the building for a new Colorbond metal roof with insulation that overhangs the external façade walls.
- Extension of a new Colorbond metal roof over the new eastern and southern extension of the dwelling below.
- Addition of a new roof access hatch.
- Addition of new PV panels as per the BASIX Certificate.

Site

- Demolition of the existing garbage bin enclosure along the northern boundary.
- Demolition of the existing clothing line in the north-western corner of the site.
- Addition of new pedestrian pathways to the (x2) building entrances fronting Arcadia Street.
- Relocation of the existing (x5) vehicle parking spaces along the northern boundary to accommodate an additional vehicle parking space, totalling (x6) hardstand vehicle parking spaces on the site - (x7 including the existing single garage).
- Demolition and laying of new concrete paving to the northern side of the site and forward of the existing single garage entrance.
- Addition of (x1) motorbike parking space, (x2) bicycle racks and clothing line adjoining the western side of the existing garage.
- Addition of new planting and landscaping to the Major Street and Arcadia Street sides of the site.

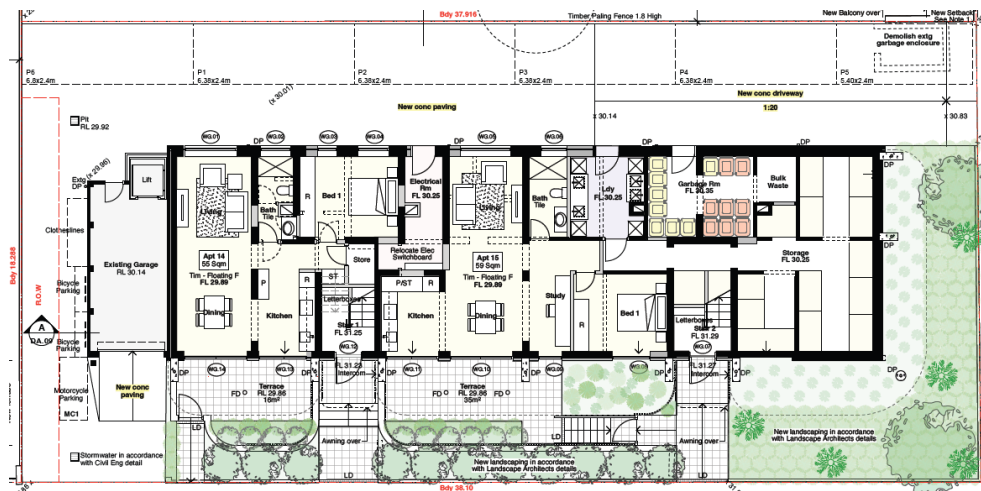


Figure 13: Proposed ground floor plan – 10 Major Street, Coogee (Source: Ken Powell Architect)

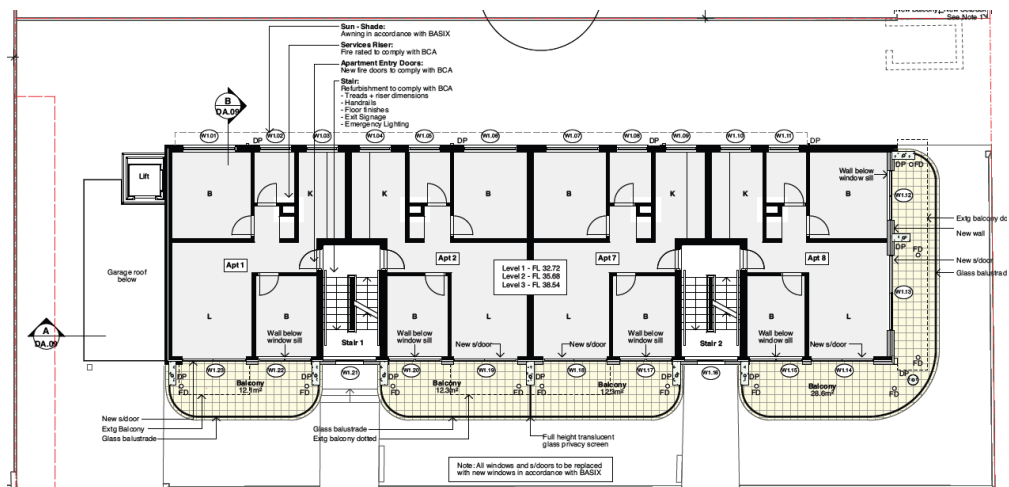


Figure 14: Proposed first, second and third floor plan – 10 Major Street, Coogee (Source: Ken Powell Architect)

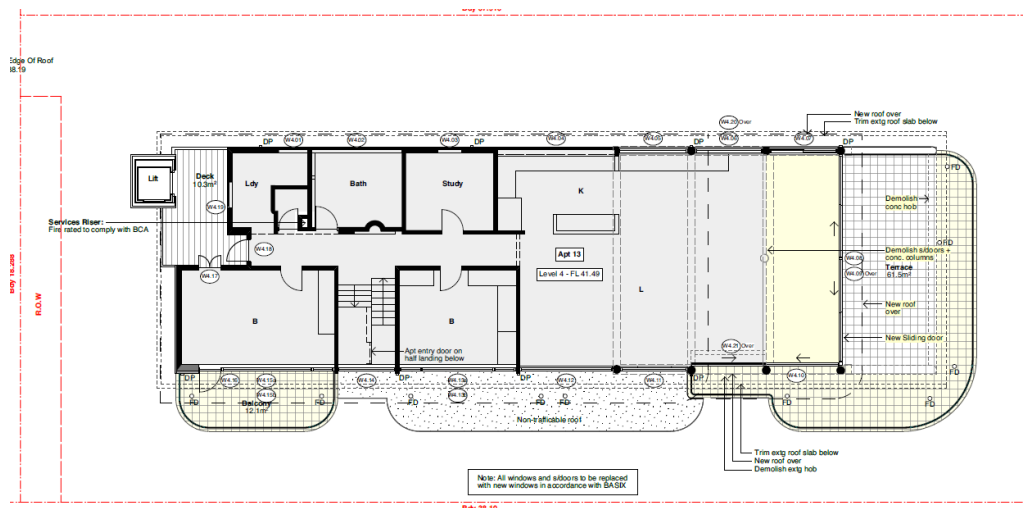


Figure 15: Proposed fourth plan – 10 Major Street, Coogee (Source: Ken Powell Architect)



D2/24



D2/24



D2/24

D2/24

D2/24

- D2/24**

D2/24

Issue	Comment
<p>the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views."</p> <p><u>View loss and impacts</u> The proposed development results in substantial view impacts for our property including the blocking of high value views of the interface between land and water from two rooms in our property. The view loss is impacted by the increased depth of the balconies and new blade wall privacy screens. It is considered that the view impacts are detrimental. The view study submitted with the proposal fails to record impact from the main bedroom and only records from one view point in the front key living space. Please see attached diagram where we have added impact to the additional room in our property.</p> <p><u>Access to light</u> The proposed development results in reduced light access to two rooms of our property.</p> <p><u>Privacy</u> The increased size of the balconies will impact privacy with increased sight lines to two rooms of our house.</p> <p><u>Bulk and scale</u> The proposed setback of the development is from 2.03m. This is inconsistent with the established front setback of approximately 4m along Arcadia Street.</p> <p><u>FSR</u> The design fails to meet the area's maximum FSR of 0.75:1, with the proposal for an FSR of 1.4:1. The excess to the FSR impacts the amenity of our property in regard to additional noise and loss of street parking.</p> <p><u>Parking</u> 10 Major Street already provides well below the required parking for a flat of its size. The proposal outlines the addition of 2 new spaces. However, one of these spaces is already in use, so in reality it is only an addition of 1 new space.</p>	<p>impact is due to the extended balconies fronting Arcadia Street. See Clause 4.6 assessment below for full assessment of building height variation.</p> <p>Agreed, the proposed development will have some impact upon current view corridors. See Key Issues for full assessment of view impact assessment.</p> <p>Council is satisfied that the proposed development complies with the solar access controls of the DCP, noting that the subject windows are not north-facing and no significant changes are made to the built form adjacent to the neighbouring dwelling.</p> <p>Agreed. See Key Issues for full assessment.</p> <p>Council is satisfied with the proposed setback variations, noting they account for adequate POS area for each unit. See Key Issues for a full assessment.</p> <p>Council is satisfied that the proposed floor space ratio variation does not contribute to the amenity impacts to 4/58 Arcadia Street. See Clause 4.6 assessment below for full assessment of floor space ratio variation.</p> <p>The proposed additional x2 1-bedroom units require x1 parking space for each unit. It is noted that x2 additional parking spaces have been provided on the site. As such, Council is satisfied that the proposed parking impact is satisfactory. See Engineering referral for full details.</p>

5.1. Re-Notification

As noted in the Relevant History section of the report, on 01 December 2023, final amended architectural plans and documentation was provided amending the parking scheme on the site.

As the amended scheme sought to increase the number of hardstand parking spaces along the northern boundary from 4x to 6x spaces, the changes in parking configuration could impact upon the amenity of neighbouring properties. As such, Council required that the proposed development be re-notified to adjoining properties, in accordance with Council's Community Engagement Strategy.

From 11/01/2024 to 25/01/2024, the proposed development was re-notified to adjoining neighbours. It is noted that no submissions were received during this period.

6. Relevant Environment Planning Instruments

6.1. SEPP 65 - Design Quality of Residential Apartment Developments

The [*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*](#) (SEPP 65) aims to promote quality design of Residential Flat Buildings. The proposed development is subject to SEPP 65 as it involves substantial alterations and additions to an existing residential flat building, comprising refurbishment of the exterior of the building including the roof and new balconies, additions to the existing level 4 apartment and the ground floor level to include (2x) 1 Bed apartments.

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

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

6.1.1. *Design Excellence Panel (DEAP)*

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

The DA was referred to the Design Excellence Advisory Panel for advice concerning the design quality of the development. The panel advised that they were generally in support of the proposed development subject to minor changes to privacy both to the proposed lower ground floor additional units and to the upper levels from the street and park.

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

6.1.2. *Design quality principles*

The comments provided by the DEAP (refer to Appendix 1) detail how each of the nine quality design principals have been considered in the proposal.

6.1.3. *Apartment Design Guide*

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

6.2. SEPP (Building Sustainability Index: BASIX) 2004

BASIX certificates have been submitted in accordance with the requirements of the *SEPP (Building Sustainability Index: BASIX) 2004*.

6.3. SEPP (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.”*

The proposed development involves the removal of vegetation. Council's Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal and landscaping treatments, subject to the imposition of conditions (refer to Appendix 1 below). As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

6.4. SEPP (Resilience and Hazards) 2021

Chapter 2 'Coastal management'

Chapter 2 of SEPP (Resilience and Hazards) 2021 applies to development within the category of Coastal Management.

Clause 2.11 applies to development on land within the coastal use area:

- 1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
 - a) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - b) *is satisfied that—*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comments:

The site is mapped as part of the coastal use areas pursuant to the SEPP (Resilience and Hazards) 2021. In response to Clause 2.11 of Division 4 – Coastal use area, the proposal will not impede access to the foreshore or impact views from public places to the foreshore, or the scenic qualities of the coast given that the proposal incorporates appropriate massing and materials. The variations to the building envelope sought to height and FSR will not impact upon the scenic quality of the area. As such, Council is satisfied that the clause has been complied with. Furthermore, in accordance with clause 2.12 of the SEPP, the proposal is not likely to cause increased risk of coastal hazards on the land or other land.

Chapter 4 'Remediation of land'

Chapter 4 of SEPP (Resilience and Hazards) 2021 applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. In this regard it is Council's position that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.5. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.3: Building height (max)	9.5m	14.9m	No, see Clause 4.6 assessment below
Cl 4.4: Floor space ratio (max)	0.75:1 Site Area: 695m ² Max GFA: 521.25m ²	1.4:1 (975.9m ²)	No, see Clause 4.6 assessment below

6.5.1. Clause 4.6 - Exceptions to development standards

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

6.5.2. Clause 5.10 - Heritage conservation

Clause 5.10(1) includes the objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views. Clause 5.10(4) requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

The subject site is located within close proximity to the Local Heritage Item 41 (L41) at 39 Arcadia Street and known as 'Ballamac' a Victorian Villa.

See Appendix 1 below for the Heritage Referral, noting no concerns were raised by Council's Heritage Planner in relation to the proposal.

6.5.3. Clause 6.2 - Earthworks

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

The development satisfies Clause 6.2(3) in that:

- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability and adjoining structures.
- The proposed excavation area is suitably scaled for the subject site. The size of the excavation does not have an adverse impact on the likely future use or redevelopment of the land.
- The site has been used for residential purposes for an extended period of time and there is unlikely to be contamination issues with the quality of the soil.
- Conditions of consent are imposed to manage demolition and waste removal.
- The proposed excavation does not have an adverse impact on the amenity of adjoining properties. The excavation is located within the existing building envelope with additional units to the floor. Therefore, there is no adverse visual bulk impact. Amenity, especially privacy, will be protected by boundary fencing and sufficient separation.
- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area nor is listed as a heritage item.
- The scale and siting of the proposal minimises impact on waterways, water catchments and environmentally sensitive areas.

6.5.4. Clause 6.7 - Foreshore scenic protection area

The site is identified as being located within the Foreshore Scenic Protection Area pursuant to the Foreshore Scenic Protection Area Map referred to in Clause 6.7 (2) of the RLEP 2012. The clause has been reproduced below:

6.7 Foreshore scenic protection area

(1) *The objectives of this clause are as follows:*

- (a) *to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
- (b) *to protect and improve visually prominent areas adjoining the coastal foreshore,*
- (c) *to protect significant public views to and from the coast,*
- (d) *to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*

(2) *This clause applies to land identified as “Foreshore scenic protection area” on the [Foreshore Scenic Protection Area Map](#).*

(3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and*
- (b) *contributes to the scenic quality of the coastal foreshore.*

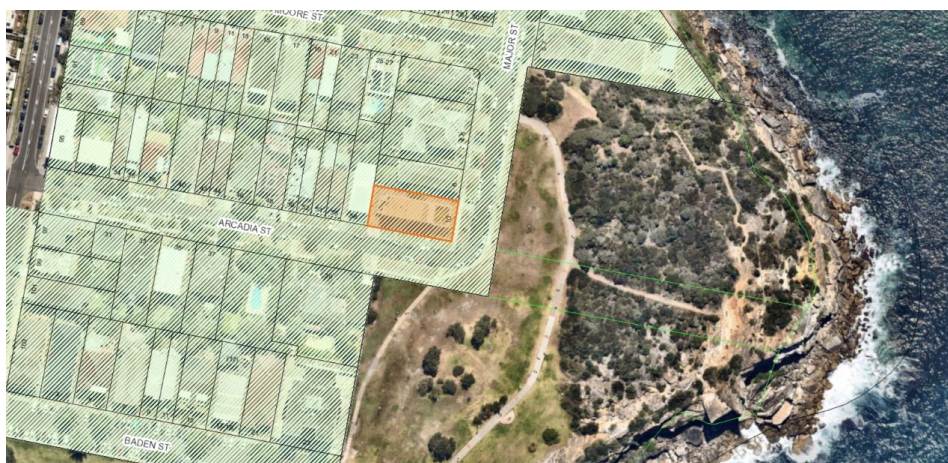


Figure 19: The Foreshore Scenic Protection Area and the subject site in orange – 10 Major Street, Coogee

Comment:

The proposed five-storey residential flat building seeks minimal changes to the building envelope from what is existing. As such, the proposal will have minimal visual impact on public areas of the coastline, including views to and from the coast and nearby Dunningham Reserve. The upgrades proposed to the building will be a positive contribution to the foreshore area.

See 'Section B10: Foreshore Scenic Protection Area' in the compliance table below for the assessment of the colours, materials and finishes submitted with the application. The schedule positively contributes to the scenic quality of the coastal foreshore, except for the use of the Colorbond Surfmist finish, which is white with the glare of the sun has been alleged to be reflective. A condition of consent is to be imposed requiring an alternative colour selection with reflectivity to be in compliance with the specification and standards. In addition, Council's Heritage Planner is satisfied that the schedule is appropriate to the area.

Therefore, in light of the above, the proposed development is considered acceptable.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standards contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

D2/24

Clause	Development Standard	Existing	Proposed	Proposed Variation	Proposed Variation (%)
Cl 4.3: Building height (max)	9.5m	14.9m	14.9m	5.4m	56.8%
Cl 4.4: Floor space ratio (max)	0.75:1 Site Area: 695m ² Max GFA: 521.25m ²	1.21:1	1.4:1 (975.9m ²)	0.65:1 (454.65m ²)	87%

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

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

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

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

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

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

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

The grounds relied on by the applicant in their written request must be "environmental planning grounds" by their nature. Chief Justice Preston at [23] notes the adjectival phrase

“environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EPA Act.

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

1. The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and
2. The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term ‘sufficient’ did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

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

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

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

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

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

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

Under clause 64 of the *Environmental Planning and Assessment Regulation 2021*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary’s concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

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

7.1. Exception to the Building Height development standard (Clause 4.3)

The applicant’s written justification for the departure from the building height standard is contained in Appendix 2.

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

The applicant's written request seeks to justify the contravention of the building height development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed development supports the economic and orderly development of land, as intended by the RLEP2012 and RDCP2013 controls. The alterations and additions to an existing RFB is permitted in the R3 Medium Density Residential zoning of the site, and is consistent with the intent for development on the subject site. It is considered that the proposed alterations and additions of the built form represents a suitable development within a medium-density residential context. It is acknowledged that there is an existing 14.9m height variation from the RLEP2012 numerical height standard of 9.5m. However, it is considered that proposed alterations and additions are compatible with the local context surrounding the site, including a mix of one and two-storey dwelling house, plus RFB developments.

Assessing officer's comment:

Council is satisfied that the proposed development is mostly located within the building envelope. The extension of the penthouse dwelling on the fourth floor is setback 6.86m from the Major Street boundary, further than the existing setbacks of the floors below. Overall, the size and scale of development is compatible with the desired future character of the locality in that the works are comparable with the existing non-compliant building height of the building.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the approved residential flat building is not heritage listed nor in a heritage listed area. However, the site is in close proximity to heritage item 41, being "Ballamac", Victorian villa, at No. 39 Arcadia Street. In this regard, the proposed alterations and addition development is not expected to have an impact on the significant fabric of this heritage building.

Assessing officer's comment:

Council's Heritage Planner is satisfied that the proposed development will not have an adverse impact on the nearby Local Heritage Item 41 (I41) at No. 39 Arcadia Street. See Appendix 1 for a full assessment of this matter.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that an adverse impact on the amenity of the streetscape or adjoining or neighbouring land is avoided with the proposal not resulting in any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views than the existing RFB development.

Assessing officer's comment:

Council is satisfied that the proposed development will not have an adverse impact on the amenity of adjoining and neighbouring land in terms the following:

- Visual bulk: The portion of the dwelling that alters the existing building envelope and continues the existing height variation breach is the extension to the fourth floor penthouse. The extension is mostly contained within the existing roofed terrace area and will not have a significant impact as viewed from the adjoining neighbours to the north.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Key Issues section of the report. Council is satisfied that the proposed development will not result in any unreasonable adverse privacy impacts, subject to conditions.
- Overshadowing: A detailed assessment of the overshadowing impacts is provided in Appendix 3 (Item 5.1 – Solar access and overshadowing). This assessment shows that due to the lot configuration and subdivision pattern, the proposed works will have minimal impact on solar access to neighbouring dwellings with only some minor additional morning sunlight loss to neighbours on the southern side of Arcadia Street.
- Views: A detailed view loss assessment is provided in Key Issues section of the report. It shows that the proposed height variation will not have any impact upon the view corridors within the locality.

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

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

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

- *A change to the existing as approved non-compliant building height does not form a part of this proposal.*
- *The variation to the height limit is generally contained within the existing built form, with the proposed rejuvenation providing for a contemporary and more desirable built form that will have a positive impact on the subject site and surrounding streetscape.*
- *The extension of the penthouse will not generate any adverse streetscape or amenity impacts due to the built form remaining recessed and integrated with the existing building.*
- *The proposal will provide a high degree of amenity internally, with no additional external amenity impacts, including no new unreasonable visual bulk, overshadowing, or impacts to views to adjoining neighbours or the streetscape from the proposed development in relation to the height variation.*
- *The overshadowing impact is not significant, with at least three (3) hours of sunlight is achieved to living rooms and private open space of these adjoining dwellings between 8am and 4pm during mid-winter. In this regard, the proposed enlarged Level 4 balcony plus roof alteration/ extension will not have a significant impact to overshadowing, with existing access to sunlight retained.*
- *No change is associated with the visual and acoustic privacy impacts to adjoining neighbours from the as approved existing 5.5m of additional height. The orientation of primary openings to the front and rear of the RFB, recessed balconies from the western adjoining neighbour and retained separation between development mitigates potential visual and acoustic privacy impacts.*
- *The proposed alterations and additions are sensitively designed, with the existing height variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. This includes indentation and recesses, architectural roof features, screen battens, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade. In*

addition, the mix of materials which include new brick, powdercoated aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.

- *The proposed alterations and additions development and height variation is contained within a building envelope that is compatible with the established built form of the surrounding area. It is therefore considered that the height of the development does not represent an overdevelopment of the site, or a development with a height that is not compatible with the context in which it is located. In this regard, it is considered that the existing height variation is be compatible with the context of the surrounding built environment.*
- *No impact to views is associated with the retained height of building variation. View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained.*
- *There are no internal amenity grounds that would determine that the height variation should not be granted, including:*
 - *16% of the site provided as deep soil landscaping, being considerably greater than the 7% requirement.*
 - *100% of units receive cross ventilation.*
 - *The sizes of the proposed one-bedroom units outperform the minimum requirements.*
 - *The amount of private open space for ground level unit terraces and upper-level unit balconies outperforms the ADG.*
 - *Storage provided, in both the units and in the basement.*
 - *Natural light and ventilation to all lobbies.*

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

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

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

Assessment against objectives of building height standard

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

Assessment against objectives of R3 Medium Density zone

The objectives of the Residential R3 Medium Density zone are:

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

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a medium density development that will provide (x2) additional 1-

bedroom units within the existing building and providing a larger living space for the fourth floor penthouse dwelling. These additional units will contribute to a variety of housing types in conjunction with the existing surrounding RFB developments.

The proposed minor extension of the built form will be compatible with the desired character of a medium density area and will protect the amenity of residents by having minimal adverse impacts on bulk, privacy, overshadowing or views.

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

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

7.2. Exception to the Floor Space Ratio (FSR) development standard (CI 4.4)

The applicant's written justification for the departure from the FSR standard is contained in Appendix 2.

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

The applicant's written request seeks to justify the contravention of the FSR development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the FSR standard are set out in Clause 4.4(1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that while the proposed FSR of 1.4:1, is an 86.67% variation from the development standard, the existing FSR is 1.21:1, with the proposed variation being 15.7% variation from the existing as approved FSR. The proposal retains the existing built form, with no significant change to the existing building envelope.

Assessing officer's comment:

Council is satisfied that the proposed development is mostly located within the building envelope. The additional (x2) 1-bedroom units are located within the existing ground

floor/subfloor area. The extension of the penthouse dwelling on the fourth floor is located within the existing roofed portion of the front terrace, enclosed on 3 sides. Overall, the size and scale of development is compatible with the desired future character of the locality in that the works are comparable with the existing non-compliant building envelope of the building.

- (b) *to ensure that buildings are well articulated and respond to environmental and energy needs,*

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed ground floor units containing the excess FSR within the existing RFB is well integrated with the character and presentation of the street, thereby maintaining the attractive appearance of the RFB in the streetscape and as it appears to surrounding properties and the coastal foreshore area. The mix of materials which include new brick, anodised aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.

Assessing officer's comment:

Council is satisfied that the proposed development is well articulated on all sides with new balconies, window/door openings, as well as a mixture of materials. The additional FSR will have minimal impact on the existing building envelope. The proposal also responds to the environmental and energy needs through the submission of BASIX certificates, which demonstrate that the development meets the relevant water and energy saving targets, including the installation of solar panels on the rooftop area. In addition, Council is satisfied that the additional (x2) ground floor units will receive adequate ventilation and solar access.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed alterations and additions to the development and the associated FSR variation is generally contained within the existing building envelope. It is therefore considered that the proposed FSR variation is compatible with the established built form of the surrounding area and the development does not represent an overdevelopment of the site, or a development with an FSR that is not compatible with the context in which it is located. The outperformance of the deep soil landscaped area requirements is another indicator that the additional FSR can be accommodated on the site and that there are no adverse environmental factors that would determine that the proposal is an over-development of the site.

Assessing officer's comment:

Council's Heritage Planner is satisfied that the proposed development will not have an adverse impact on the nearby Local Heritage Item 41 (L41) at No. 39 Arcadia Street. See Appendix 1 for a full assessment of this matter.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that an adverse impact on the amenity of the streetscape or adjoining or neighbouring land is avoided with the proposal not resulting in any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views when compared with the existing RFB development, as assessed above.

Assessing officer's comment:

Council is satisfied that the proposed development will not have an adverse impact on the amenity of adjoining and neighbouring land in terms the following:

- Visual bulk: The portion of the dwelling that alters the existing building envelope that further breaches the FSR variation is the extension to the fourth floor penthouse. The extension is mostly contained within the existing roofed terrace area and will not have a dramatic impact as viewed from the adjoining neighbours to the north. The (x2) additional 1-bedroom units are located wholly within the existing ground floor/subfloor area of the existing building.
- Loss of privacy: A detailed assessment of privacy impacts is provided in Key Issues section of the report. Council is satisfied that the proposed development will not result in any unreasonable adverse privacy impacts, subject to conditions.
- Overshadowing: A detailed assessment of the overshadowing impacts is provided in Appendix 3 (Item 5.1 – Solar access and overshadowing). This assessment shows that due to the lot configuration and subdivision pattern, the proposed works will have minimal impact on solar access to neighbouring dwellings with only some minor additional morning sunlight loss to neighbours on the southern side of Arcadia Street.
- Views: A detailed view loss assessment is provided in Key Issues section of the report. It shows that the proposed FSR variation will have no impact upon the any view corridors within the locality.

Conclusion: In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- *While the proposed FSR of 1.4:1, being an 86.67% variation from the development standard, the existing FSR is 1.21:1, with the proposed variation being a 15.7% variation from the existing as approved FSR.*
- *The proposal retains the existing built form, with no change to the existing building envelope.*
- *The extension of the penthouse will not generate any adverse streetscape or amenity impacts due to the built form remaining recessed and integrated with the existing building. The minor extension will also not generate any adverse amenity impacts to any surrounding property in relation to overshadowing, privacy or view loss.*
- *Notwithstanding the numerical departure from the FSR, the proposed alterations and additions will have a height, bulk, and scale compatible with the scale of the existing built form and that of the surrounding local area, and the excess FSR will not have an adverse impact to surrounding properties and the streetscape in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, or view loss.*
- *The proposed FSR associated with the two (2) new one-bedroom units will not have a significant impact to overshadowing, with existing access to sunlight retained.*
- *Given the additional FSR is associated with the internal additions in form of two (2) new one-bedroom units to the existing ground floor area, there will be no change to the visual and acoustic privacy impacts to adjoining neighbours. The proposed ground floor terraces to the new one-bedroom units are provided with metal batten privacy screens on top of low height masonry to provide maintain visual and acoustic privacy.*
- *Furthermore, the orientation of primary openings to the front and rear of the RFB ensures that visual privacy is maintained to the western adjoining neighbour, while the proposed ground floor terraces to the southern elevation overlooking Arcadia Street are suitably screened to maintain visual and acoustic amenity.*
- *The retained separation distance between the proposed development and neighbouring dwellings to the north and west, along with deep soil planting in the*

primary and secondary frontages, including native tree species which are capable of reaching a mature height of at least 7m, further mitigates potential visual and acoustic privacy impacts.

- *The proposed alterations and additions are sensitively designed, with the existing height variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. This includes indentation and recesses, architectural roof features, screen battens, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade. In addition, the mix of materials which include new brick, powdercoated aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.*
- *The proposed alterations and additions development and excess FSR is contained within a building envelope that is compatible with the established built form of the surrounding area. It is therefore considered that the proposed excess FSR does not represent an overdevelopment of the site, or a development with an FSR that is not compatible with the context in which it is located.*
- *No impact to views is associated with the proposed FSR variation. View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained.*
- *There are no internal amenity grounds that would determine that the height variation should not be granted, including:*
 - *16% of the site provided as deep soil landscaping, being considerably greater than the 7% requirement.*
 - *100% of units receive cross ventilation.*
 - *The sizes of the proposed one-bedroom units outperform the minimum requirements.*
 - *The amount of private open space for ground level unit terraces and upper-level unit balconies outperforms the ADG.*
 - *Storage provided, in both the units and in the basement.*
 - *Natural light and ventilation to all lobbies.*

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

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

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

Assessment against objectives of Floor space ratio standard

For the reasons outlined in the applicant's written request, the development is consistent with the objectives of the floor space ratio standard.

Assessment against objectives of R3 Medium Density zone

The objectives of the Residential R3 Medium Density zone are:

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

- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a medium density development that will provide (x2) additional 1-bedroom units within the existing building and providing a larger living space for the fourth floor penthouse dwelling. These additional units will contribute to a variety of housing types in conjunction with the existing surrounding RFB developments.

The proposed minor extension of the built form will be compatible with the desired character of a medium density area and will protect the amenity of residents by having minimal adverse impacts on bulk, privacy, overshadowing or views.

The development is consistent with the objectives of the FSR standard and the R3 Medium Density Residential zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

Note: Clause 6A of SEPP 65 states:

- (1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*
 - (a) *visual privacy,*
 - (b) *solar and daylight access,*
 - (c) *common circulation and spaces,*
 - (d) *apartment size and layout,*
 - (e) *ceiling heights,*

- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

(2) If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

(3) This clause applies regardless of when the development control plan was made.

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	The Draft Comprehensive Planning Proposal to update the Randwick Local Environmental Plan (RLEP) 2012 was publicly exhibited from the 31 May to the 12 July 2022. The proposed development would not be inconsistent with the provisions of the draft RLEP 2012.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 4 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant residential character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on

Section 4.15 'Matters for Consideration'	Comments
	the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Internal Amenity of Units 14 and 15

Council raises concerns with the amenity of the proposed additional 1-bedroom units (being Units 14 and 15), based on the proposed plan and the challenges of designing units with sufficient amenity for future occupants within the constraints of an existing building envelope.

In particular Council raises concerns with the following matters:

- Solar and Daylight Access (Clause 4A of the ADG)
- Natural Ventilation (Clause 4B of the ADG)
- Ceiling Heights (Clause 4C of the ADG)
- Acoustic Privacy (Clause 5.4 of C2 of the DCP)

Such concerns were also raised by Council's Design Excellence Panel, with comments reproduced as below:

The proposed two GF one-bedroom apartments occupy an area nearly equivalent to three two-bedroom apartments on the levels above. However, the panel is concerned about their amenity. The panel also notes that the proposed ceiling height of 2,500 is less than ideal. The south-facing kitchen and living space are deeply shaded by the L1 balconies above, and consequently, they have limited natural light.

In terms of solar access, the ADG acknowledges that achieving the minimum design criteria may not be possible on some sites, including where significant views are orientated away from the desired aspect for direct sunlight, such as the subject site in which the primary view corridors are located to the south. The development provides dual aspect for 100% of the apartments within the RFB. As such, while the living spaces are located to the south for all the apartments on levels 1-3, the apartments on levels 2 and 3 receive direct solar access to the northern kitchen and bedroom windows in midwinter for more than 3 hours. The existing apartment on level 4 has multiple aspects with the living area receiving solar access in excess of the minimum requirements. With regards to the new apartments on the Ground Floor level, an open-plan living/dining space is provided with the living room area located to the north. The northern living room window to Apartment 14 shall receive a minimum of 2 hours solar access in accordance with the ADG. However, due to the location of apartment 15 in the centre of the building, the northern living room window will not receive compliant solar access. Notwithstanding, the southern elevation includes expansive glazing which will ensure that adequate natural light is provided to all apartments and 93% of the apartments are afforded some direct solar access in midwinter. In view of the above and the constraints of the site, including the existing orientation, the non-compliance is considered acceptable in this instance.

In relation to private open space, the larger open-space kitchen/dining room is located on the southern side of the building, adjoining the main POS areas for each unit. Considering the site constraints and the need to maintain off-street parking, the location of the POS terraces is supportable on the southern side of the building noting that this façade will receive minimal direct sunlight. Whilst both units have low-use rooms to the northern side (being the bedroom and bathroom to Unit 14 and bathroom to Unit 15), considering the requirement to locate the POS to the southern side and the need to have the main kitchen/dining space adjoining to facilitate an improved amenity outcome, the layout of each unit is considered acceptable in the context of the site.

In terms of natural ventilation and acoustic privacy, the additional ground floor units will receive adequate cross ventilation between northern and southern facing windows. However, the windows to the northern elevation are only operable from a sill height of 1.85m, to reduce acoustic impacts from the adjoining parking facilities. Council is concerned that the northern windows do not provide a sufficient opening area to facilitate cross ventilation. Whilst Council is concerned about the noise from vehicle parking facilities to the northern side of the site, the balance between ventilation and

acoustic measures have not been met. In order to provide a better balance, conditions of consent will be issued requiring that northern living room windows are only to be operable from a sill height of 1.4m to ensure a larger portion of window can facilitate ventilation within habitable rooms. In order to address acoustic concerns, further conditions of consent will be issued requiring that the northern living room and bedroom windows are to be installed with double glazing to reduce some of the noise from parking vehicles. Council is satisfied, subject to these conditions, that a balance between ventilation and acoustic privacy has been provided and that the proposed configuration will protect the amenity of future dwelling occupants.

In terms of ceiling heights, the additional (x2) 1-bedroom units will have ceiling heights of 2.55m. Whilst each room does not meet the ADG minimum requirements, the ceiling heights comply with the BCA requirements. Considering the constraints of significant excavation of the site, the proposed ceiling heights are considered to provide sufficient amenity and is considered acceptable in this instance.

Overall, subject to conditions, Council is satisfied that sufficient amenity will be provided to the additional ground floor units, that will not adversely impact upon the future occupants.

Visual Privacy

Concerns were identified as a part of the assessment for the protection of visual privacy within apartments and neighbours as part of the alterations and additions to the proposed development.

In terms of the ground floor terraces to Units 14 & 15, aluminium batten privacy screening has been installed to reduce overlooking of the main POS area from the streetscape and pedestrians using the building entrances. The DEAP noted that “privacy is inadequate at the lower ground level which is too heavily overlooked from the common entry”. The amended architectural plans show that the additional privacy screening to building entrances have been incorporated in the design to provide sufficient barriers for overlooking POS areas. In order to confirm the finish of these privacy screens, a condition of consent will be issued requiring that privacy screens be installed with individual openings not more than 30mm wide to balance the visual impact of such screening on the streetscape.

In terms of the extended balconies of the first to fourth floor units, it is noted that most of these areas will have minimal impact on the visual privacy of the adjoining building dwellings and are predominantly a similar replacement of existing balconies. The first, second and third floor balconies fronting Major Street are only proposed to extend a further 470mm from the existing balconies width. Considering the almost 8m building separation and the proposed blade wall to the northern side of the balcony along with the curved edge to each balcony side, the proposed balcony will have minimal additional privacy impacts to the units at No. 8 Major Street.

Notwithstanding, Council is concerned that the first, second and third floor southern balconies to Units 1, 3 and 5 will further overlook the eastern bedroom window of 4/58 Arcadia Street to the west. It is noted that the existing balconies currently overlook this window (see Figure 20 below).



Figure 20: Photo from the eastern bedroom window of 4/58 Arcadia Street to the subject building with existing balconies – 10 Major Street, Coogee (Source: Randwick City Council)

The proposed balconies will be extended in width from 1.29m to 2.28m, being 990mm wider. In addition, along the western side of each balcony adjoining the southern façade wall will be an 800mm wall section for structural support. See Figure 21 below.

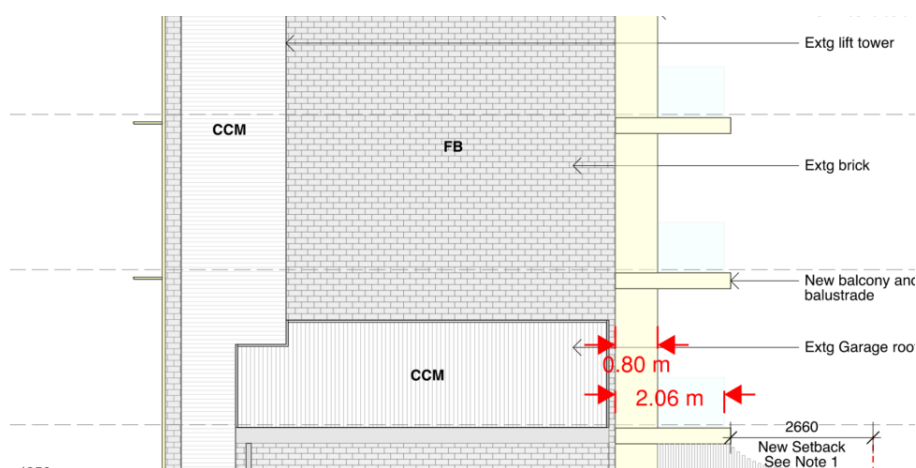


Figure 21: Proposed western elevation with Council markings in red – 10 Major Street, Coogee (Source: Ken Powell Architect)

Whilst the angle of overlooking is more acute than the existing, the impact is similar to the existing on site. In order to address these overlooking concerns from the extended balconies, a condition of consent will be issued requiring that privacy screens measuring a height of 1.6m are to be installed to the western sides of the southern balconies to Units 1, 3 and 5. In order to integrate into the design of the proposed building and reduce the visual impact they will have on the foreshore area, a condition of consent will be issued requiring that the privacy screens are to be installed with translucent or obscured glazing to a height of 1.6m from the FFL of the balconies. Subject to these conditions, Council is satisfied that visual privacy to these sensitive rooms have been addressed. It is noted that such privacy screens will have a minimal impact upon view corridors from No. 4/58 Arcadia Street to the east of the ocean. See view sharing assessment below for full details and considerations.

In terms of privacy into the first floor units from public spaces, the DEAP provided comments which have been reproduced below:

Furthermore, the kitchen and living spaces are directly overlooked by the street and common entry... The upper-level apartments are too exposed to the street and park, each level shows floor-to-ceiling glass and completely glazed balconies. A better solution would include a greater degree of shielding through at least partially solid balustrades to these balconies.

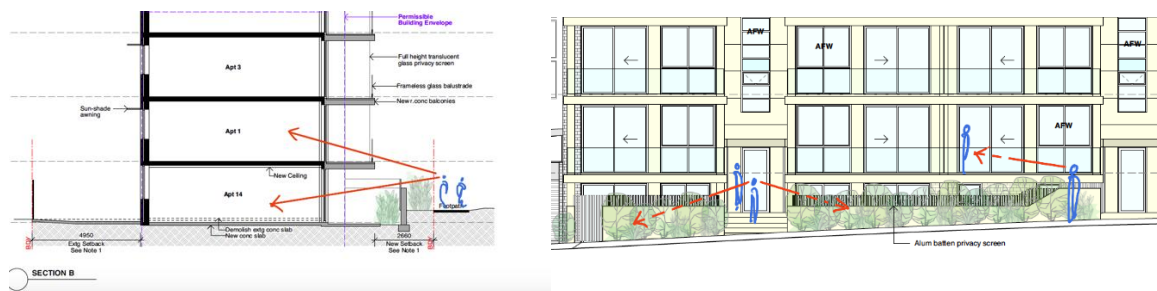


Figure 21 & 22: Proposed section and southern elevation with notations from Council's Design Excellence Panel – 10 Major Street, Coogee (Source: Ken Powell Architect)

The applicant has provided the following response to the issues raised by the DEP:

The plans have also been amended to provide a greater degree of solidity below the lower portion of the bedroom windows on the southern and eastern elevations to address privacy concerns. On balance, the proposal enhances the coastal views to the east and south whilst also achieving a reasonable level of internal privacy. The extent of viewing into the apartments is not dissimilar to the existing relationship and is not unusual in an area where desire for views takes precedence over privacy.

Council has considered the comments from both the DEAP and applicant. It is noted that the existing first floor units are already overlooked, which, as noted by the applicant, is to enjoy the eastern ocean views. On balance, Council is satisfied that the desires of the current unit owners to have clear glazed balustrading reduces some of the opportunities for additional privacy measures. Considering the significant views enjoyed from these balconies to the east of the ocean and Dunningham Reserve, Council is supportive of the intent to preserve views over additional visual privacy measures.

View Sharing

The Randwick DCP 2013, Section 5.6 specifies objectives and controls for view sharing within the Local Government Area. The DCP provides for the following explanation of intended effect for this section of the DCP.

View sharing does not prescribe the total retention of all significant views and vistas. In established inner metropolitan areas like Randwick City, development inevitably causes varying degree of view loss. The intent of the DCP is to ensure development is sensitively and skilfully designed, so that a reasonable level of views is retained for the surrounding areas.

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 impact is likely to occur, development proposals must address this sub-section of the DCP.

The relevant objectives of the DCP to this proposal are as follows:

- *To acknowledge the value of views to significant scenic elements, such as ocean, bays, coastlines, watercourses, bushland and parks; as well as recognised icons, such as city skylines, landmark buildings / structures and special natural features.*
- *To ensure development is sensitively and skilfully designed to maintain a reasonable amount of views from the development, neighbouring dwellings and the public domain.*

The proposed development seeks to provide extended balconies on the southern side of the existing building. Loss of views has been raised by the objector at No. 4/58 Arcadia Street. The objection

contends that the proposed extended balconies and blade walls fronting Arcadia Street will result in substantial view impacts blocking high value views of the interface between land and water from two rooms to their property.

The objector contends that no view loss consideration has been undertaken regarding the view loss from the bedroom 1 window to the unit. Council's Assessing Officer attended the subject site to verify the extent of view impacts from No. 4/58 Arcadia Street. Images of the view impact have been provided below (see Figures 25-28 below).

It is noted that Council is satisfied that any view loss experienced from No. 8 Major Street will be negligible in consideration of the significant, uninterrupted views experienced to the eastern side of the building. These negligible views would be across the side boundary of the site from the front balconies only.

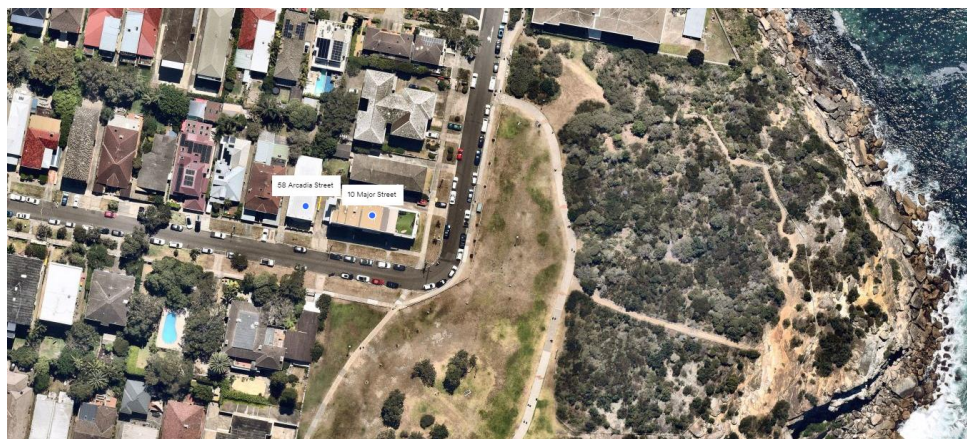


Figure 24: Aerial view for view loss consideration (October 2023) (Source: Nearmap)

No. 4/58 Arcadia Street, Coogee



Figure 25: East facing view from bedroom 1 window— 4/58 Arcadia Street, Coogee (Source: Randwick City Council)

D2/24



Figure 26: East facing view from bedroom 1 window– 4/58 Arcadia Street, Coogee (Source: Randwick City Council)



Figure 27: East facing view from bedroom 2 window– 4/58 Arcadia Street, Coogee (Source: Randwick City Council)



Figure 28: South facing view from living room – 4/58 Arcadia Street, Coogee (Source: Randwick City Council)

The applicant has provided the following view analysis as part of the proposed development:

“View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained. In this regard, the topography of the subject site and surrounding landscape, plus retained building separation, in addition to the minor enlargement to refurbished balconies ensures views are retained for the adjoining westerly neighbour over Dunningham Reserve, Wedding Cake Island, and to the ocean.”

View sharing for adjoining properties is not unreasonably impacted by the proposed development. Views from the public domain, including Dunningham Reserve and foreshore opposite the site, are maintained and consistent with the existing view, with no significant impact to view sharing from the proposed RFB (Figures 19 & 20).



Figure 19: Excerpt View Loss Diagram No. 8 Major Street, illustrating retained views to the coast and Wedding Cake Island



Figure 20: Excerpt View Loss Diagram No. 58 Arcadia Street, illustrating retained views to the coast and Wedding Cake Island

Visual impact of proposal

The following assessment of view loss is carried out in accordance with *Tenacity Consulting v Warringah [2004] NSWLEC 140 (Tenacity)*.

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 (eg of the Opera House, the Harbour Bridge or Headland) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which interface between land and water is visible is more valued than one in which it is obscured."

Comments:

The views currently obtained are interrupted Pacific Ocean views and of Wedding Cake Island. These views are obscured by planting forward of the water on Dunningham Reserve. The proposed development seeks to provide extended balconies on the southern side of the existing building. Notwithstanding, the extension of the proposed balconies, the ocean views enjoyed from the eastern and southern windows to No. 4/58 Arcadia Street will remain predominantly unaffected. However, as noted above, in order to protect visual privacy, Council has conditioned the erection of privacy screens to the western curved side of the balconies to Unit 1, 3 and 5. This will have some impact on the existing views from the eastern side window to bedroom 1.

2. Reasonable Expectation of View Retention:

"The second step is to consider from 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 and sitting views is often unrealistic."

Comments:

The views are obtained across the eastern side boundary and southern front boundary. The most significant views are enjoyed from the living room across the front boundary. Views are enjoyed from both sitting and standing positions within each room with views.

3. Extent of Impact:

"The third step is to assess the extent of the impact. This should be done for the whole 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."

Comments:

The views that are impacted are from the bedroom 1 are considered to be negligible/minor. More significant views enjoyed from bedroom 2 and the living room will be unaffected by the proposal. Due to the proposed blade wall and the requirement for the installation privacy screens from the first floor Unit 1 and above to a height of 1.6m along the length of the side of each western balcony. It is anticipated that a portion of the view will be impacted, mainly from the first floor Unit 1 balcony. However, these views are currently obstructed from the existing balconies and garage structure to 10 Major Street, as well as planting to Dunningham Reserve.

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 skilful design could provide the applicant with the same development potential and amenity and reduce the impact upon the views of neighbours. 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."

Comments:

The views that are impacted result from the extension of balconies fronting Arcadia Street and blade walls to a portion of the western side of the balconies, being the first floor and second floor balconies to Units 1 & 3 respectively.

It is noted that the proposed balconies breach the front setback controls, with the balconies extending forward than other building and structures to Arcadia Street. The proposed new balconies to the building are setback 2.66m from the Arcadia Street boundary (1m closer than the existing), forward of the adjoining buildings on this side. The proposed balconies to the first, second and third floor 2-bedroom units each are >10m² and have a depth of 2m, complying with the requirements of the ADG. The balconies will have a positive amenity impact on these dwelling occupants. As a corner allotment, the impact of a breach will not impact further development in the future as corner allotments are subject to alternate setback controls. Accordingly, considering the constraints of providing sufficient POS to each unit within the existing building envelope, the extended balconies will provide improved amenity to existing units in line with ADG requirements.

The views that are impacted are of negligible/minor value from bedroom 1, enjoyed across the side boundary of the site from a standing and seated position. It is noted that retaining views across side boundaries are more susceptible to view impacts and more difficult to retain than to the front/rear boundaries. Some views of the ocean will be retained bedroom 1. As noted above, the more significant and high value views are obtained from the bedroom 2 and main living room, of which are not affected by the proposed development.

Final comments:

Overall, the view impacts are negligible/minor, based on obstructed ocean views enjoyed from a side boundary window to the bedroom 1. On balance, Council is satisfied that the proposed balconies provide a positive amenity impact on occupants of the existing residential flat building. A minor loss of an ocean view is considered reasonable in improving the amenity of these units. The conditions required for privacy screens that will have some further impact on the existing views but are considered reasonable and important to protect and improve the current and future privacy of occupants to 4/58 Arcadia Street.

As such, the proposal has therefore passed the test in Tenacity, complies with Clause 5.6 of DCP, and is therefore supported in this instance.

10. Conclusion

That the application for alterations and additions to an existing residential flat building including the addition of x2 1-bedroom apartments to the ground floor with additional storage and waste areas, extension of the fourth floor terrace, refurbishment and extension of existing roof and balconies, building upgrade works, landscaping, and associated works, be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the objectives and controls contained within SEPP 65.
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The applicant has adequately addressed the building height and floor space ratio variations sought under the proposal, demonstrating compliance with Clause 4.6 of the RLEP 2012.
- Amendments have been made via non-standard conditions to mitigate visual privacy impacts and ensure adequate internal amenity and storage is afforded to future occupants of the two new ground level apartments.

Appendix 1: Referrals

1. Design Excellence Advisory Panel Comments

A prior version of the DA was previously submitted to the Panel. At that time the submission was discussed without the benefit of presentation. Feedback was provided through written Panel Recommendations. The applicant's architect explained that the previous meeting lacked the presentation owing to a misunderstanding or communication about the meeting. However, he indicated that the written recommendations were received and formed the basis of the amended scheme.

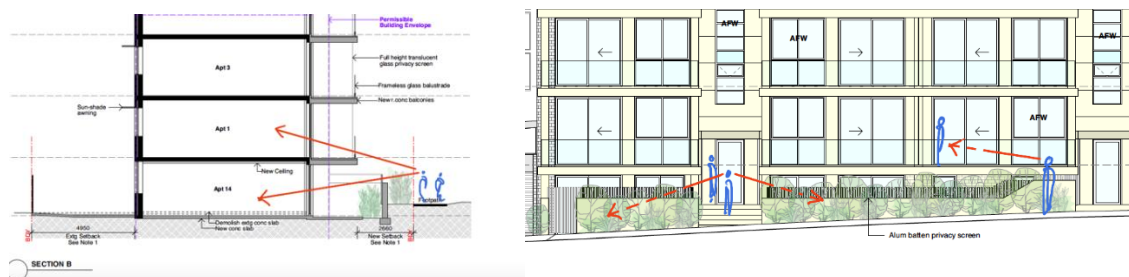
The architect explained the building is owned through a strata corporation with many owners. The DA preparation was achieved through a process of co-ordination of the strata owners and is made necessary because the existing building is suffering from defects resulting from decades in an exposed coastal position.

The principal additions include new balconies to the street-facing elevations and the addition of two new apartments to the lower level. Apparently, the lower level has previously accommodated apartments. At some point, these were converted from apartments to storage space. The DA proposes to re-establish units in the same space, retaining most of the walls, while demolishing the ground floor slab to allow a new ground floor slab to be lowered by 180 mm, thereby increasing the floor-to-ceiling height to 2,500mm in those apartments.

The key concerns of the panel related to the amenity of the existing and new apartments:

The proposed two GF one-bedroom apartments occupy an area nearly equivalent to three two-bedroom apartments on the levels above. However, the panel is concerned about their amenity. The panel also notes that the proposed ceiling height of 2,500 is less than ideal. The south-facing kitchen and living space are deeply shaded by the L1 balconies above, and consequently, they have limited natural light. Furthermore, the kitchen and living spaces are directly overlooked by the street and common entry. A better solution would improve privacy and light in the GF living spaces.

The upper-level apartments are too exposed to the street and park, each level shows floor-to-ceiling glass and completely glazed balconies. A better solution would include a greater degree of shielding through at least partially solid balustrades to these balconies.



The proposal is for a southward primary orientation of living spaces and outlook. Consequently, the scheme includes very extensive glazing to the south elevation. The reasonable rationale is the excellent view southward along the coast. However, the panel notes the southern orientation and the highly weather-exposed position and orientation. The architect and client should consider options for superior performance of window and door details and materials such as cyclone-rating and double glazing.

Other matters:

The southwestern undercroft to the L1 balcony shows "silver sword" planting in a position that is completely covered by the balcony above.

SUMMARY AND RECOMMENDATIONS

The Panel support the principle of increasing the number of dwellings and enlarging the balconies of the existing apartments, this being a very desirable location to live. The panel also notes the challenges of orchestrating renewal within the constraints of a strata corporation and an existing building that pre-dates SEPP 65. Therefore, the panel does not expect the scheme to meet all the metrics of the Apartment Design Guide.

However, privacy is inadequate at the lower ground level which is too heavily overlooked from the common entry. The upper levels lack adequate privacy viewed from the street and park. The proposal should be amended to improve privacy and consideration should be given to the other issues identified above.

2. Internal referral comments:

2.1. Building Compliance

Council's Building Compliance Officer has confirmed the proposed development is satisfactory and provided the following comments:

*“Classification – Class 2 – Residential flat building
– Class 7b – garage*

*Rise in storeys – 5
Type A construction*

The existing building is a 4 storey residential flat building with a lightweight construction on the top floor level. The Application proposes an extensive amount of building works which includes the construction of 2 new units at the rear (westernmost) part of the existing garage level.

The works also proposed the fire upgrading of the existing residential flat building as indicated in the report prepared by Credwell Consulting Pty Ltd dated 20 October 2022. The conclusion includes a staged upgrading of the existing premises from a period of 6 months to 3 years.

Recommend approval.”

2.2. Heritage Planning

Council's Heritage Planner has confirmed the proposed development is satisfactory and provided the following comments:

“The Site

The subject site has a location address of 10 Major Street, Coogee and a legal land parcel identity as Lot C DP 4333 being Lot 1-13 in SP2273.

The site is not individually listed as a heritage item, nor is it within a Heritage Conservation Area (HCA). However, it is located adjacent to a locally listed item, being Item 41 (I41) at 39 Arcadia Street and known as ‘Ballamac’ a Victorian Villa. That villa has significant connections with Australian art and culture, and it is currently under consideration for substantial development.

The subject site at 10 Major Street presents as a modernist-style residential flat building, typical of the late 1960s, and containing modest-size apartments over four levels. The building has had cosmetic upgrades over time, but it currently presents in plain and dated mode.

Background

The applicant lodged a Pre-Development Application (PL/39/2021) to Council and received formal advice, via letter dated 13/09/2021. The proposal was then subject to a Design Excellence Panel review, with recommendations received via letter dated 04/02/2022. Having received these recommendations from Council, the current proposal

has incorporated amendments to the original design, including variations to scale and built form, sustainability, unit layout, landscaping, and aesthetics.

Proposal

- *The current Development Application is for partial demolition, and then alterations and additions to the existing building. Most of these works are internal and have no heritage implication; externally however, the works comprise an overall integrated representation of the building viz:*
- *Minor extension to the penthouse unit*
- *Roofing replacement/upgrade*
- *General enlargement and upgrades to existing balconies, including glazed balustrades*
- *Balcony fenestration/access reconfiguration*
- *Overall fenestration and cladding replacement, including rendered surfaces*
- *Introduction of ground-level courtyards and courtyard walls*
- *Reconfiguration to external parking arrangements*
- *Landscaping/plantings*

Submission

For the purposes of the heritage assessment of this Development Application the proposal is accompanied by the following documentation:

- *Detailed architectural drawings prepared by Ken Powell Architect (KPA), Surry Hills NSW, dated as from April 2021 - October 2022 (and received by Council 12 January 2023)*
- *Various photomontage and photo comparison inclusions prepared by Ken Powell Architect (KPA), Surry Hills NSW, 2021-2022 (and received by Council 12 January 2023)*
- *Site and View Analysis studies prepared by Ken Powell Architect (KPA), Surry Hills NSW, dated as April - September 2021 (and received by Council 12 January 2023)*
- *Schedule of Materials, Colours and Finishes, prepared by Ken Powell Architect (KPA), Surry Hills NSW, dated as April 2021 (and received by Council 12 January 2023)*
- *Landscape and Plantings Schedule, prepared by Melissa Wilson Landscape Architects of Surry Hills NSW, dated as 3 November 2022 (and received by Council 12 January 2023)*
- *A professionally prepared Statement of Environment Effects (SEE) by ABC Planning, Surry Hills NSW, dated December 2022, (and received by Council 12 January 2023)*

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

The Heritage section of Randwick Development Control Plan 2013 provides Objectives and Controls in relation to heritage properties.

Comments

- *The site is not an individually listed heritage item, nor is it within a Heritage Conservation Area (HCA).*
- *The site is located adjacent to a locally listed item, being Item 41 (I41) at 39 Arcadia Street and known as 'Ballamac' a Victorian Villa; although this relationship is ameliorated by landform and established arboreal features.*
- *It is noted that the proposal substantially retains the existing built form, scale and building envelope.*
- *Likewise, the extension of the penthouse is in a built form that is recessed and integrated with the existing building. Therefore, from a heritage perspective, this has no perceivable adverse impact on either the immediate precinct or the heritage item in the vicinity.*
- *From a heritage perspective, other minor extensions have no perceivable adverse impacts on either the immediate precinct or the heritage item in the vicinity.*
- *The introduced elements and external finishes are relatively neutral and appropriate.*

In general, the proposal is compatible with the character and four-storey height of surrounding buildings. It aims towards contemporary amenity within current bulk and scale, but with improved sustainability and upgraded presentation."

2.3. Development Engineering and Landscaping

Council's Development Engineer and Landscaping Officer have confirmed the proposed development is satisfactory and provided the following comments:

"General Comments

The issues raised in previous memo from Development Engineering have been satisfactorily clarified. No further objections are raised to the development subject to the comments and conditions provided in this report.

Parking Provision Comments

Parking has been assessed by adopting the following parking rates as specified in Part B7 of Council's DCP

- *1.0 spaces per 1-bedroom unit*
- *1.2 spaces per 2-bedroom unit*
- *1.5 spaces per 3-bedroom unit*
- *1 visitor space per 4 units*
Note Visitor parking is not provided as fraction of (i.e. 4-7 Units= 1 space, 8-11 Units = 2 spaces , 12-15 = 3 spaces
- *Motorbike parking to be provide at 5% of vehicle parking requirement*
- *1 bicycle space per 2 units + 1 visitor space pe 10 units*

Existing Situation

The existing building contains 13 units comprising of 12 x 2 bedroom and 1 x 3 bedroom units.

$$\begin{aligned}
 \text{Parking required under DCP} &= (1 \times 1.5) + (13 \times 1.2) + 3(\text{visitor}) \\
 &= 1.5 + 14.4 + 3 \\
 &= 18.9 \\
 &= \text{say } 19 \text{ spaces}
 \end{aligned}$$

Existing Parking Provided = 5 spaces

Existing Parking Shortfall = 14 spaces (74%)

The existing development is experiencing a significant parking shortfall and is likely contributing to the high parking pressures in the locality.

Proposed Development

The proposed development will contain 15 units comprising of 12 x 2 bedroom and 1 x 3 bedroom units and two new 1 bedroom units.

Parking required under DCP $= (1 \times 1.5) + (13 \times 1.2) + (2 \times 1.0) + 3(\text{visitor})$
 $= 1.5 + 14.4 + 2.0 + 3 (\text{visitor})$
 $= 20.9$
 $= \text{say } 21 \text{ spaces}$

Proposed Parking Provided $= 7 \text{ spaces}$
Proposed Parking Shortfall $= 14 \text{ spaces}$

Sec 3.2 Part B7 of Council's DCP 2013 states;

"Where Development comprises an extension, modification or change of use to an existing development, Council will generally only require that additional parking be provided to cater for the additional demands arising from increases in floor space or changes in use"

*When assessed against the parking rates specified in Part B7 of Council's DCP the proposed development will increase parking demand on the site by 2 spaces. This **has** been provided for in the proposed development and is satisfactory.*

Hence the existing parking shortfall of 14 spaces will not increase as a result of the proposal and the additional parking demand has been catered for by the provision of two additional spaces. The parking provision is therefore acceptable.

Motorbike and Bicycle Parking

Under the current DCP the existing 13 unit development would generate a parking demand for 1 motorbike space and 7 bicycle spaces. Upon site inspection on 14/04/2023 it was observed there was no motorbike or bicycle parking currently provided on the site

The proposed additional two units would not generate any additional motorbike parking but would generate 1 additional bicycle space.

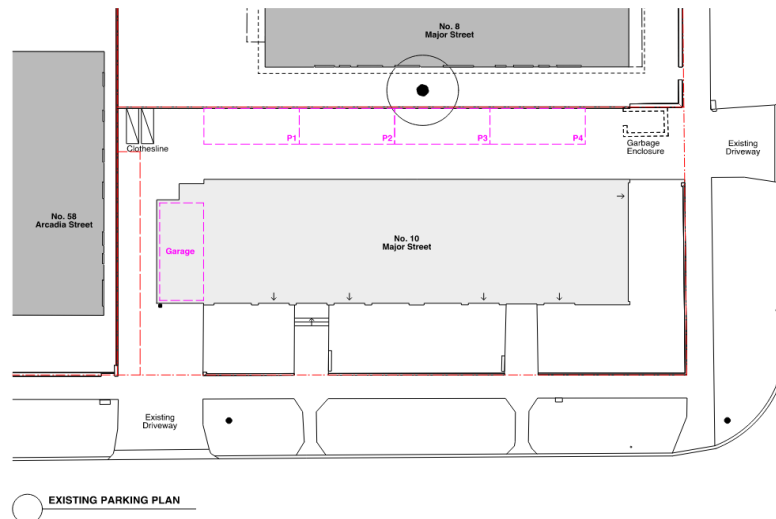
The submitted plans include provision for two motorbike spaces and two bicycle spaces which easily caters for the additional units plus some. This is satisfactory and also partly addresses the significant existing shortfall.

Parking Layout Comments

Existing Situation

The present configuration includes 4 spaces provided on the internal driveway parallel and adjacent to the northern side boundary plus 1 space within the existing garage accessed from Arcadia Street being a total of 5 spaces (see below)

Figure 1 - Existing Parking Layout



Upon site inspection it was observed that vehicles parked in the spaces adjacent to the northern boundary were facing Major Street implying the vehicles entered the site from Arcadia street and then drove around the rear of the garage, effectively creating a one way traffic movement system through the site from Arcadia St to Major St. Alternatively it may have been possible that vehicles are reversing down the driveway from Major Street or undertaking point turns at the end of the aisle.

If a one-way system from Arcadia St through to Major St was the current arrangement then Development Engineering preferred this system be maintained as vehicles are entering and exiting the site in a forward direction.

Since the proposed layout would prohibit a one-way traffic system, further information was requested in April 2023 regarding the traffic and parking arrangements.

A letter from PDC Traffic Consultants was received and the following responses to address the matters raised are noted;

- For spaces P1-P4 (on existing plan) access and egress occurs from Major St under a reverse in/ forward out arrangement. The garaged space is accessed from Arcadia Street.
- The two crossings in Major Street and Arcadia Avenue currently operate independently of each other and there is no continuous one-way system in operation around the site.
- The existing spaces remain unchanged apart from minor regrading of the adjacent car parking aisle.
- The two new spaces will essentially comply with the requirements of AS 2890.1
- The new motorbike spaces will comply with AS 2890.1 and the bicycle spaces will comply with AS 2890.3
- The previously noted errors stating the incorrect driveway widths have been corrected.

Development Engineering notes the responses and finds them acceptable however an additional issue was identified with one of the two new proposed carspaces located over an existing Right of Way in favour of the neighbouring property at 58 Arcadia Street. As permission from the owners of No.58 to extinguish the Right of Way could not be obtained, the latest proposed configuration has relocated the carspace against the northern side boundary (see below).

Figure 2 - Proposed Parking Layout

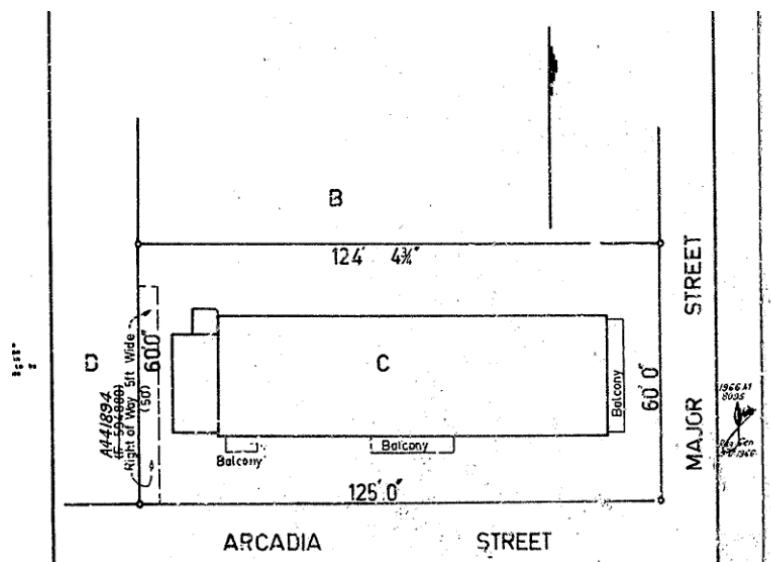


It is Development Engineering's preference that vehicles generally exit the site from Major Street in a forward direction, which would require them to reverse in. An operational condition enforcing this requirement was considered however this would be difficult to enforce and is inflexible. The site's residents have been living with this configuration for a long period of time and Council has not received any complaints on driver behaviour at this property.

Right of Way Comments

There is an existing Right of way 1.525m wide immediately adjacent and parallel to the western side boundary. Investigation and search shows the Right of Way was created via dealing A441894 around 1918 and is in favour of the neighbouring property at 58 Arcadia Street

A title search on the strata (SP 2273) at 10 major street and can confirm the Right of Way is on the title and strata plan (see below)



A title search on the neighbouring strata (SP 17250) at 58 Arcadia Street immediately to the west also confirms they have access rights to the ROW.

The originally submitted plans indicate one of the proposed carspace fronting Arcadia Street was to be provided over the Right of Way.

Notwithstanding that the proposal is just reflecting an arrangement that appears to have been in place for many years the applicant was unable to receive permission from the body corporate at 58 Arcadia St to extinguish the Right of Way even though the easement appears to serve no purpose and has not been utilised for many years.

The extinguishment would be necessary before Council can approve a carspace at this proposed location.

As permission was not forthcoming the position of the carspace was not supported and the carspace has instead been relocated along the northern side boundary and the clothesline relocated. This is satisfactory.

One of the two proposed motorbike spaces has been deleted as a result. This is satisfactory as technically they are not required as part of this DA.

The final configuration is a reasonable compromise and will adequately provide for any additional parking demand. No further objections are raised.

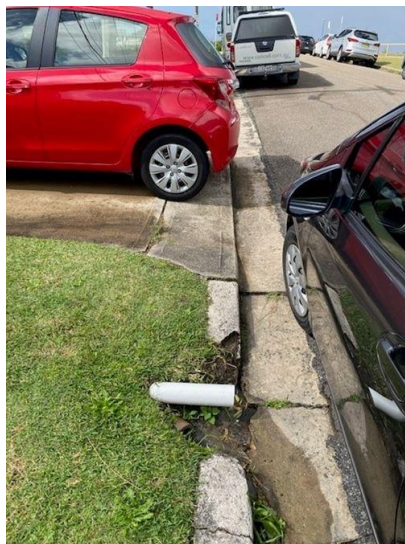
Construction Traffic Management Comments

Although not normally required for alterations and additions it is considered that in this case due to the site's location within an area that is experiencing very high parking pressures, an application for a 'Works Zone' and Construction Traffic Management Plan should be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee. The Works Zone' to be provided in Major Street or Arcadia Street for the duration of the demolition & construction works. A recommended condition has been included.

Drainage Comments

The submitted drainage plans area generally consistent with Council's Private Stormwater Code with the exception of the outlet point which extends too far across the neighbouring frontage.

There is already an existing drainage outlet near this location but closer to the existing vehicle crossing (see photo below). Any new outlet should be provided in the same location. It will also be condition that the kerb and gutter be repaired, and outlet made good prior to the issuing of an occupation certificate.



For these reasons, the planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design

requirements. The applicant is required to submit detailed drainage plans to the Principal Certifier for approval prior to the issuing of a construction certificate.

The re-graded driveway must be designed to direct surface flows away from the entrances to the new ground floor units and into the sites stormwater drainage system.

Waste Management Comments

The existing bin enclosure located in the north-east corner of the property adjacent to the Major Street frontage is proposed to be demolished to make way for an additional carspace.

The waste bins are proposed to be relocated internal to the building within a dedicated "Garbage Room". A separate area is also proposed for bulky items.

If adopting the bin rate of 1 x 240L bin per 2 units for each garbage and recycling as specified in Part B6 of the DCP, the existing 13 units would generate a demand for approximately 14 bins comprising 7 garbage and 7 recycling. Although not specified in the DCP, a minimum of 1 additional 240L bins (being a total of 15) would also be required for FOGO (Food Organic Garden Organic).

The proposed additional two units would generate demand for 1 additional 240L bin for garbage and 1 additional 240L bin for recycling, with no increase required for FOGO resulting in a total of 17 x 240L bins comprising of 8 garbage, 8 recycling + 1 FOGO. Development Engineering will accept a reduction the number of garbage (red lid) bins to 7 to take into account the redirected waste stream to FOGO resulting in a revised total of 16 x 240L bins.

The submitted ground floor plan indicates the bin room can accommodate 16 x 240L bins only and so will meet the minimum requirements but do not show FOGO. It has therefore been conditioned that plans submitted for the CC shall accommodate 16 x 240L bins with breakup of the bins also conditioned.

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

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

Tree & Landscape Comments

While the two juvenile *Banksia integrifolia* (Coastal Banksia's) on Council's Major Street verge, spaced evenly between the existing vehicle crossing along the northern site boundary and the corner of Arcadia Street will not be directly affected by these works, they are desirable native species that are protected by the DCP, so to ensure their preservation, conditions simply require they be physically protected throughout the course of works, with the applicant to also cover the costs of installing additional street trees around on the Arcadia Street verge to complement the upgrades to the building and new perimeter landscaping as shown.

There is no vegetation within this development site at all, with the *Schefflera actinophylla* (Umbrella Tree) that is located in the side setback of the adjoining unit complex to the north, no.6, against the common boundary recognised as an undesirable, invasive weed, and should not be affected by replacing the existing concrete driveway/carpark to its south.

The Landscape Plans propose mass planting at Ground Level along both the southern and eastern frontages, and as this will drastically increase the amount of plant material at the site, improving street appeal and amenity for occupants, conditions require its full implementation as part of any approval.

D2/24

As part of this, it is noted that planting is indicated beneath the 1st Floor balcony overhangs, in areas that are not open to natural rainfall, with a covering letter from the Landscape Architect detailing that drought tolerant species were specifically nominated as they are 'fit for purpose', and as dwg LS04 specifies irrigation, this can be supported.

Balcony/terrace/rooftop planting that was previously shown on earlier plan revisions no longer forms part of this proposal, with the applicant detailing this would have increased the scope and cost of works beyond what was anticipated, for no significant benefit, and related to the need for additional engineering, water proofing and similar components.

Strata Comments

There is an existing strata scheme operating on the site under SP 2273. New Strata Plans will need to be prepared for the site to accommodate the additional units, reconfigured layouts and the new carspaces.

Given the limited number of carspaces Development Engineering will accept the provision of Utility lots or exclusive use-by-laws on common property in the amended strata scheme to manage the carspaces. Should they be dedicated as Utility lots they are to be restricted under S63 of the Strata Schemes Act as only being available to property owners within the strata scheme and to a maximum of 1 space per unit.

The new strata plans will need to be registered prior to the issuing of a final occupation certificate."

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

1. Clause 4.3 'Building Height'

Clause 4.6 - Height

10 Major Street Coogee

CLAUSE 4.6 TO CLAUSE 4.3 OF RANDWICK LEP 2012

EXCEPTIONS TO DEVELOPMENT STANDARDS – HEIGHT VARIATION

Alterations and additions to an existing residential flat building, including 2 additional one-bedroom units, plus minor extension to the penthouse unit

at

No. 10 Major Street Coogee

PREPARED BY

ABC PLANNING PTY LTD

November 2023

RANDWICK LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This updated Clause 4.6 variation request has been prepared to accompany the development application that seeks partial demolition, plus alterations and additions to an existing residential flat building comprising minor extension to the penthouse unit, upgrades to existing balconies, reconfiguration of the ground floor including two (2) additional units and new storage space, plus two (2) additional car parking spaces, at Lot C DP 4333 being Lot 1-13 in SP2273, commonly known as No. 10 Major Street, Coogee.

Clause 4.6 of the *Randwick Local Environmental Plan 2012* allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the RLEP2012 – maximum height 9.5m, as demonstrated on the LEP map in Figure 1 below.

Clause 4.6 - Height

10 Major Street Coorree

Pursuant to Clause 4.3 of the RLEP2012, the site is subject to a maximum building height of 9.5m, with the proposal for retaining the existing roof height of 14.95m (RL 45.55), being a 57.89% (5.4m) variation from the development standard, with no change to the existing as approved building height proposed.



Figure 1: Building Height

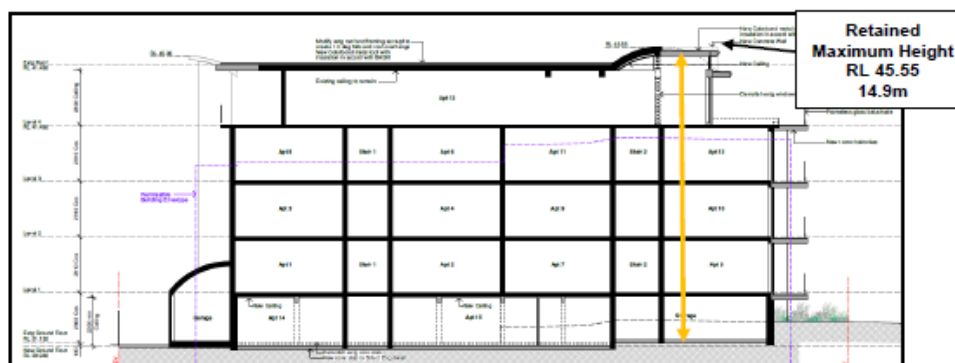


Figure 2: Excerpt Section Plan A, indicating maximum building height

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Assessment: It is considered that strict compliance with the development standard for height on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- A change to the existing as approved non-compliant building height does not form a part of this proposal.

Clause 4.6 - Height10 Major Street Coorree

- The variation to the height limit is generally contained within the existing built form, with the proposed rejuvenation providing for a contemporary and more desirable built form that will have a positive impact on the subject site and surrounding streetscape.
- The extension of the penthouse will not generate any adverse streetscape or amenity impacts due to the built form remaining recessed and integrated with the existing building. The minor extension will also not generate any adverse amenity impacts to any surrounding property in relation to overshadowing, privacy or view loss.
- The proposal will provide a high degree of amenity internally, with no additional external amenity impacts, including no new unreasonable visual bulk, overshadowing, or impacts to views to adjoining neighbours or the streetscape from the proposed development in relation to the height variation.
- The proposal complies with the objectives of the development standard and the R3 Medium Density Residential zone, indicated in the assessment at Table 1. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest given it is consistent with the objectives for development within the zone.
- Notwithstanding the numeric departure, the proposed alterations and additions will have a height, bulk, and scale compatible with the scale of the existing built form and that of the surrounding local area, and the height non-compliance will not have an adverse impact to surrounding properties and the streetscape in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, or view loss.

Overshadowing

- In accordance with the submitted Shadow Diagrams, some existing overshadowing of the adjoining lot to the west, and lot opposite to the south is associated with the exiting RFB. However, the overshadowing impact is not significant, with at least three (3) hours of sunlight is achieved to living rooms and private open space of these adjoining dwellings between 8am and 4pm during mid-winter. In this regard, the proposed enlarged Level 4 balcony plus roof alteration/ extension will not have a significant impact to overshadowing, with existing access to sunlight retained.



8 am June 21



12 Noon June 21

Clause 4.6 - Height

10 Major Street Coogee

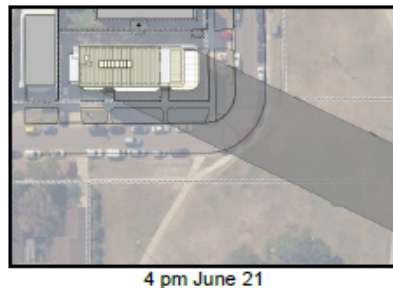


Figure 3: Excerpt Shadow Diagrams, illustrating compliant solar access

Visual and Acoustic Privacy

- No change is associated with the visual and acoustic privacy impacts to adjoining neighbours from the as approved/existing height.
- The orientation of primary openings to the front and rear of the RFB ensures that visual privacy is maintained to the western adjoining neighbour, while the proposed ground floor terraces to the southern elevation overlooking Arcadia Street are suitably screened to maintain visual and acoustic amenity.
- The recessed nature of the balconies from the western neighbour will ensure that the extended balconies will not generate any adverse overlooking impacts to the front or east-facing side windows of the adjoining westerly neighbour. Moreover, the upgraded balconies open aspect of the balconies provides views the ocean, Dunningham Reserve and Wedding Cake Island.
- The retained separation distance between the proposed development and neighbouring dwellings to the north and west, along with deep soil planting in the primary and secondary street setback, including native tree species which are capable of reaching a mature height of at least 7m, further mitigates potential visual and acoustic privacy impacts.

Visual Impact from Bulk and Scale

- The proposed alterations and additions are sensitively designed, with the existing height variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. The proposed variety of architectural features are considered to be of a high standard which will enhance the character of the Major Street and Arcadia Street, including indentation and recesses, architectural roof features, screen battens, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade. Additionally, a range of materials and finishes are proposed to be incorporated to provide visual interest and character to the development so as to reduce the visual bulk of the built form when viewed from surrounding properties and the streetscape, as demonstrated in the photomontage except below (Figure 4).
- The mix of materials which include new brick, powdercoated aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.
- As illustrated in the photomontage (Figure 4), the proposed alterations and additions development and height variation is contained within a building envelope that is compatible with the established built form of the surrounding area. It is therefore considered that the

height of the development does not represent an overdevelopment of the site, or a development with a height that is not compatible with the context in which it is located. In this regard, it is considered that the existing height variation is be compatible with the context of the surrounding built environment.



Figure 4: Photomontage of proposed alterations and additions, illustrating compatibility with existing local context

- Retention of the established building alignments ensures the additional height provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the proposed alterations and additions development and adjoining properties.

View Impacts

- No impact to views is associated with the retained height of building variation.
- View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained. In this regard, the topography of the subject site and surrounding landscape, plus retained building separation, in addition to the minor enlargement to refurbished balconies ensures ocean views and views over Dunningham Reserve and Wedding Cake Island are retained for the adjoining westerly neighbour (Figures 5 & 6).

Clause 4.6 - Height

10 Major Street Coogee



Figure 5: Excerpt View Loss Diagram No. 8 Major Street, illustrating retained views to the coast and Wedding Cake Island




Figure 6: Excerpt View Loss Diagram No. 58 Arcadia Street, illustrating retained views to the coast and Wedding Cake Island



Amenity

- The proposal will provide a high degree of amenity internally, with no additional external amenity impact including no new unreasonable visual bulk, overshadowing, or impacts to views to adjoining neighbours or the streetscape from the proposed development in relation to the height variation.
- There are no internal amenity grounds that would determine that the height variation should not be granted, including:

- o 16% of the site provided as deep soil landscaping, being considerably greater than the 7% requirement.
- o 100% of units receive cross ventilation
- o The sizes of the proposed one-bedroom units outperform the minimum requirements
- o The amount of private open space for ground level unit terraces and upper-level unit balconies outperforms the ADG
- o Storage provided, in both the units and in the basement
- o Natural light and ventilation to all lobbies.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:


Table 1: Assessment against the Objectives of the Development Standard and Land Use zone. Consistency with the objectives of the height standard in the RLEP2012	
Objectives	Assessment
4.3(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	<div>Complies</div> <ul style="list-style-type: none">• The proposed development supports the economic and orderly development of land, as intended by the RLEP2012 and RDCP2013 controls. The alterations and additions to an existing RFB is permitted in the R3 Medium Density Residential zoning of the site, and is consistent with the intent for development on the subject site.• It is considered that the proposed alterations and additions built form represents a suitable development within a medium-density residential context.• It is acknowledged that there is an existing height variation from the RLEP2012 numerical height standard of 9.5m.• However, it is considered that proposed alterations and additions are compatible with the local context surrounding the site, including a mix of one and two-storey dwelling house, plus RFB developments (Figures 7 & 8). <div></div> <div>Figure 7: No. 8 Major Street</div>

	
<p>4.3(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</p>	<p>Figure 8: Adjoining property to west at No. 58 Arcadia Street</p> <p>Complies</p> <ul style="list-style-type: none">• The approved residential flat building is not heritage listed nor in a heritage listed area. However, the site is in close proximity to heritage item 41, being "Ballamac", Victorian villa, at No. 39 Arcadia Street. In this regard, the proposed alterations and addition development is not expected to have an impact on the significant fabric of this heritage building. Since the lodgement of the subject development application, deferred commencement approval was granted for redevelopment of the nearby heritage listed property (DA41/2023). A substantial height variation for the new building component was supported. The RLPP supported the officer's assessment report that a 5.41m variation from the 12-metre height limit was acceptable having regard to context and impacts. The proposal will be of a lesser height than that approved and will be compatible with the recently approved building as shown in the montage of that development with the subject site in the foreground (1st image) and background (2nd image): 

Clause 4.6 - Height

10 Major Street Coogee

D2/24

	 <p data-bbox="496 595 1201 640">Figure 10: Extract of montage from Dunningham Reserve with the subject site in the background</p>
<p>4.3(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p>	<p>Complies</p> <ul style="list-style-type: none"> An adverse impact on the amenity of the streetscape or adjoining or neighbouring land is avoided with the proposal not resulting in any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views than the existing RFB development, as assessed above in <i>Justification for Contravention of the Development Standard: (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.</i>
Consistency with the objectives of the R3 Medium Density Zone	
Objectives	Assessment
<ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day 	<p>Complies</p> <ul style="list-style-type: none"> The proposed alterations and additions to the existing RFB is permissible in the R3 medium Density zone. The proposed 2 x one-bedroom units provide for a variety of residential accommodation and housing choice, within a medium-density context. The proposal will provide high-quality contemporary residential accommodation with exceptional internal amenity for residents with no additional external amenity impacts to adjoining neighbours. The proposed alterations and additions development with an existing approved height variation is therefore not considered to generate any inconsistency with the zone objectives.

Clause 4.6 - Height

10 Major Street Googee

<p>needs of residents.</p> <ul style="list-style-type: none"> • To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area. • To protect the amenity of residents. • To encourage housing affordability. • To enable small-scale business uses in existing commercial buildings. 	
--	--

Based on the above assessment, it is considered that strict compliance with the LEP height standard is unreasonable and unnecessary in this instance.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: The assessment under the unreasonable and unnecessary section of this Clause 4.6 variation demonstrates that there are sufficient environmental grounds to permit the variation in this instance.

In this regard, it is reiterated that the height variation is existing as approved, and the proposal will not be responsible for any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views than the existing RFB development, which includes:

- A change to the existing as approved building non-compliant building height does not form a part of this proposal.

*Clause 4.6 - Height**10 Major Street Coogee*

- The variation to the height limit is generally contained within the existing built form, with the proposed rejuvenation providing for a contemporary and desirable built form that will have a positive impact on the subject site and surrounding streetscape.
- In accordance with the submitted shadow diagrams, some existing overshadowing of the adjoining lot to the west, and lot opposite to the south is associated with the existing RFB. However, the overshadowing impact is not significant, with at least three (3) hours of sunlight achieved to living rooms and private open space of these adjoining dwellings between 8am and 4pm during mid-winter. In this regard, the proposed enlarged balconies will not have a significant impact to overshadowing, with existing access to sunlight retained.
- No change is associated with the visual and acoustic privacy impacts to adjoining neighbours from the as approved/existing 5.4m of additional height.
- The recessed nature of the balconies from the western neighbour will ensure that the extended balconies will not generate any adverse overlooking impacts to the front or east-facing side windows of the adjoining westerly neighbour. Moreover, the upgraded balconies open aspect of the balconies provides views the ocean, Dunningham Reserve and Wedding Cake Island.
- The proposed alterations and additions are sensitively designed, with the height variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. The proposed variety of architectural features are considered to be of a high standard which will enhance the character of the Major Street, including indentation and recesses, architectural roof features, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade.
- Additionally, a range of materials and finishes are proposed to be incorporated to provide visual interest and character to the development so as to reduce the visual bulk of the built form when viewed from surrounding properties and the streetscape, as demonstrated in the photomontage except (Figure 4).
- View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are retained. In this regard, the topography of the subject site and surrounding landscape, plus retained building separation, in addition to the minor enlargement to refurbished balconies ensures views are retained for the adjoining westerly neighbour to the ocean, and over Dunningham Reserve and Wedding Cake Island.
- Provision of a high level of internal amenity, being a significant improvement on existing, as demonstrated by compliance with key amenity criteria within both SEPP 65/ ADG and RDCP2013 for both the General Principles for Development and for Medium Density Residential development types.

On this basis, there are sufficient environmental grounds to permit the height variation in this instance, including:

Other Matters for Consideration

4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Assessment: The above assessment demonstrates that the height satisfies the objectives of the height development standard and the R3 Medium Density zone.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

Furthermore, it is considered that the variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes beyond those associated with the existing height variation.

The development is in the public interest given the existing height variation provides for additional one-bedroom units, plus compliant balconies to existing terraces providing opportunities for passive surveillance of the streetscape, in an accessible location, being in close proximity to public transport providing access to services and facilities located within local and major centres.

Given that the proposal is for alterations and additions that provide rejuvenation to an existing RFB with existing height variation, there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the height control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

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

Assessment: The height variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The height allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk, or scale and without compromising the desired future character of the area.

The height is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional height and density near transport and established services.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the height standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Clause 4.6 - Height

10 Major Street Coogee

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at No. 10 Major Street, Coogee and is requested to be looked upon favourably by the consent authority.

2. Clause 4.4 'Floor Space Ratio'

Clause 4.6 - FSR

10 Major Street Coogee



CLAUSE 4.6 TO CLAUSE 4.4 OF RANDWICK LEP 2012

EXCEPTIONS TO DEVELOPMENT STANDARDS – FSR VARIATION

Alterations and additions to an existing residential flat building, including 2 additional one-bedroom units, plus minor extension to the penthouse unit

at

No. 10 Major Street Coogee

PREPARED BY

ABC PLANNING PTY LTD

December 2022

RANDWICK LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the development application that seeks partial demolition, plus alterations and additions to an existing residential flat building comprising minor extension to the penthouse unit, upgrades to existing balconies, reconfiguration of the ground floor including two (2) additional units and new storage space, plus two (2) additional car parking spaces, at Lot C DP 4333 being Lot 1-13 in SP2273, commonly known as No. 10 Major Street, Coogee.

Clause 4.6 of the *Randwick Local Environmental Plan 2012* allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement from *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.4 of the RLEP2012 - maximum FSR of 0.75:1, as demonstrated on the LEP map in Figure 1 below.

Pursuant to RLEP2012, the site is subject to a maximum FSR of 0.75:1, with the proposal for 1.4:1, being an 86.67% variation from the development standard. However, the existing FSR is 1.21:1, with the proposed variation being a 15.7% variation from the existing as approved FSR.



Figure 1:: Floor Space Ratio Map

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Assessment: It is considered that strict compliance with the development standard for FSR on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- While the proposed FSR of 1.4:1, being an 86.67% variation from the development standard, the existing FSR is 1.21:1, with the proposed variation being a 15.7% variation from the existing as approved FSR.
- The proposal retains the existing built form, with no change to the existing building envelope.
- The extension of the penthouse will not generate any adverse streetscape or amenity impacts due to the built form remaining recessed and integrated with the existing building. The minor extension will also not generate any adverse amenity impacts to any surrounding property in relation to overshadowing, privacy or view loss.

- The proposal complies with the objectives of the development standard and the R3 Medium Density Residential zone, indicated in the assessment in Table 1 below. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest, given it is consistent with the objectives for the development within the zone.
- Removal of the proposed excess FSR would not generate any discernible benefit to the streetscape nor to adjoining neighbours in relation visual bulk, privacy, or shadow impacts.
- Notwithstanding the numerical departure from the FSR, the proposed alterations and additions will have a height, bulk, and scale compatible with the scale of the existing built form and that of the surrounding local area, and the excess FSR will not have an adverse impact to surrounding properties and the streetscape in relation to significant additional overshadowing, visual impact from the bulk and scale, visual or acoustic privacy impacts, or view loss.
- The variation to the FSR is contained within the existing built form, with the proposed rejuvenation providing for a contemporary and desirable built form that will have a positive impact on the subject site and surrounding streetscape.

Overshadowing

- In accordance with the submitted shadow diagrams, some existing overshadowing of the adjoining lot to the west, and lot opposite to the south is associated with the existing RFB. However, the overshadowing impact is not significant, with at least three (3) hours of sunlight achieved to living rooms and private open space of these adjoining dwellings between 8am and 4pm during mid-winter. In this regard, given the proposal is for alterations and additions to the existing ground floor level, the proposed FSR associated with the two (2) new one-bedroom units will not have a significant impact to overshadowing, with existing access to sunlight retained.



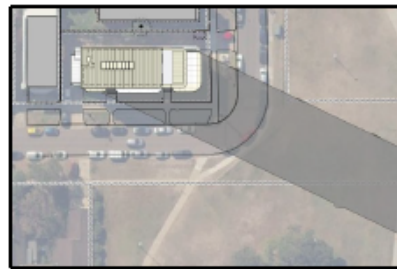
8 am June 21



12 Noon June 21

Clause 4.6 - FSR

10 Major Street Coogee



4 pm June 21

Figure 2: Excerpt Shadow Diagrams, illustrating compliant solar access

Visual and Acoustic Privacy

- Given the additional FSR is associated with the internal additions in form of two (2) new one-bedroom units to the existing ground floor area, there will be no change to the visual and acoustic privacy impacts to adjoining neighbours.
- The proposed ground floor terraces to the new one-bedroom units are provided with metal batten privacy screens on top of low height masonry to provide maintain visual and acoustic privacy.
- The recessed nature of the enlarged balconies from the western neighbour, being provided with concrete column privacy screens to the western elevation, will ensure that the extended balconies will not generate any adverse overlooking impacts to the front or east-facing side windows of the adjoining westerly neighbour.
- Furthermore, the orientation of primary openings to the front and rear of the RFB ensures that visual privacy is maintained to the western adjoining neighbour, while the proposed ground floor terraces to the southern elevation overlooking Arcadia Street are suitably screened to maintain visual and acoustic amenity.
- The retained separation distance between the proposed development and neighbouring dwellings to the north and west, along with deep soil planting in the primary and secondary frontages, including native tree species which are capable of reaching a mature height of at least 7m, further mitigates potential visual and acoustic privacy impacts.

Visual Impact from Bulk and Scale

- The proposed alterations and additions are sensitively designed, with the FSR variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. The proposed variety of architectural features are considered to be of a high standard which will enhance the character of the Major Street and Arcadia Street, including indentation and recesses, architectural roof features, screen battens, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade. Additionally, a range of materials and finishes are proposed to be incorporated to provide visual interest and character to the development so as to reduce the visual bulk of the built form when viewed from surrounding properties and the streetscape, as demonstrated in the photomontage except below (Figure 4).

- The mix of materials which include new brick, powdercoated aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.
- As illustrated in the photomontage (Figure 4), the proposed alterations and additions development and excess FSR is contained within a building envelope that is compatible with the established built form of the surrounding area. It is therefore considered that the proposed excess FSR does not represent an overdevelopment of the site, or a development with an FSR that is not compatible with the context in which it is located. In this regard, it is considered that the FSR variation is compatible with the context of the surrounding built environment.



Figure 3: Photomontage of proposed alterations and additions, illustrating compatibility with existing local context

- Retention of the established building alignments ensures the proposed additional FSR provides a good level of building separation, access, landscaping, privacy, plus natural lighting and ventilation for both the proposed alterations and additions development and adjoining properties.

View Impacts

- No impact to views is associated with the proposed FSR variation.
- View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained. In this regard, the topography of the subject site and surrounding landscape, plus retained building separation, in addition to the minor enlargement to refurbished balconies ensures ocean views and views over Dunningham Reserve and Wedding Cake Island are retained for the adjoining westerly neighbour (Figures 5 & 6).

Clause 4.6 - FSR

10 Major Street Coopers



Figure 4: Excerpt View Loss Diagram No. 8 Major Street, illustrating retained views to the coast and Wedding Cake Island



Figure 5: Excerpt View Loss Diagram No. 58 Arcadia Street, illustrating retained views to the coast and Wedding Cake Island

Amenity

- The proposal will provide a high degree of amenity internally, with no additional external amenity impact including no new unreasonable visual bulk, overshadowing, or impacts to views to adjoining neighbours or the streetscape from the proposed development in relation to the additional FSR.
- Given the additional floor areas is within the existing ground floor, there are no internal amenity grounds that would determine that the additional FSR should not be granted, including:

- o 16% of the site provided
- o as deep soil landscaping, being considerably greater than the 7% requirement.
- o 100% of units receive cross ventilation
- o The sizes of the proposed one-bedroom units outperform the minimum requirements
- o The amount of private open space for ground level unit terraces and upper-level unit balconies outperforms the ADG
- o Storage provided, in both the units and in the basement
- o Natural light and ventilation to all lobbies.

Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Table 1: Assessment against the Objectives of the Development Standard and Land Use zone.

Consistency with the objectives of the FSR standard in the LEP	
Objectives	Assessment
4.4(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	<p>Complies</p> <ul style="list-style-type: none"> • While the proposed FSR of 1.4:1, is an 86.67% variation from the development standard, the existing FSR is 1.21:1, with the proposed variation being a minor 15.7% variation from the existing as approved FSR. • The proposal retains the existing built form, with no change to the existing building envelope.
4.4(b) to ensure that buildings are well articulated and respond to environmental and energy needs	<p>Complies</p> <ul style="list-style-type: none"> • The proposed ground floor units containing the excess FSR within the existing RFB is well integrated with the character and presentation of the street, thereby maintaining the attractive appearance of the RFB in the streetscape and as it appears to surrounding properties and coast foreshore area. • The mix of materials which include new brick, anodised aluminium windows and cladding, glass balustrades, metal roof, and metal privacy screen battens, provide an interesting presentation and variation contributing to the coastal character.
4.4(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	<p>Complies</p> <ul style="list-style-type: none"> • The proposed alterations and additions development and FSR variation is generally contained within the existing building envelope. It is therefore considered that the proposed FSR variation is compatible with the established built form of the surrounding area and the development does not represent an overdevelopment of the site, or a development with an FSR that is not compatible with the context in which it is located. • The outperformance of the deep soil landscaped area requirements is another indicator that the additional FSR can be accommodated on the site and that there are no adverse environmental factors that would determine that the proposal is an over-development of the site.
4.4(d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.	<p>Complies</p> <ul style="list-style-type: none"> • An adverse impact on the amenity of the streetscape or adjoining or neighbouring land is avoided with the proposal not resulting in any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views than the existing RFB development, as assessed above in <i>Justification for Contravention of the Development Standard</i>:

Clause 4.6 - FSR

10 Major Street Coogee

	(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
Consistency with the objectives of the R3 Medium Density Zone	
Objectives	Assessment
<ul style="list-style-type: none"> To provide for the housing needs of the community within a medium density residential environment. To provide a variety of housing types within a medium density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area. To protect the amenity of residents. To encourage housing affordability. To enable small-scale business uses in existing commercial buildings. 	<p>Complies</p> <ul style="list-style-type: none"> The proposed alterations and additions to the existing RFB is permissible in the R3 medium Density zone. The proposed 2 x one-bedroom units provide for a variety of residential accommodation and housing choice, within a medium-density context. The proposal will provide high-quality contemporary residential accommodation with exceptional internal amenity for residents with no additional external amenity impacts to adjoining neighbours. Given the additional FSR is associated with the internal additions in form of two (2) new one-bedroom units to the existing ground floor area, it is therefore not considered to generate any inconsistency with the zone objectives.

Based on the above assessment, it is considered that strict compliance with the LEP FSR development standard is unreasonable and unnecessary in this instance.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: The assessment under the unreasonable and unnecessary section of this Clause 4.6 variation demonstrates that there are sufficient environmental grounds to permit the variation in this instance.

In this regard, it is reiterated that the excess FSR results from the additions of two (2) new one-bedroom units with the existing ground floor, and the proposal will not be responsible for any additional visual or acoustic privacy impacts, visual impact from the height, bulk and scale, significant additional overshadowing, or loss of views than the existing RFB development, which includes:

- While the proposed FSR of 1.4:1, being an 86.67% variation from the development standard, the existing FSR is 1.21:1, with the proposed variation being a 15.7 % variation from the existing as approved FSR.
- The proposal generally retains the existing built form, with no change to the existing building envelope.

Clause 4.6 - FSR10 Major Street Coogee

- The extension of the penthouse will not generate any adverse streetscape or amenity impacts due to the built form remaining recessed and integrated with the existing building. The minor extension will also not generate any adverse amenity impacts to any surrounding property in relation to overshadowing, privacy or view loss.
- The proposal will provide a high degree of amenity internally, with no additional external amenity impact including no new unreasonable visual bulk, overshadowing, or impacts to views to adjoining neighbours or the streetscape from the proposed development in relation to the additional FSR.
- In accordance with the submitted shadow diagrams, some existing overshadowing of the adjoining lot to the west, and lot opposite to the south is associated with the existing RFB. However, the overshadowing impact is not significant, with at least three (3) hours of sunlight achieved to living rooms and private open space of these adjoining dwellings between 8am and 4pm during mid-winter. In this regard, given the proposal is for alterations and additions to the existing ground floor level, the proposed FSR associated with the two (2) new one-bedroom units will not have a significant impact to overshadowing, with existing access to sunlight retained.
- Given the additional FSR is associated with the internal additions in form of two (2) new one-bedroom units to the existing ground floor area, there will be no change to the visual and acoustic privacy impacts to adjoining neighbours.
- The proposed ground floor terraces to the new one-bedroom units are provided with metal batten privacy screens on top of low height masonry to provide maintain visual and acoustic privacy.
- The proposed alterations and additions are sensitively designed, with the FSR variation provided in a discrete and sympathetic manner through the use of articulation, modulation, and indentation. The proposed variety of architectural features are considered to be of a high standard which will enhance the character of the Major Street and Arcadia Street, including indentation and recesses, architectural roof features, screen battens, plus enlarged balconies to the front and southern elevation creating good articulation to the built form and building façade. Additionally, a range of materials and finishes are proposed to be incorporated to provide visual interest and character to the development so as to reduce the visual bulk of the built form when viewed from surrounding properties and the streetscape, as demonstrated in the photomontage except (Figure 4).
- No impact to views is associated with the proposed FSR variation.
- View analysis of the proposal to neighbouring dwellings indicates that impact to views is not significant, with views beyond the subject site to Gordons Bay and Wedding Cake Island are largely retained. In this regard, the topography of the subject site and surrounding landscape, plus retained building separation, in addition to the minor enlargement to refurbished balconies ensures views are retained for the adjoining westerly neighbour to the ocean, and over Dunningham Reserve and Wedding Cake Island.
- Provision of a high level of internal amenity, being a significant improvement on existing, as demonstrated by compliance with key amenity criteria within both SEPP 65/ ADG and RDCP2013 for both the General Principles for Development and for Medium Density Residential development types.

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the FSR variation in this instance.

Other Matters for Consideration

4(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Assessment: The above assessment demonstrates that the proposed FSR satisfies the objectives of the FSR development standard and the R3 Medium Density zone.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

Furthermore, it is considered that the FSR variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes beyond those associated with the existing FSR variation.

The development is in the public interest given the proposed FSR variation provides for additional one-bedroom units, plus compliant balconies to existing units providing opportunities for passive surveillance of the streetscape, in an accessible location, being in close proximity to public transport providing access to services and facilities located within local and major centres.

Given that the proposal is for alterations and additions that provide rejuvenation to an existing RFB and the proposed excess FSR is within the existing ground floor area, there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

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

Assessment: The proposed FSR variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed FSR allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk, or scale and without compromising the desired future character of the area.

The proposed FSR is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional height and density near transport and established services.

Concurrence

The Secretary's concurrence under clause 4.6(4) of the LEP has been delegated to the Council by written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018. That concurrence may also be assumed by the Court pursuant to s39(6) of the Land and Environment Court Act.

(b) the public benefit of maintaining the development standard

Clause 4.6 - FSR

10 Major Street Coogee

Assessment: There is no public benefit in maintaining the FSR standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at No. 10 Major Street, Coogee and is requested to be looked upon favourably by the consent authority.

Appendix 3: SEPP 65 Compliance Table

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3D-1	Communal and Public Open Space														
	<p>Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</p>	<p>The proposed works do not change the 2D building footprint on the site.</p>	<p>N/A</p>												
3E-1	Deep Soil Zones														
	<p>Deep soil zones are to meet the following requirements:</p> <p>Site Area:</p> <table><tr><th>Site Area</th><th>Min. Dimension</th><th>Deep Soil Zone (% site)</th></tr><tr><td>< 650m²</td><td>-</td><td>7%</td></tr><tr><td>650–1,500m²</td><td>3m</td><td>7%</td></tr><tr><td>>1,500m²</td><td>6m</td><td>7%</td></tr></table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m ²	-	7%	650–1,500m²	3m	7%	>1,500m ²	6m	7%	<p>Site = 695m² Proposed = 8.8% (61m²)</p>	<p>Yes, complies</p>
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m ²	-	7%													
650–1,500m²	3m	7%													
>1,500m ²	6m	7%													
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>The proposed fourth floor extension is contained within the existing building envelope, being extended into the roofed terrace. As such, the visual impact is as existing.</p> <p>The ground floor terraces have privacy screening installed to reduce overlooking their main POS area from the streetscape and pedestrians using the building entrances.</p> <p>Council is concerned that the extended balconies to the first-third floor units fronting Arcadia Street will have adverse visual privacy impacts on adjoining dwellings, considering the existing windows to the eastern side of</p>	<p>See Key Issues for a detailed assessment.</p>
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													

D2/24

D2/24

Clause	Design Criteria	Proposal	Compliance
		No. 58 Arcadia Street.	
3J-1	Bicycle and Car Parking		
	For sites located within 800m of a light rail stop, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street	The car parking requirement is 2 spaces for cars and 2 bicycle spaces for the additional (x2) 1-bedroom units.	Yes, complies
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.	Living rooms of the additional units have been located on the northern side of the building, with one unit (Apt 14) receiving 2 hours of direct sunlight. Due to site existing constraint, the POS of each unit is located on the southern side of the building and is unable to be located on the northern side of the building to retain off-street parking.	No, see Key Issues
4B	Natural Ventilation		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	The additional units will receive adequate cross ventilation between northern and southern facing windows. However, the windows are only operable from a sill height of 1.85m, to reduce acoustic impacts from the adjoining parking facilities.	No, see Key Issues
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	The cross-through length is <18m.	Yes, complies
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable – 2.4m Attic spaces – 1.8m at edge with min 30 degree ceiling slope Mixed use areas – 3.3m for ground and first floor 	<p>The additional (x2) 1-bedroom units will have ceiling heights of 2.55m.</p> <p>The non-habitable (storage) spaces in the ground floor level will have ceiling heights of 2.27m, in</p>	<p>No, see Key Issues</p> <p>Yes, complies</p>

Clause	Design Criteria	Proposal	Compliance												
	These minimums do not preclude higher ceilings if desired	compliance with the NCC 2022 requirements.													
4D	Apartment Size and Layout														
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none">• Studio - 35m²• 1 bedroom - 50m²• 2 bedroom - 70m²• 3 bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each</p>	<p>The proposed 1-bedroom dwellings have an internal area of 58.2m² and 59.7m² respectively.</p> <p>The proposed fourth floor penthouse extension extends the existing living room with no proposed changes to the number of bedrooms. As such, is as existing and sufficient.</p>	Yes, complies												
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Habitable rooms have sufficient glazing to external walls.	Yes, complies												
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	The proposed room depths are located within the existing building envelope, complying with the standard.	Yes, complies												
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	The proposed open plan living room has a depth of 7.93m, within the existing building envelope.	Yes, complies												
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	The single bedrooms to each unit have an area >10m ² .	Yes, complies												
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedroom dimensions are >3m.	Yes, complies												
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments	Living rooms in the 1-bedroom units have widths >3.6m.	Yes, complies												
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	The width of the cross-through 1-bedroom units is >4m.	Yes, complies												
4E	Apartment Size and Layout														
	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4 m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8 m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10 m²</td><td>2m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	<p>The proposed 1-bedroom units have terraces fronting Arcadia Street that are >8m² and a depth >2m.</p>	Yes, complies
Dwelling type	Minimum area	Minimum depth													
Studio	4 m ²	-													
1 bedroom	8 m ²	2m													
2 bedroom	10 m ²	2m													

D2/24

Clause	Design Criteria	Proposal	Compliance			
	<table><tr><td>3+ bedroom</td><td>12 m²</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	3+ bedroom	12 m ²	2.4m	<p>The proposed balconies to the first, second and third floor 2-bedroom units each are >10m² and have a depth of 2m.</p> <p>The fourth floor penthouse to the 3-bedroom unit has a balcony that is >12m² and has a depth >2.4m.</p>	
3+ bedroom	12 m ²	2.4m				
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	<p>The proposed ground floor balconies to the new 1-bedroom units have an area >15m², however a depth of only 2.4m. Considering the existing side constraints and need for planting fronting the streetscape, the narrower terraces for 1-bedroom units are considered acceptable in providing sufficient outdoor amenity to future occupants.</p>	Yes, acceptable on merit			
4F	Common Circulation and Spaces					
	The maximum number of apartments off a circulation core on a single level is eight	No changes are proposed to the number of common circulation points to the internal staircases.	As existing			
4G	Storage					
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none">• Studio apartments - 4m³• 1 bedroom apartments - 6m³• 2 bedroom apartments - 8m³• 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>	<p>See assessment below.</p>	Yes, acceptable on merit, subject to condition			
<p>Unit 14 will have a separate storage area in the subject unit of 4.3m³. No storage has been proposed in Unit 15. However, common storage units have been added in the subfloor ground level adjoining the new dwellings, replacing the existing building storage. Considering the constraints with locating new units and services within the existing pre-SEPP65 building envelope and the retention of storage to this floor outside each unit, the deficit storage to each unit is considered acceptable.</p>						

Clause	Design Criteria	Proposal	Compliance
	A condition of consent will be issued requiring that Units 14 and 15 are to be allocated a minimum of 1.7m ³ and 6m ³ respectively of the common storage on the ground floor plan. The remaining storage areas are to be either remain as shared storage or allocated proportionately to each unit, based on their unit entitlements in the strata plan.		

D2/24

Appendix 4: DCP Compliance Table

4.1 Section B2: Heritage

The proposal includes an assessment against the Heritage Objectives and Controls of this section of the DCP. This has been undertaken by Council's Heritage Planner. See Appendix 1 of this report above for the full assessment.

4.2 Section B6: Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	The proposed bin storage room has been relocated to within the subfloor of the existing building envelope, not visible from the streetscape.	Yes, complies
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	The proposed bin storage room is located away from habitable rooms.	Yes, complies
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	The proposed bin storage room has been relocated to within the subfloor of the existing building envelope, not visible from the streetscape.	Yes, complies
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	The proposed bin storage room is accessible on the ground level of the site via a door on the northern elevation.	Yes, complies
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	The proposed 1-bedroom units have sufficient storage space to hold a single day's waste and to enable source separation.	Yes, complies
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	Conditioned to comply with the relevant Australian Standards.	Yes, subject to condition

4.3 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3.	Parking & Service Delivery Requirements		
	Car parking requirements: <ul style="list-style-type: none"> 1 space per 2 studios 1 space per 1-bedroom unit (over 40m²) 1.2 spaces per 2-bedroom unit 	See Engineering referral above for a full assessment of parking facilities on site.	See Engineering Referral.

	<ul style="list-style-type: none"> 1.5 spaces per 3 or more bedroom unit 1 visitor space per 4 dwellings 		
	Motor cycle requirements: 5% of car parking requirement	See Engineering referral above for a full assessment of parking facilities on site.	See Engineering Referral.
4. Bicycles			
	Residents: <ul style="list-style-type: none"> 1 bike space per 2 units Visitors: <ul style="list-style-type: none"> 1 per 10 units 	See Engineering referral above for a full assessment of parking facilities on site.	See Engineering Referral.

D2/24

4.4 Section B10: Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.	The proposed works shall not impact on the scenic qualities as the dwelling has been designed with materials that are sympathetic to the scenic qualities. The proposed colours are light toned neutral hues that compliment the coastal area. Appropriate planting has been provided to both street frontages, as per Council's Landscape Officer's comments. The proposal includes the Colorbond Surfmist finish, which is white with the glare of the sun has been alleged to be reflective. A condition of consent is to be imposed requiring an alternative colour selection with reflectivity to be in compliance with the specification and standards.	Yes, subject to condition

4.5 Section C2: Medium Density Residential

D2/24

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	The site will retain the existing landscaped areas as development is taking place within the existing building envelope.	N/A
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Existing = 23.7% Proposed = 16% The proposed deep soil area loss accounts for the need to provide sufficient POS areas to the proposed new 1-bedroom units. Whilst the area does not comply with the controls, existing site constraints and reduced terrace areas have sought to retain sufficient deep soil area on the site. As such, Council is satisfied that sufficient deep soil area has been retained on the site noting that the requirements of SEPP 65 have been met.	Yes, acceptable on merit and SEPP prevails.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	The proposed deep soil areas comply with these controls.	Yes, complies
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	See Landscaping referral comments regarding Council's satisfaction with the proposed landscaping to the deep soil areas.	See Landscaping referral
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	The proposed deep soil areas comply with these controls.	Yes, complies
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	The proposed site has retained deep soil areas fronting Major Street and Arcadia Street.	Yes, complies
3.	Building Envelope		
3.1	Floor space ratio		
	0.75:1	1.4:1	No, see Clause 4.6 Assessment above.

DCP Clause	Control	Proposal	Compliance
3.2	Building height		
	12m	14.9m	No, see Clause 4.6 Assessment above.
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	See assessment below.	Yes, acceptable on merit
	<p>The proposed fourth floor penthouse extension is setback 6.86m from the Major Street setback and 4.85m from Arcadia Street, located within the existing partially-enclosed roofed terrace structure.</p> <p>The proposed new balconies to the building are setback 2.07m from the Major Street boundary (470mm closer than the existing) and 2.66m from the Arcadia Street boundary (1m closer than the existing), forward of the adjoining buildings on either side. The proposed balconies to the first, second and third floor 2-bedroom units each are >10m² and have a depth of 2m, complying with the requirements of the ADG. The balconies will have a positive amenity impact on these dwelling occupants. As a corner allotment, the impact of a breach will not impact further development in the future as corner allotments are subject to alternate siting controls. Considering the constraints of the existing building envelope, the extended balconies provide improved amenity to existing units in line with minimum ADG requirements.</p> <p>It is acknowledged that the proposed balcony extension will have some impact upon adjoining neighbours, in particular 4/58 Arcadia Street in relation to bulk, privacy and views. See Key Issues for a full assessment of these impacts. It is noted there are no additional shadow impacts from the proposed balconies considering the existing building envelope.</p> <p>Both street frontages contain landscaping and plantings, with the exception of the subject driveways and pathways.</p>		
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 14m ≤ site frontage width < 16m: 2.5m <p>(ii) Incorporate additional side setbacks to the building over and</p>	No changes are proposed to the northern and western setbacks.	N/A

D2/24

D2/24

DCP Clause	Control	Proposal	Compliance
	<p>above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>		
3.4.3	Rear setback		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	The subject site is a corner allotment. As such, rear setback controls are not relevant.	N/A
4.	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street.</p> <p>(iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	Council is satisfied that the proposed building upgrade including new balconies, window/door openings, roofing and wall finishes, provide a positive streetscape appeal of the building, are sufficiently articulated (within the limits of the existing building envelope) that will be a positive contribution to the foreshore area.	Yes, complies
4.2	Roof design		

DCP Clause	Control	Proposal	Compliance
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p> <p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. 	<p>The proposed new roof to the fourth floor extension is in keeping with the existing building that is well articulated and provides clerestory windows for additional natural light.</p> <p>The proposed extended terrace/balcony to the fourth floor penthouse is in keeping with the scale outdoor POS for this unit, with an impact similar to that of the existing terrace.</p> <p>The replaced main roof seeks the addition of a new roof access hatch. In order to confirm the use of the roof, a condition of consent will be issued requiring that the use of the roof is to remain as non-trafficable in perpetuity and that the roof access hatch is to be used for roof maintenance work only.</p>	Yes, complies

D2/24

D2/24

DCP Clause	Control	Proposal	Compliance
	(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.		
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	The proposed fourth floor extension will enclose the existing roofed terrace area. Whilst the external wall height breaches the 8m control, it is in keeping with the existing building height and will have minimal impact on the visual bulk of the building.	Yes, acceptable on merit
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	The upgraded building pedestrian pathways have been designed to clearly separate and distinguish pedestrian access.	Yes, complies
	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p>	<p>The proposed new 1-bedroom dwellings entrances are located via the individual terraces fronting Arcadia Street.</p> <p>Unit letterboxes have been relocated within the (x2) building stairwells, which do not clutter the streetscape, an improvement on the existing location fronting Arcadia Street.</p> <p>Awnings have been provided at the front of the building entrances.</p>	Yes, complies

DCP Clause	Control	Proposal	Compliance
	<p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>		
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>	<p>The site is located within the Foreshore Scenic Protection Area.</p> <p>See Part B10 assessment above regarding the appropriateness of the colours, materials and finishes of the proposed building façade.</p>	See Part B10 assessment above.
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the</p>	<p>The proposed minor excavation works within the existing building footprint to provide sufficient ceiling heights for the proposed 1-bedroom dwellings and utilities to the ground floor is minor, will have no impact on adjoining neighbours and is in keeping with the scale of required development.</p>	Yes, complies

D2/24

D2/24

DCP Clause	Control	Proposal	Compliance
	<p>height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>		
5.	Amenity		
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	<p>The proposed 1-bedroom units have a layout that consider acoustic privacy. Due to existing site constraints of parking facilities along the northern side of the site, noise from cars is expected to impact upon the amenity of the units.</p> <p>The proposed terraces fronting Arcadia Street have been installed with privacy screens and planting to reduce some of the acoustic impacts within the busy coastal area.</p>	<p>See Key Issues</p> <p>Yes, complies</p>
5.5	View sharing		
	<p>(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.</p> <p>(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.</p> <p>(iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p>	<p>The proposed extended balconies fronting Arcadia Street will impact upon the current views enjoyed from the bedrooms at No. 4/58 Arcadia Street. See Key Issues for a full view impact assessment from these windows.</p>	<p>See Key Issues</p>

DCP Clause	Control	Proposal	Compliance
	(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	The existing building has been designed for safe access to upper level units. Direct access to the proposed ground floor units have been provided from Arcadia Street.	Yes, complies
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Parking is located on the ground floor of the site.	Yes, complies
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	A mixture of doors and windows have been provided to interior space from balconies and external building walls.	Yes, complies
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	N/A	N/A
	(vi) Resident car parking areas must be equipped with security grilles or doors.	The parking facilities on site are accessible via the existing site conditions.	Yes, complies
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Intercom have been provided to the building stairwells.	Yes, complies
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Adequate lighting has been provided.	Yes, complies
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Sufficient casual surveillance has been provided to both building street frontages.	
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Standard use condition to be imposed to comply.	Yes, subject to condition
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Adequate lighting has been provided.	Yes, complies
6.	Car parking and access		
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	The proposed parking is located to the northern and western side of the existing building	Yes, complies

D2/24

D2/24

DCP Clause	Control	Proposal	Compliance
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site. (iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas. (iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary. (v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	envelope, clear of the existing ROW. See Engineering referral for further details.	
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	See Engineering referral for further details.	See Engineering Referral
7.	Fencing and Ancillary Development		
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street. (ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers. (iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	No fencing is provided to either street frontage. The terraces fronting Arcadia Street have wall portions to a height of 1.3m. The wall section is setback from the street boundary and planting has been provided in front to soften visual impacts of built form elements. As such, the proposal is considered acceptable.	Yes, complies on merit
7.7	Laundry facilities		

DCP Clause	Control	Proposal	Compliance
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit. (ii) Provide internal laundry for each dwelling unit. (iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	The proposed development will continue to provide a shared laundry service within the existing building envelope on the ground floor level. The building clothes line has been relocated to the western side of the building to facilitate the required parking facilities. Considering the existing site constraints and no works to majority of dwellings in the block, the proposal is considered acceptable.	Yes, acceptable on merit

D2/24

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/3/2023

D2/24

Development Consent Conditions (Medium Density Residential)



Folder /DA No:	DA/3/2023
Property:	10 Major Street, COOGEE NSW 2034
Proposal:	Alterations and additions to an existing residential flat building including the addition of x2 1-bedroom apartments to the ground floor with additional storage and waste areas, extension of the fourth floor terrace, refurbishment and extension of existing roof and balconies, building upgrade works, landscaping, and associated works. Amended proposal: reduction in glazing to some balcony windows, extended privacy screens to ground floor terraces, amended parking scheme plan and relocation of the clotheslines, other minor works.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Ground Floor & Site Plan, 1917/DA.06, Rev F	Ken Powell Architect	16/11/2023	01/12/2023
Typical Floor, 1917/DA.07, Rev E	Ken Powell Architect	01/08/2023	24/08/2023
Level 4 & Roof Plan, 1917/DA.08, Rev D	Ken Powell Architect	20/12/2022	12/01/2023
Sections A & B, 1917/DA.09, Rev E	Ken Powell Architect	01/08/2023	24/08/2023
Elevations – South & East, 1917/DA.10, Rev E	Ken Powell Architect	01/08/2023	24/08/2023
Elevations – North & West, 1917/DA.11, Rev E	Ken Powell Architect	01/08/2023	24/08/2023
Parking Plan – Existing and Proposed, 1917/DA.21, Rev F	Ken Powell Architect	16/11/2023	01/12/2023
Landscape – Site Plan –	Melissa Wilson	03/11/2022	12/01/2023

Ground Floor, 2281, LS01, Issue C	Landscape Architects		
Landscape – Plant Species, 2281, LS03, Issue C	Melissa Wilson Landscape Architects	03/11/2022	12/01/2023

BASIX Certificate No.	Dated	Received by Council
A477573	08 November 2022	12 January 2023
A477578	08 November 2022	12 January 2023
A477576	08 November 2022	12 January 2023
A477578	08 November 2022	12 January 2023
A477579	08 November 2022	12 January 2023
A477577	08 November 2022	12 January 2023
A477582	08 November 2022	12 January 2023
A477583	08 November 2022	12 January 2023
A477586	08 November 2022	12 January 2023
A477584	08 November 2022	12 January 2023
A477588	08 November 2022	12 January 2023
A477585	08 November 2022	12 January 2023
A477589	08 November 2022	12 January 2023
A477636	08 November 2022	12 January 2023
1348342M	10 November 2022	12 January 2023

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. The northern living room windows to Unit 14 and Unit 15 are to be fixed to a maximum height of 1.4m (measured above finished floor level). The portion of window above the 1.4m height is to be operable to enable adequate cross-ventilation within habitable areas of the proposed dwellings.
 - b. The following windows will be required to be installed with double glazing:
 - Unit 14, northern living room window.
 - Unit 14, northern Bedroom 1 window.
 - Unit 15, northern living room window.
 - c. The privacy screens provided to the southern ground floor terraces fronting Arcadia Street must be constructed with fixed lattice/slats with individual openings not more than 30mm wide.
 - d. A privacy screen having a height of 1.6m (measured above finished floor level) shall be provided to western side of the southern balconies to Unit 1, 3 and 5. The privacy screens must be constructed with translucent or obscured glazing (the use of film applied to the clear glass pane is unacceptable).
 - e. The following units are to be allocated the following minimum storage areas within the common storage rooms on the ground floor level:
 - Unit 14 - 1.7m³
 - Unit 15 - 6m³
 - f. The remaining storage areas within the common storage rooms on the ground floor level are to either remain as shared storage or allocated proportionately to each unit, based on the unit entitlements in the strata plan, to the satisfaction of the Principal Certifier.

New Strata Plans

3. New Strata Plans shall be prepared and registered for the site that subdivide the existing strata lots and common property so as to incorporate the approved new units and carspaces into the strata scheme. The developer shall obtain a strata/subdivision certificate and comply with all requirements of NSW Land Registry Services (LRS) in this regard. The new strata plans shall be registered prior to the issuing of a final occupation certificate and comply with the following requirements;
- *A maximum of 1 carspace shall be allocated to any unit.*
 - *Utility lots or Exclusive Use by-laws on common property for the parking spaces are permissible in this circumstance.*

Utility Lots

4. Should parking spaces be dedicated as Utility lots, under Section 63 of the *Strata Schemes Development Act 2015*, a "restriction on the use of land" is to be created on the title of the utility lots restricting the use of the utility lots to use by a proprietor or occupier of another lot (other than a utility lot) in the strata scheme. Such restriction shall not be released without the consent of the Council.

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

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

External Colours, Materials & Finishes

6. External materials, finishes and colours of the building are required to comply with the controls outlined in Section B10 'Foreshore Scenic Protection Area' of the DCP. In addition, any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare. An alternative colour selection to Colorbond Surfsmist is required.

Amended 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 \$7,004,562.00 the following applicable monetary levy must be paid to Council: \$70,045.62.

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.

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 Deposits

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

- \$3,000.00 - Damage / Civil Works Security Deposit

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

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

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

Stormwater Drainage

10. Stormwater drainage plans have not been approved as part of this development consent. 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.

11. Stormwater runoff from the (redeveloped portion) site shall be discharged either:
 - a. To the kerb and gutter along the site frontage by gravity (preferably without the use of a charged system).

NOTE: The outlet shall not be any further west than the existing gutter outlet on Arcadia Street.

12. Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
 - i) There are suitable clear-outs/inspection points at pipe bends and junctions.
 - ii) The maximum depth of the charged line does not exceed 1m below the gutter outlet.

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

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

14. All pump out water must pass through a stilling pit, located within the site, prior to being discharged by gravity to the kerb and gutter.
15. Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
16. The re-graded driveway must be designed to direct surface flows away from the entrances to the new ground floor units and into the sites stormwater drainage system.

Sydney Water

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/tapin>

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

New Street Trees

18. The applicant must submit a payment of **\$214.50** (GST inclusive) to cover the costs for Council to supply, plant and maintain 2 x 25 litre street trees, *Banksia serrata* (Saw Toothed Banksia's) on the Arcadia Street nature strip at the completion of all works, comprising one between the corner of Arcadia Street and the existing access path to the west, then one more further to the west, between the two existing access paths.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

The applicant must contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number) AND GIVING UP TO SIX WEEKS NOTICE to arrange for planting.

After advising of the receipt number, any further enquiries regarding scheduling/timing or completion of tree works are to be directed to Council's Central Area Tree Preservation & Maintenance Coordinator on 9093-6728.

Street Tree Protection

19. To ensure retention of the two juvenile *Banksia integrifolia* (Coastal Banksia's) that are located on Council's Major Street nature strip, between the existing vehicle crossing and corner of Arcadia Street 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 any new works.
 - b. Both trees must be physically protected by installing evenly spaced star pickets at a setback of **1500mm** on all four sides, to which, safety tape/para-webbing/shade cloth or similar shall then be permanently attached to completely enclose the trees for the duration of works.
 - c. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER".
 - d. 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.

- e. 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.
- f. A refundable deposit in the form of cash, credit card or cheque for an amount of **\$1,000.00** 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 at any time during the course of the 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.

Waste Management

20. A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Director of City Planning.

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

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

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

21. Unless otherwise approved in writing by Council's Lead Specialist in Strategic waste, the garbage room/storage areas shall be sized to contain a total of 16 x 240 litre bins (comprising 7 garbage bins, 8 recycle bins and 1 FOGO bin) and with adequate provision for access to all bins. Details showing compliance are to be included in the construction certificate.

Landscape Plans

22. 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 Melissa Wilson Landscape Architect, project no: 2281, dwg's LS00-04, issue C, dated 03/11/22, with both

this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

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

23. 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

24. 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.

Site stability, Excavation and Construction work

25. A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:
- a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.
 - b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.
 - c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.

- d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.
- e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.

Structural Adequacy

- 26. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the *Certifier (and the Council, if the Council is not the Certifier)*, certifying the structural adequacy of the existing structure to support the loads superimposed by the new building works.
- 27. The applicant must ensure that all fire upgrading works must be carried out in accordance with the Essential Fire Safety Measures, the Upgrading Strategy Summary and Conclusions of the National Construction Code Report prepared by Credwell Consulting Pty Ltd, dated 20 October 2022 (Reference C2062- NCC-Audit r1).

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 and Associated Requirements

- 28. 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

29. 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 Reports

30. A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, 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).

Noise & Vibration Management Plan

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

A *Construction Noise & Vibration Management Plan* must be developed and implemented throughout demolition and construction work.

- a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.
- b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.
- c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.

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

- e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.

Construction Site Management Plan

32. 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.

Sediment Control Plan

33. 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.

Demolition Work & Hazardous Materials

34. 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 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.*

Public Liability

35. The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.

Construction Traffic Management

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

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

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

Public Utilities

37. 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.

38. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

39. 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".

Building & Demolition Work Requirements

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavating or sawing of rock, use of jack-hammers, driven-type piling or shoring work or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 3.00pm (maximum) As may be further limited in Noise & Vibration Management Plan Saturday - No work permitted Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Noise & Vibration

41. Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with the *Construction Noise & Vibration Management Plan*, prepared for the development and as specified in the conditions of consent.

Construction Site Fencing

42. 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 and excavations must be properly guarded to prevent them from being dangerous to life or property.

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.*

Site Management

43. Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:
- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
 - b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
 - c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
 - d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
 - e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
 - f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.

- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) 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.

Dust Control

44. Dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Site Accessway

45. A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.

Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction

Removal of Asbestos Materials

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

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

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

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

Excavations & Support of Adjoining Land

47. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 74 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Complaints Register

48. A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.

Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigated, actioned and responded to and documented in a Complaints Register accordingly.

Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.

Survey

49. 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.

Building Encroachments

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

Historical Archaeological Remains or Deposits

51. In the unlikely event that historical archaeological remains or deposits are exposed during the works to the grounds, all work should cease while an evaluation of their potential extent and significance is undertaken, and the NSW Heritage Office notified under the requirements of the Heritage Act.

Tree Removal

52. Due to their small size and insignificance, no objections are raised to removing any vegetation throughout this development site where needed to accommodate the works as shown, subject to full implementation of the approved Landscape Plans.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning 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.

Post-construction Dilapidation Report

53. A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.

The dilapidation report shall detail whether:

- a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and
- b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.

The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal

Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.

Occupation Certificate

54. 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*.

Fire Safety Certificate

55. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

Structural Certification

56. A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council.

BASIX Requirements & Certification

57. In accordance with the *Environmental Planning and Assessment (Development, Certification & Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

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

Noise Control Requirements & Certification

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

A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.

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

Street and/or Sub-Address Numbering

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

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

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

Council's Infrastructure, Vehicular Crossings, street verge

60. The applicant must meet the full cost for a Council approved contractor to:
- i) Repair/make good the kerb and site drainage outlet on Arcadia Street adjacent to the western edge of the vehicular crossing into the site, to Council's specifications and requirements.
61. 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.
62. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
63. That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.
- Stormwater Drainage**
64. The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the

conditions of this development approval. The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the Principal Certifier.

Landscape Certification

65. 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 Melissa Wilson Landscape Architect, project no: 2281, dwg's LS00-04, issue C, dated 03/11/22.
66. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
67. That part of the nature-strip upon either of Council's footways which is damaged during the course of the 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

Carparking

68. The car & motorbike spaces shall be formalised with line-marking and labelling. Such works shall be completed prior to the issuing of an occupation certificate.

Bicycle Parking

69. All bicycle parking shall be installed to the requirements of Australian Standard 2890.3.

Waste Management

70. Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.

OPERATIONAL CONDITIONS

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

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

Use of parking spaces

71. 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.

Fire Safety Statement

72. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* at least on an annual basis each year following the issue of the *Fire Safety Certificate*, and in accordance with the *Fire Safety Schedule* for the building.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in

accordance with the standards of performance specified in the *Fire Safety Schedule*.

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

Environmental Amenity

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

Plant & Equipment

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

Roof Access Hatch

75. The use of the roof is to remain as non-trafficable in perpetuity. The roof access hatch is to be used for roof maintenance works only.

Development Application Report No. D3/24

Subject: 147 Avoca Street, Randwick (DA/954/2023)


Executive Summary

Proposal:	Alterations and additions to Coach and Horses Hotel including new lift, relocation of kitchen and modifications to the outdoor courtyard and gaming room.
Ward:	East Ward
Applicant:	Mr C Thomas
Owner:	Argos Investments Pty Ltd
Cost of works:	\$499,400
Reason for referral:	The development involves demolition works to a heritage item.

Recommendation

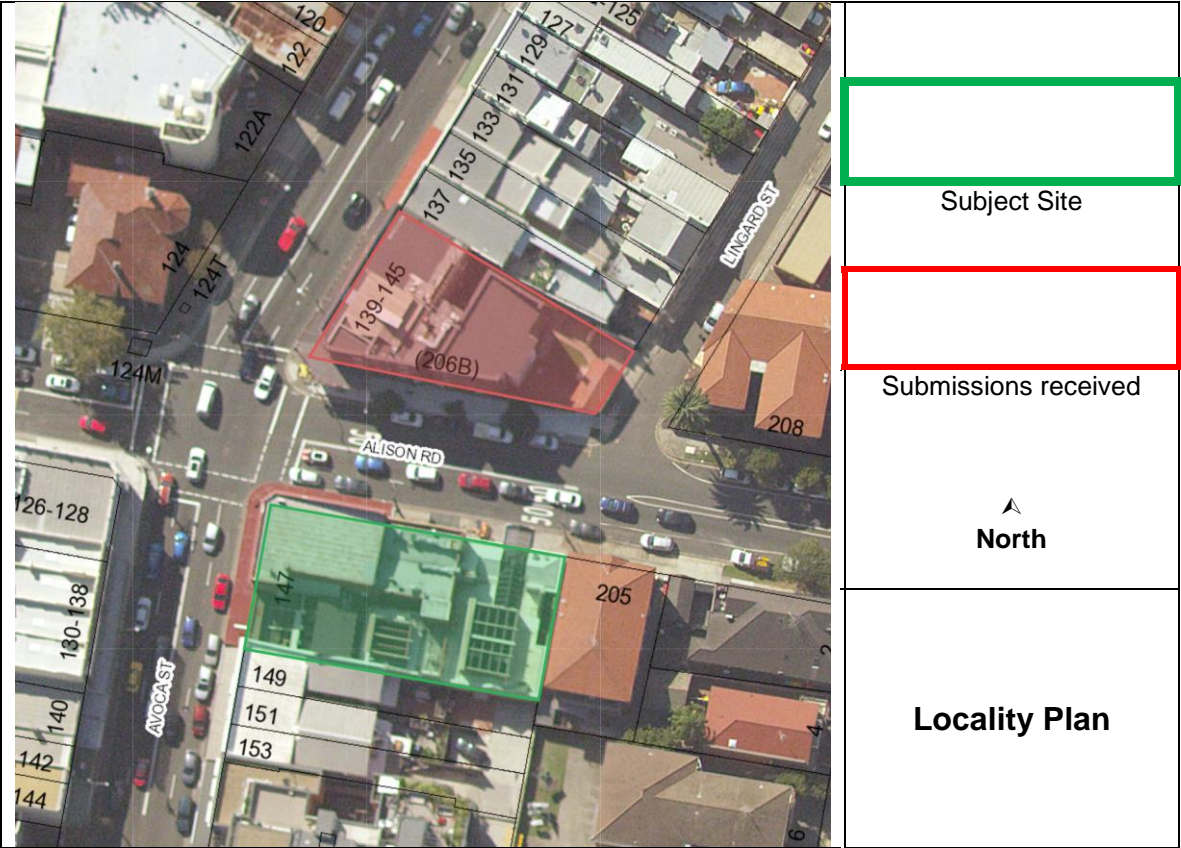
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/954/2023 for alterations and additions to Coach and Horses Hotel including new lift, relocation of kitchen and modifications to the outdoor courtyard and gaming room, at No. 147 Avoca Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/954/2023 - 147 Avoca Street, RANDWICK

D3/24

D3/24



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves demolition works to a heritage item. The proposal seeks development consent for alterations and additions to the Coach and Horses Hotel including new lift, relocation of kitchen, and modifications to the outdoor courtyard and gaming room.

The key issues associated with the proposal relate to the site’s identification as a local heritage item and built form being demolished and/or retained as part of the proposal. Details of the heritage significant fabric and an assessment of the proposed works have been outlined in the comments provided by Council’s Heritage Planner.

The proposal is recommended for approval.

2. Site Description and Locality

The site is located at 147 Avoca Street, Randwick and is legally described as Lot A in DP 323736. The site has an area of 797.3m² and is rectangular in shape. The site has a 19.685m frontage to Avoca Street (to the west) and a 40.655m frontage to Alison Road (to the north).

The site is currently occupied by a pub known as the Coach and Horses Hotel (refer Figures 1-3). The site is listed under Schedule 5 of RLEP 2012 as a local Heritage Item – Item No. I280 (*Coach and Horses Hotel*) and is located within the Randwick Junction Heritage Conservation Area.

Surrounding development comprises a mix of commercial and retail development, shop top housing, and residential development. Nearby commercial/retail development is generally two (2) to three (3) storeys in height. Nearby residential development comprises multi-storey residential flat buildings.



Figure 1: Subject site, viewed to south-east from intersection of Avoca Street and Alison Road (Source: Council officer)



Figure 2: Subject site, viewed to east from Avoca Street (Source: Council officer)

D3/24



Figure 3: Subject site, viewed to south from Alison Road (Source: Council officer)

3. Relevant history

- DA/59/1978 – approved 01/06/1978 for internal alterations to hotel premises to provide games room on ground floor and dining and kitchen on first floor.
- DA/350/1990 – approved 07/12/1990 for alterations and additions to existing hotel.
- DA/715/2003 – refused 12/10/2004 for use of public bar of Coach and Horses Hotel for a place of public entertainment from 6:00pm to midnight on Thursdays to Sundays.
- DA/529/2005 – approved 14/02/2006 for alterations, additions and internal fitout of the existing hotel, including refurbishment of part of the ground floor of the hotel, and the conversion of the existing accommodation on the 1st floor to a number of entertainment rooms with an associated bar area, a new outdoor area and minor works to the 2nd floor and stairs. This consent was subsequently modified by way of 2 x S96 (now S4.55) Applications.
- DA/182/2009 – approved 31/07/2009 for alterations and additions to an existing hotel, including conversion of part of the bistro area to an outdoor dining courtyard with associated fit-out works and noise attenuation installation. This consent was subsequently modified by way of 3 x S96 (now S4.55) Applications.
- DA/400/2014 – approved 23/09/2014 for alterations and additions to the Coach and Horses Hotel including new awning above fronting Alison Road and Avoca Street, extension of existing awning along Alison Road and changes to openings on elevations to provide access to new balcony.

Request for Information

Following on-site discussions with Council officers on 07 December 2023, the Applicant submitted photomontages on 14 December 2023.

On 04 January 2024, Council requested further additional information. The request information, including demolition plans and GFA plans, was submitted by the Applicant on 16 January 2024.

4. Proposal

The proposal seeks consent for alterations and additions to the Coach and Horses Hotel. As shown in Figures 4-9, the proposed works to the existing pub include:

- Reconfiguration of internal layout at ground and first floor levels.
- Reconfiguration of internal stairs at all floor levels.
- Demolition of existing lift and addition of new lift at all floor levels.
- Reconfiguration of gaming machine layout at ground floor level to increase size of gaming room – NB: no change to number of machines.
- Relocation of kitchen and bistro from ground floor to first floor.
- Extension at first floor level to accommodate relocated kitchen.
- New operable/retractable roof to outdoor courtyard at ground floor.
- New roof and operable louvres to void above gaming room at ground floor.
- Modification of existing roof voids and acoustic baffles.
- New windows to Alison Street façade.
- Demolition of existing entry door and addition of new door to Alison Street façade.

No works are proposed to the existing façade to Avoca Street.

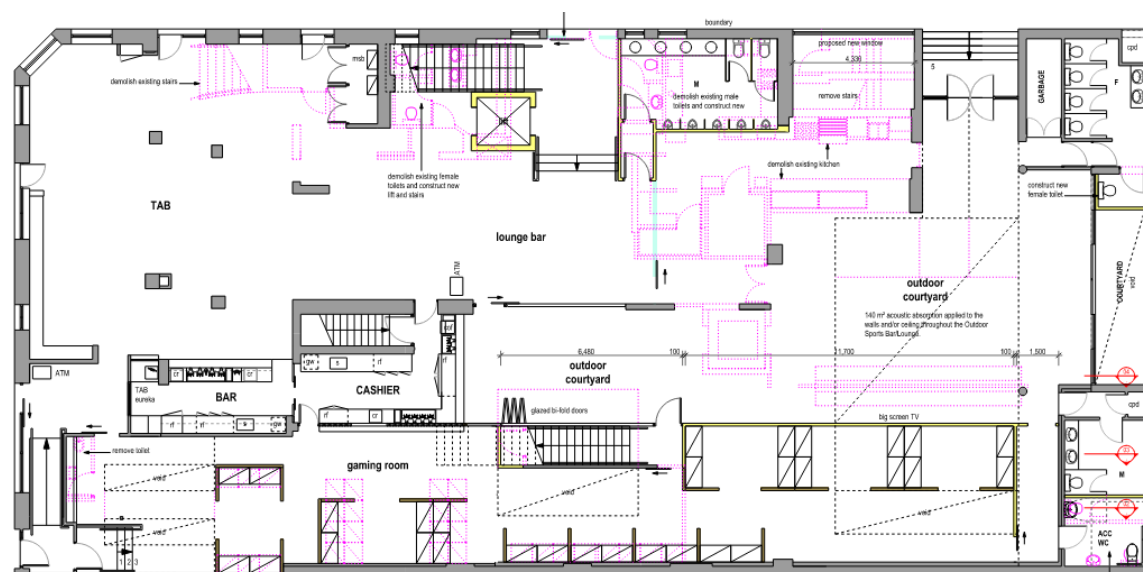


Figure 4: Proposed ground floor plan (Source: Darren Mah Design)

D3/24

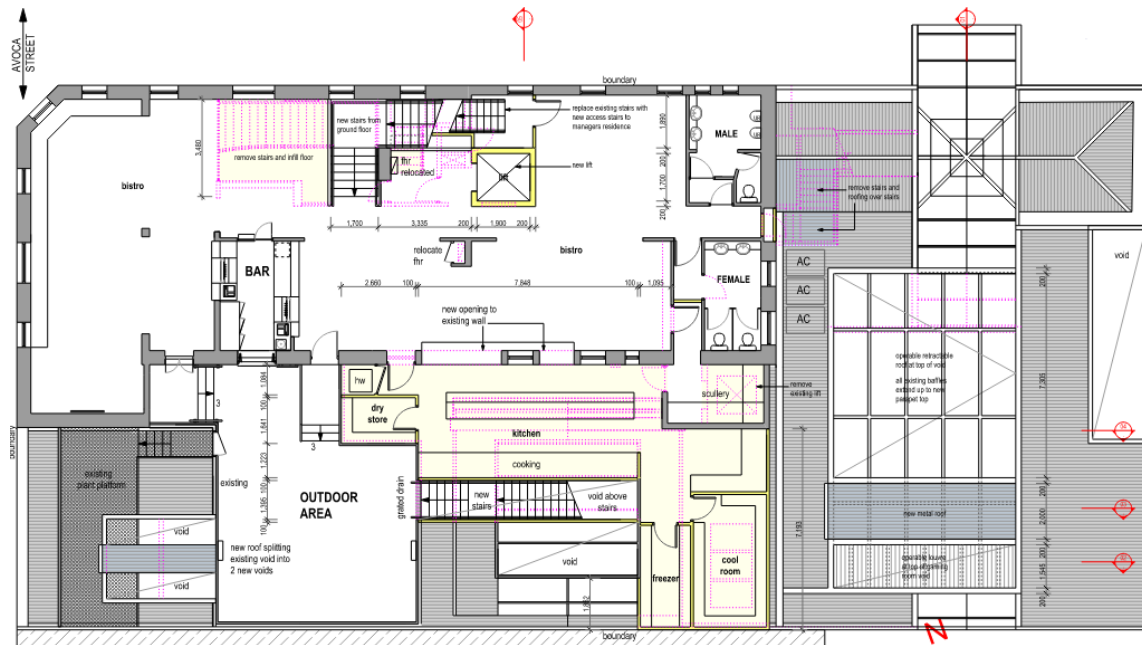


Figure 5: Proposed first floor plan (Source: Darren Mah Design)

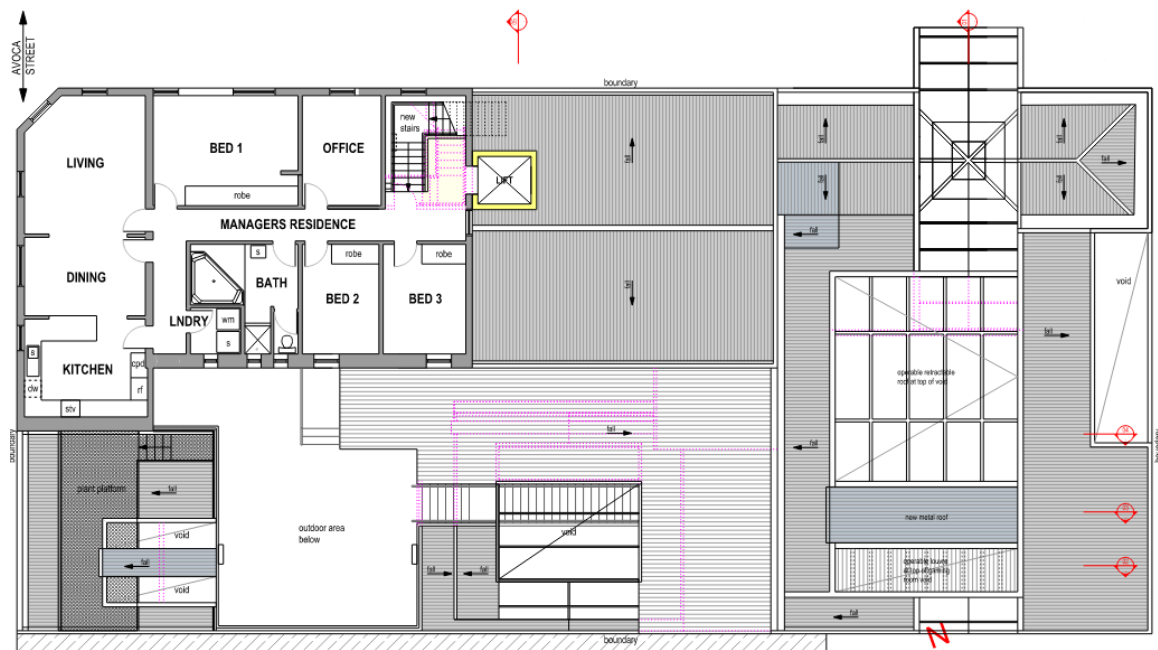


Figure 6: Proposed second floor plan (Source: Darren Mah Design)

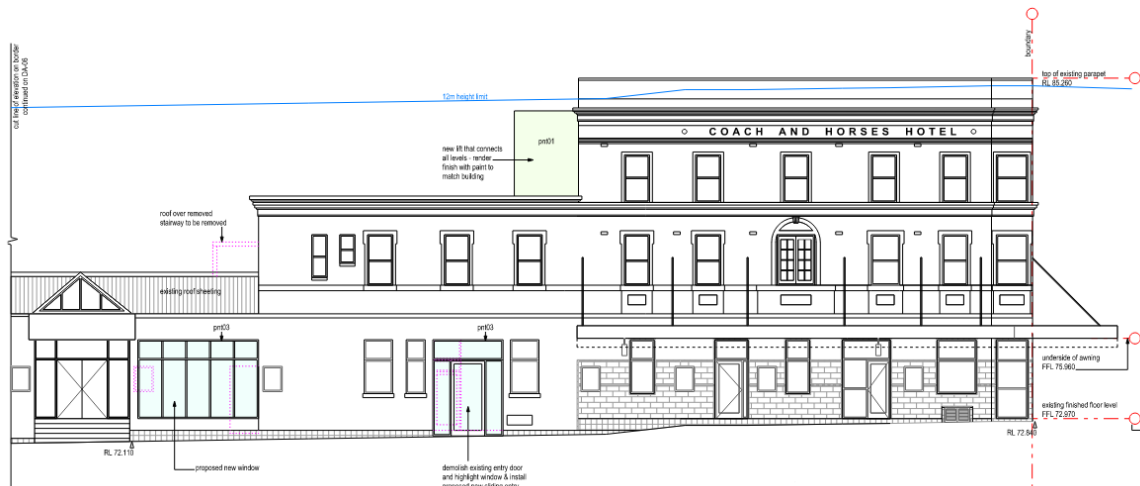


Figure 7: Proposed northern elevation – Alison Road (Source: Darren Mah Design)

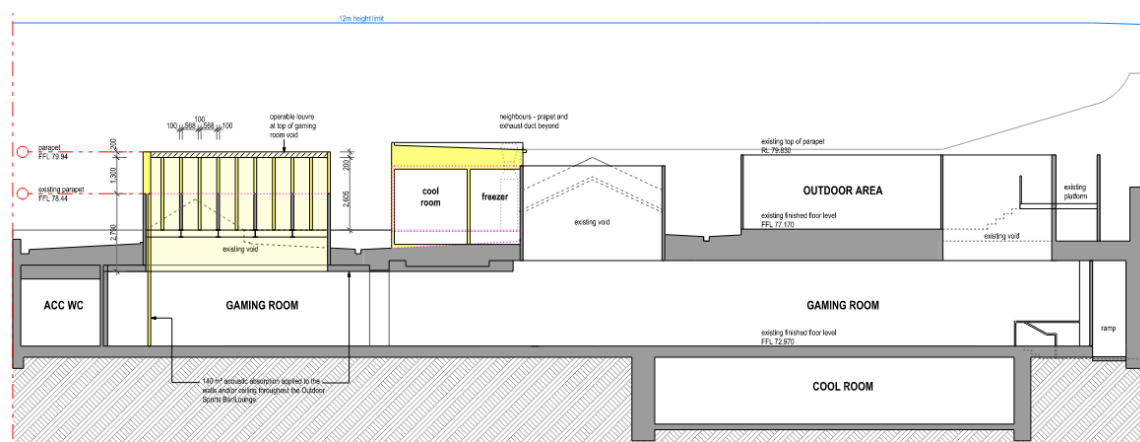


Figure 8: Proposed section plan (Source: Darren Mah Design)



Figure 9: Proposed photomontage, viewed from Alison Road (Source: Darren Mah Design)

Operating Hours

No change is proposed to the existing operating hours of the premises (24 hours Monday to Saturday and 10am to midnight Sundays). Pursuant to the *Liquor Act 2007*, the premises operates under Liquor License No. LIQH400101341. A condition is included which states:

“The licensed premises must be conducted in accordance with the Plan of Management entitled ‘Plan of Management for the Coach and Horses Hotel at 147 Avoca Street, Randwick, as amended dated 7 January 2019.’”

The Plan of Management dated 7 January 2019 states:

“4) The hours of operation are 5.00am to 5.00am Monday to Saturday and 10.00am to midnight Sundays.”

The Plan of Management submitted with the subject DA (dated 09 November 2023) is consistent with the above operating hours. Council’s Environmental Health Officer has reviewed the proposal and raises no concern regarding the continuation of the existing operating hours.

Patron Capacity

The existing premises is not subject to an overall maximum patron capacity. Rather, the current Plan of Management (dated 7 January 2019) states:

- “5) The use of the first floor outdoor area shall be restricted as follows:*
- i) Between 7.00am and midnight a maximum number of 60 patrons are permitted entry; and*
 - ii) Between midnight and 7.00am a maximum number of 10 patrons are permitted entry.*
- 6) The use of the ground floor courtyard shall be restricted as follows:*
- i) Between 7.00am and midnight a maximum number of 200 patrons are permitted entry;*
 - ii) Between midnight and 7.00am a maximum number of 80 patrons are permitted entry; and*
 - iii) One hour prior to midnight the licensee is to undertake a headcount of the courtyard and if necessary take steps to ensure that the number of patrons in the area by midnight does not exceed that in 6(ii) above.*
 - iv) Any live entertainment provided in the courtyard shall cease no later than midnight on Sunday to Wednesday (inclusive); 1am Thursday (the following morning); and 2am on a Friday and Saturday (the following morning).*
- 7) The use of the outdoor smokers courtyard shall be restricted as follows:*
- i) Between 7.00am and midnight a maximum number of 40 patrons are permitted entry; and*
 - ii) Between midnight and 7.00am a maximum number of 30 patrons are permitted entry.”*

The proposed internal reconfigurations have resulted in some minor changes to patron capacity numbers. The submitted Plan of Management (dated 9 November 2023) seeks consent for:

- “5) The use of the first floor outdoor area shall be restricted as follows:*
- i) Between 7.00am and midnight a maximum number of **50 patrons** are permitted entry; and*
 - ii) Between midnight and 7.00am a maximum number of 10 patrons are permitted entry.*
- 6) The use of the ground floor courtyard shall be restricted as follows:*
- i) Between 7.00am and midnight a maximum number of 200 patrons are permitted entry;*

- ii) **Between midnight and 7.00am a maximum number of 100 patrons are permitted entry with the retractable roof closed 60%;**
- iii) **Between midnight and 7.00am a maximum number of 50 patrons are permitted entry should the retractable roof be less than 60% closed; and**
- iv) One hour prior to midnight the licensee is to undertake a headcount of the courtyard and if necessary take steps to ensure that the number of patrons in the area by midnight does not exceed that in 6(ii) above.
- v) Any live entertainment provided in the courtyard shall cease no later than midnight on Sunday to Wednesday (inclusive); 1am Thursday (the following morning); and 2am on a Friday and Saturday (the following morning)."

The proposal seeks to replace the 'outdoor smokers courtyard' with the enlarged gaming room, and as such, Clause 7 of the Plan of Management (dated 7 January 2019) can be deleted.

The submitted Acoustic Report confirms that the above capacity limits for outdoor areas will ensure compliance with the relevant noise criteria. The Acoustic Report also notes the proposed indoor patron numbers:

- 50 patrons in ground floor gaming room;
- 185 patrons in ground floor public bar; and
- 185 patrons in first floor bistro.

Figures 10 and 11 identify the proposed patron capacity numbers.

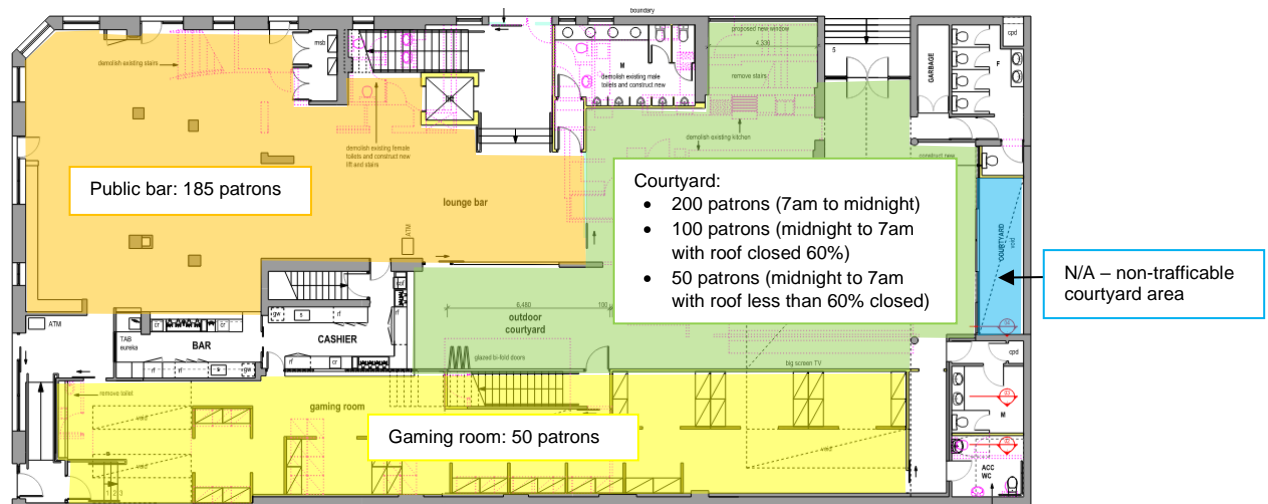


Figure 10: Markup of proposed ground floor plan – maximum patron capacity

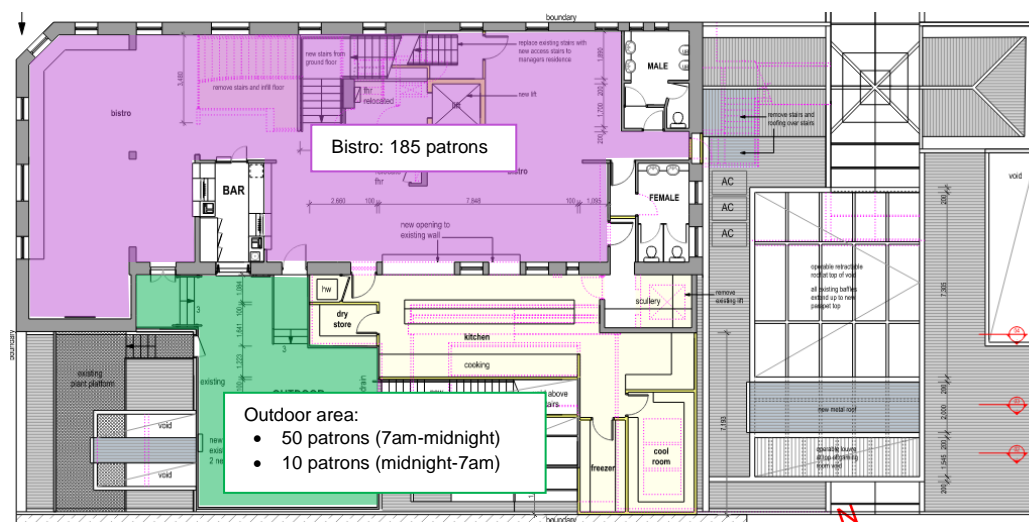


Figure 11: Markup of proposed first floor plan – maximum patron capacity

Council's Environmental Health Officer has reviewed the submitted Acoustic Report and raises no concern, subject to a reviewable condition relating to patron capacity.

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:

- Anonymous x 3
- 2/206B Alison Road
- 3/206B Alison Road
- 206B Alison Road

Issue	Comment
Operating hours are not conducive to creating a safe and enjoyable environment	<p>No change is proposed to the existing operating hours of the premises (24 hours Monday to Saturday and 10am to midnight Sundays).</p> <p>Council's Environmental Health Officer has reviewed the proposal and raises no concern regarding the continuation of the existing operating hours, subject to suitable conditions.</p>
Operational concerns and behavior of patrons (noise, public drunkenness, public urination, violence, litter etc.)	<p>The submitted Plan of Management contains suitable measures to manage noise and behavior of patrons. Suitable conditions are included to ensure continued compliance with the Plan of Management.</p> <p>Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions.</p>
Expanding the facilities of the premises will provide more space to accommodate 'unsavory clientele'	<p>The proposal seeks to enhance the food offering provided at the premises. The proposal provides a dedicated bistro and kitchen at first floor level, located away from the bar and gaming areas, to provide a 'family friendly' environment.</p> <p>The submitted Plan of Management contains suitable measures to manage the behavior of patrons. Suitable conditions are included to ensure continued compliance with the Plan of Management.</p> <p>Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions.</p>
The premises doesn't contribute to the community in a positive way	Refer to discussion at Key Issues section of this report. The proposal is consistent with the objectives of the E2 Commercial Centre zone in that it contributes to the vibrancy and diversity of the locality.
The premises doesn't appear to comply with RSA laws	Not relevant to planning assessment.

Issue	Comment
New doors and windows to Alison Road would increase noise levels, violence, disruption on the street, and would reduce privacy	<p>The submitted Acoustic Report confirms that the proposal will comply with the relevant noise criteria. Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions, including a reviewable condition relating to patron capacity.</p> <p>The proposed window and door openings are oriented towards Alison Road, and as such, will not result in any direct overlooking or privacy impacts to residential properties.</p> <p>Council's Heritage Planner has confirmed that the new window provides a better visual connection and façade articulation.</p>
Increased size and capacity of beer garden will exacerbate noise impacts	Refer to discussion at Key Issues section of this report. Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions.
Increased patronage would exacerbate negative behavior of patrons	<p>The submitted Plan of Management contains suitable measures to the behavior of patrons. Suitable conditions are included to ensure continued compliance with the Plan of Management.</p> <p>Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions.</p>

6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter 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.*

The proposed development does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

6.2. SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

The provisions of Chapter 4 of the Resilience and Hazards SEPP require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site.

The subject site has previously been used for the purposes of a pub and no change is proposed to this use. The nature and location of the proposed development are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.3. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the Randwick Local Environmental Plan 2012, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012.

The site is zoned E2 Commercial Centre under the Randwick Local Environmental Plan 2012 and the proposal, being for alterations and additions to an existing pub, is permissible with Council's consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity will contribute to the ongoing viability of the centre whilst protecting the amenity of residents in the nearby residential zones.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	2:1 (1,594.6m ²)	1.59:1 (1,269.42m ²)	Yes
CI 4.3: Building height (max)	12m	11.2m (RL83.97 top of lift over RL72.77 existing ground level)	Yes

6.3.1. Clause 5.10 - Heritage conservation

Clause 5.10(1) of the RLEP 2012 includes the objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

Council's Heritage Planner is satisfied that the proposed works comply with clause 5.10 of RLEP 2012. Refer to referral comments from Council's Heritage Planner at Appendix 1 of this report.

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 below.

Part D3 – Randwick Junction Centre

Part D3 of RDCP 2013 prescribes objectives and controls to guide development in the Randwick Junction Centre. Noting that the subject site is located within Randwick Junction, Part D3 is applicable.

Section 4 – Heritage Items and Contributory Buildings

The subject site is located within the Randwick Junction Heritage Conservation area and is identified as a Heritage item under RLEP 2012. The submitted Heritage Impact Statement, which is supported by Council's Heritage Planner, has considered the significance of the Conservation Area and Heritage Item having regard to aesthetic qualities, historic significance, and visual character. As detailed at Appendix 1, Council's Heritage Planner is satisfied that the proposal is consistent with these considerations, subject to conditions.

Council's Heritage Planner has confirmed that the proposed works, including selected materials, are compatible with the heritage items and contributing facades within the site's locality.

Section 10 – Building Design

No change is proposed to the existing building footprint or setbacks and no change is proposed to the Avoca Street building façade. Consistent with the DCP provisions, the original heritage shopfronts and detailing (i.e. doors, tiles, windows, and ornamental detailing) are retained.

The only works likely to be visible from the public domain include the addition of windows to the Alison Street façade, reconfiguration of an existing entry door to the Alison Street façade, and addition of a lift (behind the street façade).

The visual prominence of the lift addition has been minimised as it is set behind the street façade and is to be painted with a render finish to match the existing building. The proposed lift will not be visible from Avoca Street as it is lower than the existing parapet.

Section 11 – Car Parking and Access

Consistent with the existing situation, no on-site car parking is proposed. The site is well located in proximity to public transport services. Hence, the provision of on-site car parking is not required.

Part D13 – Late Night Trading

Part D13 of RDCP 2013 provides objectives and controls to assist in the assessment of late-night trading premises with regard to protecting residential amenity and maintaining public safety.

The pub is characterised as a 'high impact' premises. The submitted Plan of Management address the relevant matters for consideration, in accordance with the DCP requirements.

As abovementioned, no change is proposed to the existing operating hours of the premises (24 hours Monday to Saturday and 10am to midnight Sundays), which accord with the premises' current liquor license.

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	Refer to discussion at Section 6 of this report.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to discussion at Section 7 of this report.

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

Built Form and Design

The proposed works are predominately contained within the existing building envelope. The works associated with the new void areas and new lift will be contained well behind the existing parapet facing Avoca Street. The visual prominence of the lift addition has been minimised as it is set behind the street façade and is to be painted with a render finish to match the existing building. The proposal will not adversely impact on the appearance of the Heritage Item and the streetscape and is considered satisfactory from an urban design perspective.

Acoustic Impacts

Neighbouring submissions have raised concern regarding noise impacts associated with the existing and proposed operations of the Coach and Horses Hotel.

The proposed development is unlikely to result in significant acoustic impacts to neighbouring properties, particularly given the context of the subject site. The site is located on the corner of Avoca Street and Alison Road, which are busy roads with high pedestrian and traffic activity, and which are occupied by several existing food and drink premises.

The proposal is consistent with the objectives of the E2 Commercial Centre zone in that it contributes to the vibrancy and diversity of the locality. The proposed works to the existing pub seek to improve equitable access and amenity for patrons and staff to meet current operational demands. The proposal seeks to enhance the food offering provided at the premises. The proposal provides a dedicated bistro and kitchen at first floor level, located away from the bar and gaming areas, to provide a 'family friendly' environment.

Randwick Junction Centre has been identified by Council as a key location to support a diverse and thriving night-time economy, with a mix of uses and activities that meet the social and cultural needs of the community. Council's Strategic Planning team are currently undertaking a night-time

economy study which seeks to promote a vibrant, safe, and dynamic town centre serving residents and visitors alike at both day and night. The proposed development aligns with the strategic vision for the site's locality, which is zoned E2 Commercial Centre.

Suitable conditions are included to ensure that the premises operates in accordance with the submitted Plan of Management and Acoustic Report, which contain several measures for minimising acoustic impacts, including (but not limited to):

- Install acoustic absorption throughout the outdoor sports bar/lounge as indicated on the architectural plans.
- Retain the existing retractable roof above the outdoor sport bar/lounge roof void.
- The use of the first floor outdoor area shall be restricted as follows:
 - Between 7.00am and midnight, a maximum number of 50 patrons.
 - Between midnight and 7.00am, a maximum number of 10 patrons.
- The use of the ground floor courtyard shall be restricted as follows:
 - Between 7.00am and midnight, a maximum number of 200 patrons.
 - Between midnight and 7.00am, a maximum number of 100 patrons (with the retractable roof closed 60%).
 - Between midnight and 7.00am, a maximum number of 50 patrons (should the retractable roof be less than 60% closed).
- Any live entertainment conducted at the premises shall consist of no more than four (4) entertainers/ performers at any one time providing entertainment.
- All amplified entertainment must only be provided through the Hotel's in-house sound system and controlled by an RMS compressor limiter set by a qualified acoustic engineer.
- Any live performance involving acoustic percussion instruments is prohibited at all times. Electronic drum kits and the like connected through the in-house sound system are allowed.
- No live music or entertainment performances should occur beyond 10pm on any night.
- Noise attenuation measures are to be provided for mechanical plant and equipment.

The application was referred to Council's Environmental Health Officer, who raised no concern, subject to suitable conditions, including a reviewable condition relating to patron capacity.

The specified limits to patron capacity during late-night hours (midnight to 7.00am) are essential in mitigating noise disturbances to nearby residents. However, as per the relevant noise criteria from Liquor and Gaming NSW, noise from the use of the premises must be inaudible after midnight. Although predicted noise levels comply with Liquor and Gaming NSW entertainment noise criteria (L10) at the planning stage, practical compliance is not guaranteed.

The reviewable condition allows Council to modify the number of patrons should there be substantiated noise issues during the early morning period without the need to formally take regulatory action, such as service of a Prevention notice under the Protection of the Environment Operations Act 1997, or service of penalty infringement notices.

The reviewable condition serves as a proactive approach to ensure ongoing compliance with noise conditions and the Plan of Management. It provides a mechanism for timely intervention and resolution in case of any non-compliance issues without the need for formal action which is normally resource intensive and cost prohibitive.

Noting the above, and subject to conditions, the proposed development is unlikely to result in significant acoustic impacts to neighbouring properties.

9. Conclusion

That the application to undertake alterations and additions to the Coach and Horses Hotel including new lift, relocation of kitchen, and modifications to the outdoor courtyard and gaming room, 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 E2 zone in that the proposed activity will contribute to the ongoing viability of the centre whilst protecting the amenity of residents in the nearby residential zones.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape.
- The proposed development will make a positive contribution to the commercial centre.

Appendix 1: Referrals

1. Internal referral comments

1.1. Heritage Planner

The Site

- *The Coach and Horses Hotel occupies the south-eastern corner where Avoca Street meets Alison Road.*
- *The establishment is recognised as a heritage site in RLEP 2012 as local item I280 and is located within the Randwick Junction Heritage Conservation Area.*
- *It holds significant historical importance as one of Randwick's earliest hotels. Renowned for its 'High' architectural significance, the hotel plays a pivotal role in shaping the streetscape.*
- *The Randwick Heritage Study Inventory Sheet highlights its considerable historical interest and recommends its preservation through continued basic maintenance, affirming that the building is already in good condition.*
- *Notably, heritage items has high aesthetic values and arguably dominates and is highly visible from all four corners of the Avoca Street/Alison Road intersection, including the former Randwick Post Office and Jubilee fountain on the northwest corner.*
- *The exterior of the hotel building is in good condition and makes a strong contribution to the streetscape of Avoca Street and to a grouping of historic buildings around the junction of Avoca Street and Alison Road.*
- *The interior of the hotel is also in good condition, but has been significantly modified*
- *The subject site is located within The Randwick Heritage Conservation Area (RHCA)*

Background

- *Internal spaces have been extensively upgraded and modernised*
- *Approved - DA/400/2014 Alterations and additions to the Coach and Horses Hotel including new awning above fronting Alison Road and Avoca Street, extension of existing awning along Alison Road and changes to openings on elevations to provide access to new balcony.*
- *As part of the DA/400/2014 a Heritage Impact Statement (HIS) was submitted and by City Plan Services, which related to an earlier development application. The HIS noted that the remodelling which occurred in the 1890s included the addition of the second floor level, changes to external detailing, and interior refurbishment.*

Proposal

- *Additions and alterations to the existing building*

Submission

- *D05130152 - *Full Set - Architectural Plans*
- *D05130142 - Heritage Impact Statement*
- *D05130120 - SEE*

Controls

Clause 5.10(1) of Randwick Local Environmental Plan 2012 includes an Objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of Randwick Local Environmental Plan 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties.

Comments

Ground Floor

- *Removal of the stairs in the bar*
 - *later addition not an original fabric*
- *Demolishing Female WCs to add new lift and new stairs to the 1st floor*
 - *appears to be a later addition not an original fabric. If any remains of the original dining room fireplace/chimney are existing, it is recommended to be retained in place. The new stairs are roughly located where the previous / original Victorian stairwell to the First floor were located and already highly altered area/ceiling at First and Second floors.*
- *Demolishing existing North / Alison Street entry door and window and install new glazed sliding door with sidelight windows*
 - *door and awning are later additions. The new entry door offers a well defined accessible entry point from Alison Road.*
- *Demolishing existing kitchen*
 - *appears to be highly altered area*
- *Removal of the existing lift*
 - *Later addition non-original fabric*
- *Demolishing the fire stairs at Alison Road and to be replaced by new window*
 - *non-original post-1980 fabric and new window provides a better visual connection and façade articulation*
- *Demolishing existing Male WC and construction of a new Male WC*
 - *appears to be highly altered area however contains original fabric*
- *Demolishing and reconfiguration of existing gaming room*
 - *appears to be highly altered area and non-original fabric*
- *Extending gaming area into outdoor sports bar*
 - *changes to non-original fabric*
- *Extending gaming void and Outdoor bar baffles up to the top of a new parapet and add operable retractable roof at top*
 - *highly altered area and non-original fabric. Visual impact is considered acceptable based on provision for acoustic amenity*

First Floor

- *Infill floor where stairs removed from public bar*
 - *positive change*
- *Addition of new Lift from ground*
 - *achieving equitable access. It was suggested at the site meeting to relocate new lift to the area less visible from the public domain. However, it was argued that the proposed location has the least impact on the original fabric and viable for the current and future use of the place*
- *Replacing existing stairs with new access stairs to managers residence*
 - *appears to be highly altered area however contains original fabric*
- *Removal of fire stairs and roofing over stairs at North-East corner, and infill of doorway*
 - *highly altered area and non-original fabric*
- *Addition of new operable louver roof over part of the new gaming room*
 - *appears to be 1980s fabric*
- *Addition of new stairs to outdoor area*
 - *appears to be 1980s fabric*
- *Addition of new kitchen, freezer and coolroom with skillion sheet metal roof*
 - *altered area, appears to be 1980s fabric*
- *Addition of new openings through the South rear wall of hotel for kitchen servery and door*
 - *partial removal of original fabric sandstone/brick wall is supported. However, it is recommended to retain the original window in place.*

Second floor

- *Construction of new stairs and lift to manager's residence*
 - *appears to be highly altered area however contains original fabric*

A substantial amount of the works are taking place in parts of the Hotel that have undergone significant alterations and no longer resemble their original layout or structure. It also appears that the location, setbacks, as well as the materials and colours used for any exterior modifications planned to minimise their impact on the building and does not have any significant adverse impact on the RHCA.

Therefore, it is concluded that the application can be supported from a heritage perspective subject to the following amendments / additional information:

- Demolition plans / drawings are to be amended marking (in different colours) the original and non-original fabric to be removed or retained, including but not limited to the remnants of the former dining room fireplace/chimney, sandstone/brick walls, windows, doors, ceiling, etc.*
- If remnants of the former dining room fireplace/chimney still exist, it is recommended to be retained in its current place.*
- The original window at first floor in the new kitchen area is to be retained in its current place.*
- The Coach and Horses Hotel has significant heritage values that warrant interpretation.*

Recommendation

- Demolition plans / drawings are to be amended marking (in different colours) the original and non-original fabric to be removed or retained, including but not limited to the remnants of the former dining room fireplace/chimney, sandstone/brick walls, windows, doors, ceiling, etc.*
- The original window at first floor in the new kitchen area is to be retained in its current place.*

The requested demolition plans were submitted by the Applicant and the application was re-referred to Council's Heritage Planner for comment. As detailed below, no concern was raised, subject to conditions:

Comments

- The additional information is acceptable.*
- It is understood that at this stage the impact of the alteration/demolition to the fabric is only assumed from visual inspection.*
- It is noted that an accurate understanding of the extent of the impact is only possible via destructive and invasive investigation to each wall, floor and ceiling.*
- Considering the above, the proposed development, conservation, and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. The works are to be carried out in a manner that minimises demolition, alterations, and new penetrations to the significant fabric of the existing building which is listed as a Heritage Item.*

Recommendation

Further to the previous comments and recommendations TRIM D05132568, the following conditions should be included in any consent:

- All work shall be carried out in accordance with the principles of the Australia ICOMOS Burra Charter and to the satisfaction of Council.*
- The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.*
- The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.*
- The original brick/sandstone of the building are to be left intact and the extension / the new work is to be separated from the old by an expansion joint.*

- New services must use existing service runs; and where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted and approved by Council prior to the issue of any Construction Certificate.
- An architect or tradesperson suitably qualified and experienced in heritage conservation shall be engaged to oversee the carrying out of demolition, and construction/repairs. If significant hidden heritage fabric is encountered, works to be stopped immediately and to be inspected by a heritage consultant to ascertain how it can be kept, conserved or removed/replaced, in consultation with the Council heritage officer.
- Evidence and details of the above commission on the above terms are to be provided to Council prior to commencement of work on site. The heritage consultant must sign off the completed project and submit a final report to Council specifying how the heritage conditions are satisfied prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.

1.2. Environmental Health Officer

Proposed Development:

Alterations and additions to Coach and Horses Hotel including new lift, relocation of kitchen and modifications to the outdoor courtyard and gaming room (Heritage Item).

Comments:

Acoustic report

The acoustic report covers noise emissions from patrons, music and gaming machines (there will be no increase in machine numbers). There is no change proposed to plant and equipment and has not been included in this assessment. It is noted that an additional cold room will be installed on level 1.

There is no proposed change to existing trading hours. The patron numbers are as follows (acoustics requirements will vary the permitted numbers after midnight to ensure compliance with the relevant noise criteria):

- 50 in the gaming room.
- 200 in the outdoor sports bar/lounge.
- 185 in the public Bar
- 185 in the first-floor bistro
- 50 in the first floor outdoor terrace.

The nearest noise sensitive receiver is located at 205 Alison Road.

Noise limiters will be required to limit noise levels to 86dBA. It is also noted that live music is not assessed after 10.00pm, after 10.00pm only background music is permitted in the outdoor sports bar area.

Openable roof over beer garden must be 60% closed after midnight and patrons limited to 100.

Toilet fan to be compliant with amenity noise nighttime noise criteria of $L_{Aeq\ 15min}$ 43dBA, as it is the stricter of the amenity vs intrusiveness criteria a quieter fan may need to be installed. This seems to be an oversight of the acoustic report. Commercial plant is to be assessed at CC detailed design stage.

Plan of management

It is noted that the Plan of Management for the coach and horses Revision E dated 09/11/2023 has not been signed/dated by the licensee. A signed copy of the POM should be provided to Council prior to the DA being finalised.

Liquor licence

The liquor licence should be updated/modified to reflect the new trading hours capacities and plan of management for the site.

Justification for reviewable patron number condition

Mitigation of Noise Impact:

The specified patron limits during late-night hours (midnight to 7.00 am) are essential in mitigating noise disturbances to nearby residents, who are sensitive to noise. By limiting the number of patrons during these hours, we aim to minimise any potential adverse impacts on the surrounding residential area. However, as per the relevant noise criteria from Liquor and gaming NSW noise from the use of the premises must be inaudible after midnight. Although predicted noise levels comply with Liquor and Gaming NSW entertainment noise criteria (L10) at the planning stage, practical compliance is not guaranteed. The reviewable condition allows Council to modify the number of patrons should there be substantiated noise issues during the early morning period without the need to formally take action e.g. service of a Prevention notice under the Protection of the Environment Operations Act 1997, or service of penalty infringement notices (\$6,000/corporation, \$3,000/individual).

Proactive Approach to Compliance:

The reviewable condition serves as a proactive approach to ensure ongoing compliance with noise conditions and plans of management. It provides a mechanism for timely intervention and resolution in case of any non-compliance issues without the need for formal action which is normally resource intensive and cost prohibitive.

Community Well-being:

Retaining the reviewable condition reflects our commitment to maintaining a balance between vibrant social spaces and the well-being of the community. By closely monitoring and regulating outdoor patron capacity, we aim to preserve the amenity of the neighbourhood. It is also prudent to consider the number of submission received in regard to this application and the proximity of noise sensitive residential receivers.

Transparent and Fair Process:

The outlined process for reviewing the outdoor patron capacity is transparent and fair. The operator is given a 21-day notice period to submit information supporting the continuation of the outdoor patron capacity. Council's review will follow established protocols, including public notification and/or exhibition, ensuring a comprehensive and inclusive assessment. A review is only enacted should there be continued non-compliance with the conditions of the consent.

Conclusion:

We believe that the retention of this reviewable condition aligns with the principles of responsible planning and community-focused decision-making."

1.3. Building Surveyor

The applicant has provided a BCA Report, Fire Safety Engineering Report and Access Report to address the relevant regulatory building and certification provisions.

No objections are raised in relation to the proposed development, subject to compliance with the abovementioned reports and proposed conditions of consent.

Responsible officer: Julia Warren, Senior Environmental Planning Officer

File Reference: DA/954/2023

Development Consent Conditions (Commercial)



Folder /DA No:	DA/954/2023
Property:	147 Avoca Street, RANDWICK NSW 2031
Proposal:	Alterations and additions to Coach and Horses Hotel including new lift, relocation of kitchen and modifications to the outdoor courtyard and gaming room.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

Condition

1. **Approved plans and documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
SK-01-1, Rev D – Ground Floor Plan	Darren Mah Design	12/08/23	20/11/23
SK-01-2, Rev D – First Floor Plan	Darren Mah Design	12/08/23	20/11/23
SK-01-3, Rev D – Second Floor Plan	Darren Mah Design	12/08/23	20/11/23
SK-01-4, Rev B – Roof Plan	Darren Mah Design	15/01/24	16/01/24
SK-02-1, Rev C – Section 01	Darren Mah Design	15/01/24	16/01/24
SK-02-2, Rev C – Section 02	Darren Mah Design	15/01/24	16/01/24
SK-02-3, Rev C – Section 03	Darren Mah Design	15/01/24	16/01/24
SK-02-4, Rev C – Section 04	Darren Mah Design	15/01/24	16/01/24
SK-02-5, Rev C – Section 05	Darren Mah Design	15/01/24	16/01/24
SK-03-1, Rev B – Avoca St Elevation	Darren Mah Design	15/01/24	16/01/24
SK-03-2, Rev B – Alison Road Elevation & External Colours	Darren Mah Design	15/01/24	16/01/24
SK-03-3, Rev B – Alison Road Part Elevation	Darren Mah Design	15/01/24	16/01/24

In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **Amendment of Plans & Documentation**

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

Condition	
	<ul style="list-style-type: none"> The remnants of the former dining room fireplace/chimney are to be retained in its current place.
Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.	
3.	Heritage Considerations <ol style="list-style-type: none"> All work shall be carried out in accordance with the principles of the Australia ICOMOS Burra Charter and to the satisfaction of Council. The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item. The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan. The original brick/sandstone of the building are to be left intact and the extension / the new work is to be separated from the old by an expansion joint. New services must use existing service runs; and where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted and approved by Council prior to the issue of any Construction Certificate. An architect or tradesperson suitably qualified and experienced in heritage conservation shall be engaged to oversee the carrying out of demolition, and construction/repairs. If significant hidden heritage fabric is encountered, works to be stopped immediately and to be inspected by a heritage consultant to ascertain how it can be kept, conserved or removed/replaced, in consultation with the Council heritage officer. Evidence and details of the above commission on the above terms are to be provided to Council prior to commencement of work on site. The heritage consultant must sign off the completed project and submit a final report to Council specifying how the heritage conditions are satisfied prior to the issue of any Occupation Certificate or the commencement of the use, whichever is earlier.
Condition Reason: To satisfy heritage considerations.	

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
4.	Consent Requirements <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p>
Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.	
5.	External Colours, Materials & Finishes <p>The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.</p>

Condition

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.

Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.

6. **Section 7.12 Development Contributions**

In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$499,400 the following applicable monetary levy must be paid to Council: \$4,994.00.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Condition Reason: To ensure relevant contributions are paid.

7. **Housing and Productivity Contribution**

- a) The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition 7(b), is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$2,465.10 (\$30 per square meter of new GFA)
Transport project component	Nil
Total housing and productivity contribution	\$2,465.10

- b) The amount payable at the time of payment is the amount shown in condition 7(a) as the total housing and productivity contribution adjusted by multiplying it by:

$$\frac{\text{highest PPI number}}{\text{consent PPI number}}$$

where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and

Condition

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and

June quarter 2023 and **PPI** have the meanings given in clause 22 (4) of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

- c) The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home

In the Table, HPC Order means the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

- d) The HPC must be paid using the NSW planning portal (<https://pp.planningportal.nsw.gov.au/>).
- e) If the Minister administering the Environmental Planning and Assessment Act 1979 agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:
- the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out,
 - the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out.

If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition 2 at the time of payment.

- f) Despite condition 7(a), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the Environmental

- | Condition |
|---|
| <p>Planning and Assessment (Housing and Productivity Contribution) Order 2023 exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p> |
| <p>8. Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section 6.8 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>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.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p> |
| <p>9. Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$5000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>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.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p> |
| <p>10. Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals |

	Condition
	<ul style="list-style-type: none"> • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset.
	<p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p>
	<p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p>
	<p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
11.	<p>Building & Fire Safety The development shall be implemented in accordance with the following reports submitted with the development application and details of compliance are to be included in the Construction Certificate application, to the satisfaction of the Building Certifier for the development:</p> <ul style="list-style-type: none"> a) BCA Assessment Report by BCA Logic Ref: 116726-BCA-r2 dated 23 January 2023 b) Draft Performance Based Design Brief by Scientific Fire Services Ref: 310822 Issue 2 dated 11 January 2023 c) Access Assessment Report by BCA Logic Ref:116726-Access-r2 dated 23 January 2023. d) The building and fire safety related works contained in the subject reports and construction certificate shall be implemented prior to issuing an occupation certificate for the new/altered building work. e) An up to date and complete fire safety schedule (encompassing all of the proposed and existing fire safety measures in the building) shall be included in the construction certificate for the development and a final fire safety schedule must be provided with the occupation certificate which is consistent with the fire safety certificate/s for the development. <p>Condition Reason: To ensure compliance with the relevant provisions of the Building Code of Australia.</p>
12.	<p>Building Code of Australia In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, 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).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
13.	<p>Building Code of Australia Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the</p>

	Condition
	development.
	Condition Reason: To ensure safe and easy access to the premises for people with a disability.
14.	<p>Site stability, Excavation and Construction work</p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:</p> <ul style="list-style-type: none"> a) Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties. b) Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings. c) Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration. d) Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work. e) Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate. <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
15.	<p>Heritage Interpretation</p> <p>A comprehensive Interpretation Strategy and Plan for the site is to be prepared including identification of Historical Themes, Audiences and Resources, and Interpretative Recommendations. Full details of the Interpretation Strategy and Plan shall be submitted to and approved by Council, in accordance with Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> prior to a construction certificate being issued for the development. The interpretation plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian. The recommendations of the Interpretative Strategy and Plan are to be implemented in conjunction with the proposed development.</p> <p>The interpretation plan must detail how information on the history and significance of the heritage item will be provided for the public.</p> <p>The plan must specify the location, type, making materials and contents of the interpretation device being proposed.</p> <p>Prior to Occupation Certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council.</p> <p>Condition Reason: To satisfy heritage considerations.</p>
16.	<p>Photographic Archival Documentation</p> <p>A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, in accordance with Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> prior to a construction certificate being issued for the development. This recording shall be in</p>

- | Condition |
|--|
| <p>accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture.</p> <p>The first submission of the archival recording of significant building fabric or furnishings is to be prepared prior to the removal of any significant building fabric or furnishings from the site, and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a Construction Certificate being issued.</p> <p>The second submission of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site and must be submitted to Council prior to any Occupation Certificate being issued.</p> <p>Condition Reason: To satisfy heritage considerations.</p> |
| <p>17. Photographic Archival Documentation</p> <p>This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. One bound copy and one digital copy (DVD or USB) of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:</p> <ul style="list-style-type: none"> • A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs; • Digital copies of the archival photographs in JPEG and TIFF formats. <p>Condition Reason: To satisfy heritage considerations.</p> |
| <p>18. Salvage, Reuse and Recycling of Traditional Building Materials</p> <p>A salvage plan shall be prepared and submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. The salvage plan is required to ensure that materials including but not limited to fireplaces, architraves, skirtings, windows, sandstone/brick, doors and remnant components of significant heritage fabric are carefully removed and stored, sold or donated to a heritage salvaging yard to facilitate the conservation of other buildings of a similar period.</p> <p>Condition Reason: To satisfy heritage considerations.</p> |
| <p>19. Acoustic assessment detailed design stage</p> <p>Noise from the development must not cause an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and must not exceed the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017 (NPfI).</p> <p>A report prepared by a qualified Acoustic Consultant, must be submitted to and approved by Council, prior to the issue of a Construction Certificate, which provides details of compliance with the abovementioned noise criteria. Any recommendations and requirements included in the acoustic report or as may be specified by Council are to be included in the Construction Certificate accordingly.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p> |
| <p>20. Food premises fitout requirements</p> <p>The premises is to be designed, constructed and operated in accordance with the</p> |

	Condition
	Food Act 2003, Food Regulation 2015, Australia & New Zealand Food Standards Code and Australian Standard AS 4674 (2004), Design, construction and fit-out of food premises and details of compliance are to be included in the documentation for the construction certificate.
	Condition Reason: To ensure that the design, construction and fit-out of food premises complies with relevant standards.
21.	Coolroom design requirements Coolrooms, refrigerated chambers and strong-rooms must be constructed in accordance with G 1.2 of the Building Code of Australia, and:
	a) The floor of the coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
	b) All proposed shelving in the coolroom must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.
	c) The floor of the coolroom must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
	d) Must be fitted with a door that can be opened at all times from inside without a key.
	e) An approved audible alarm device must be located outside the coolroom(s) but controllable only from within the coolroom(s) and must be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 dB(A) when measured 3 metres from a sounding device.
	Condition Reason: To ensure that the coolroom is constructed in accordance with relevant standards.

BEFORE BUILDING WORK COMMENCES

	Condition
22.	Building Certification & Associated Requirements
	The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
	a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> . 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 <i>Principal Certifier</i> 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 <i>Home Building Act 1989</i> , and the Principal Certifier and Council must be notified accordingly (in writing); and

	Condition
	<p>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</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p>
	<p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
23.	<p>Dilapidation Reports</p> <p>A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the <i>Principal Certifier</i> for the development.</p> <p>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).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
24.	<p>Noise & Vibration</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>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.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
25.	<p>Construction Management Plan</p> <p>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:</p> <ul style="list-style-type: none"> • 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

Condition	
	<ul style="list-style-type: none"> measures to be implemented to ensure public health and safety. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>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.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
26.	<p>Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> 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.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
27.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>

DURING BUILDING WORK

Condition	
28.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected 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:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed. <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
29.	<p>Restriction on Working Hours</p>

Condition	
Building, demolition and associated site works must be carried out in accordance with the following requirements:	
Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 3.00pm Saturday - No work permitted Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Condition reason: To protect the amenity of the surrounding area.

30. **Noise & Vibration**

Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with a Construction Noise & Vibration Management Plan, prepared in accordance with the Environment Protection Authority guidelines for Construction Noise and Assessing Vibration.

Condition Reason: To protect the amenity of the neighbourhood during construction.

31. **Construction Site Management**

Temporary site safety fencing or site hoarding must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works, in accordance with the SafeWork guidelines and the following requirements:

- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
- Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- 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.
- Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.

Condition

- (e) Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.
- (f) Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

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.*

Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.

32. **Overhead Hoardings**

An overhead ('B' class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:

- goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway
- building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment
- it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land
- as may otherwise be required by SafeWork NSW, Council or the Principal Certifier.

Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.

33. **Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage

Condition	
	system, roadway or Council land.
	<p>h) 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.</p> <p>i) 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.</p>
	Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
34.	<p>Excavations and Support of Adjoining Land</p> <p>Tin accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
35.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
36.	<p>Survey Report</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
37.	<p>Occupation Certificate Requirements</p> <p>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 <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p>

- | | Condition |
|-----|--|
| | Condition reason: Statutory requirement. To ensure the site is authorised for occupation. |
| 38. | <p>Post-construction Dilapidation Report</p> <p>A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none"> (a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and (b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent. <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p> |
| 39. | <p>Fire Safety Certificate</p> <p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p> |
| 40. | <p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p> |
| 41. | <p>Sydney Water Certification</p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and</p> |

	Condition
	building, driveway or landscape design.
	<p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p>
	<p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
42.	<p>Acoustic reporting</p> <p>A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Environment Protection Authority Noise Policy for Industry 2017 and conditions of this development consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
43.	<p>Waste Management</p> <p>Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.</p> <p>Trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.</p> <p>The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with an authorised waste services contractor accordingly.</p> <p>Condition Reason: To ensure that waste and recycling is appropriately managed.</p>
44.	<p>Waste Management</p> <p>Any liquid trade waste materials are to be disposed of in accordance with the requirements of the Sydney Water, Trade Waste Department (i.e. via a grease trap) and details of compliance are to be submitted to the Certifier prior to the commencement of any works.</p> <p>Condition Reason: To ensure that waste and recycling is appropriately managed.</p>
45.	<p>Food Premises fitout requirements</p> <p>A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant, which confirms that the design and construction of the food business will satisfy the relevant requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to a construction certificate being issued for the 'fit-out' of the food business, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure that the food business will satisfy the relevant requirements.</p>
46.	<p>Food Premises notification/registration</p> <p>The food premises must be registered with Council's Health, Building & Regulatory Services department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencement of any food business operations.</p>

Condition	
	Condition Reason: To ensure that the food premises is registered.
47.	Heritage Interpretation Prior to issuing an Occupation Certificate, the approved Interpretation Strategy and Plan for the site must be implemented to the satisfaction of Council. Condition Reason: To satisfy heritage considerations.

OCCUPATION AND ONGOING USE

Condition	
48.	Fire Safety Statement A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i> , and in accordance with the <i>Fire Safety Schedule</i> for the building. The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i> . A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW. Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> , and that adequate provision is made for fire safety in the premises for building occupant safety.
49.	Environmental Amenity 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. Condition Reason: To protect the amenity of the surrounding area and residents.
50.	Entertainment noise Criteria (Music and Patrons) The proposed development is to incorporate noise control measures to ensure the standard LA10, 15 minute Condition imposed by Liquor & Gaming NSW is satisfied inside those occupied spaces with doors and windows closed as follows: <ol style="list-style-type: none"> The cumulative LA10, 15 Minute from licensed premises shall not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7.00am and 12.00 midnight when assessed at the boundary of any affected residence. The cumulative LA10, 15 minute from licensed premises shall not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) between 12.00 midnight and 7am. Noise from any entertainment and patrons, when assessed as an LA10, 15 minute enters any residential use through and internal to internal transmission path is not to exceed the existing internal LA90, 15 min (from external sources excluding the use) in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) when assessed in a habitable room at any affected residential use within the mixed-use development between the hours of 7.00am and 12 midnight.

	Condition
	<p>d) Notwithstanding with the above noise from licensed premises shall be inaudible in any habitable room of any residential premises between the hours of 12.00 midnight and 7.00am.</p> <p>e) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.</p>
	<p><u>Notes:</u></p> <p>The LA10, 15 minute noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise.</p> <p>The background noise level LA90, 15 minute is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver.</p> <p>Where the LA10, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
51.	<p>Commercial plant noise criteria</p> <p>Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA Noise Policy for Industry 2017 (NPfI).</p> <p>In addition, noise from commercial plant, when assessed as an LAeq, 15 min must not exceed the LA90, 15 min background noise level by more than 3dB when assessed inside any habitable room of any affected residence or noise-sensitive commercial premises when is use. The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.</p> <p><u>Notes:</u></p> <p>The stricter of the amenity/intrusiveness criteria becomes the prevailing criteria for the development.</p> <p>Background noise monitoring must be carried out in accordance with the long-term methodology in Fact Sheet B of the NPfI unless otherwise agreed by Councils Planning Manager.</p> <p>Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.</p> <p>Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.</p> <p>Modifying factors for tonal noise, impulsive noise and intermittent noise sources may need to be applied for the assessment of some of the proposed commercial plant and equipment.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
52.	<p>Compliance with Acoustic Report</p> <p>All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report</p>

Condition
<p>prepared by Koikas Acoustics Pty Ltd, dated: 11 August 2023, ref: 5594R20230811asC&H_DA Revision 1, titled Acoustical Report Proposed Alterations and additions Coach and Horses Hotel – RANDWICK, Council Ref: D05130130 must be implemented in the development prior to the commencement of its use.</p> <p>All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>

53. **Live music**

No live music is permitted after 10.00pm on any night. All live music/entertainment equipment must be routed through and controlled by the premises noise limiter/s. The Root Mean Square (RMS) noise limiter must limit amplified music from performances to not exceed the following levels:-

Description	1/1 octave band maximum allowable live music levels, L _{Aeq} [dB]						
	63	125	250	500	1000	2000	4000
Amplified entertainment	52	65	75	82	82	78	72

Condition Reason: To protect the amenity of the surrounding area and residents.

54. **Plan of management**

The use must always be operated / managed in accordance with the Plan of Management dated 09/11/23 (Rev. E), Council Reference: D05130149 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Condition Reason: To protect the amenity of the surrounding area and residents.

55. **Acoustic verification reporting**

An acoustic report, prepared by a suitably qualified and experienced consultant in acoustics, must be provided to the Council within 3 months of the issuing of an occupation certificate, which demonstrates and confirms that the relevant provisions of the Protection of the Environment Operations Act 1997 and the noise criteria and requirements contained in this consent has been satisfied (including any relevant adopted acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

Condition Reason: To protect the amenity of the surrounding area and residents.

56. **Complaints management**

The operator of the business must establish and maintain a formal and documented system for the recording and resolution of complaints made to the premises by residents. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the manager (or other nominated position). The appropriate remedial action, where possible, is to be implemented immediately and the Manager (or nominated position) shall contact the complainant within 48 hours to confirm details of action taken. The Complaints register shall be made available to Council officers and Police upon request.

Condition Reason: To ensure that complaints are managed appropriately.

57. **Emission of offensive noise**

The use of the premises shall not give rise to 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

Condition Reason: To protect the amenity of the surrounding area and residents.

	Condition
58.	<p>Patron Capacity indoor areas The maximum occupancy capacity for patrons is restricted to the following:</p> <ul style="list-style-type: none"> a) Maximum 50 patrons for the ground floor gaming room; b) Maximum 185 patrons for the ground floor public bar; and c) Maximum 185 patrons for the first floor bistro. <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
59.	<p>Patron Capacity outdoor areas – Reviewable condition The maximum occupancy capacity for patrons is restricted to the following:-</p> <ul style="list-style-type: none"> a) The use of the first floor outdoor area shall be restricted as follows: <ul style="list-style-type: none"> i) Between 7.00am and midnight a maximum number of 50 patrons are permitted entry; and ii) Between midnight and 7.00am a maximum number of 10 patrons are permitted entry. b) The use of the ground floor outdoor courtyard shall be restricted as follows: <ul style="list-style-type: none"> i) Between 7.00am and midnight a maximum number of 200 patrons are permitted entry; ii) Between midnight and 7.00am a maximum number of 100 patrons are permitted entry with the retractable roof closed 60%; iii) Between midnight and 7.00am a maximum number of 50 patrons are permitted entry should the retractable roof be less than 60% closed; <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
60.	<p>Patron Capacity outdoor areas – Reviewable condition The outdoor patron capacity may be reviewed by Council at any time. Such a review will occur in the event of non-compliance with noise conditions, plans of management etc. has occurred and has not been satisfactorily resolved following a written request from Council.</p> <p>The operator of the premises will be given 21 days written notice that a review of this condition will take place, and in that time may submit to Council any information they wish to be considered to support the continuation of the outdoor patron capacity. Council's review will be notified in accordance with Randwick City Councils Development Control Plan and will consider any submissions received following public notification and/or exhibition.</p> <p>The purpose of this condition is to monitor the amenity impacts of the operation of the premises with the outdoor patrons permitted in the premises.</p> <p>The applicant will be notified in writing the outcome of the review. Any modifications to permitted patron capacities, as a result of the review, will be documented and form part of this consent. The documented modified patron capacities will prevail to the extent to any inconsistencies.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
61.	<p>Entertainment Venues, Pubs, Clubs, Restaurants etc. Entertainment Venues, Pubs, Function Centres, Registered Clubs and Restaurants must be provided with signage to identify the approved capacity, in accordance with the requirements of section 4.17 (11) of the Environmental Planning and Assessment Act 1979 and sections 72 & 73 of the Environmental Planning and Assessment Regulation 2021.</p> <p>Condition Reason: To ensure that signage is provided as required.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

- | Condition |
|---|
| <p>62. Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> 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. The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> 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 10m² 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 in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

DURING DEMOLITION WORK

- | Condition |
|--|
| <p>63. Demolition Work and Removal of Asbestos Materials</p> <p>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 <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> |

Condition

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

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

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

Development Application Report No. D4/24

Subject: 35 Kensington Road Kensington (DA/879/2023)


Executive Summary

Proposal:	Required remedial works due to storm damage involving the replacement of roof tiles above the existing residential flat building.
Ward:	West
Applicant:	ICR Design Pty Ltd
Owner:	The Owners - Strata Plan No. 3370
Cost of works:	\$49,999.00
Reason for referral:	The development contravenes the development standards for building height by more than 10%

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the height of building development standard in Clause 4.3 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/879/2023 for Remedial works required due to storm damage – replacement of roof tiles above existing residential flat building at No. 35 Kensington Road, Kensington.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/879/2023 - 35 Kensington Road, KENSINGTON

D4/24

D4/24

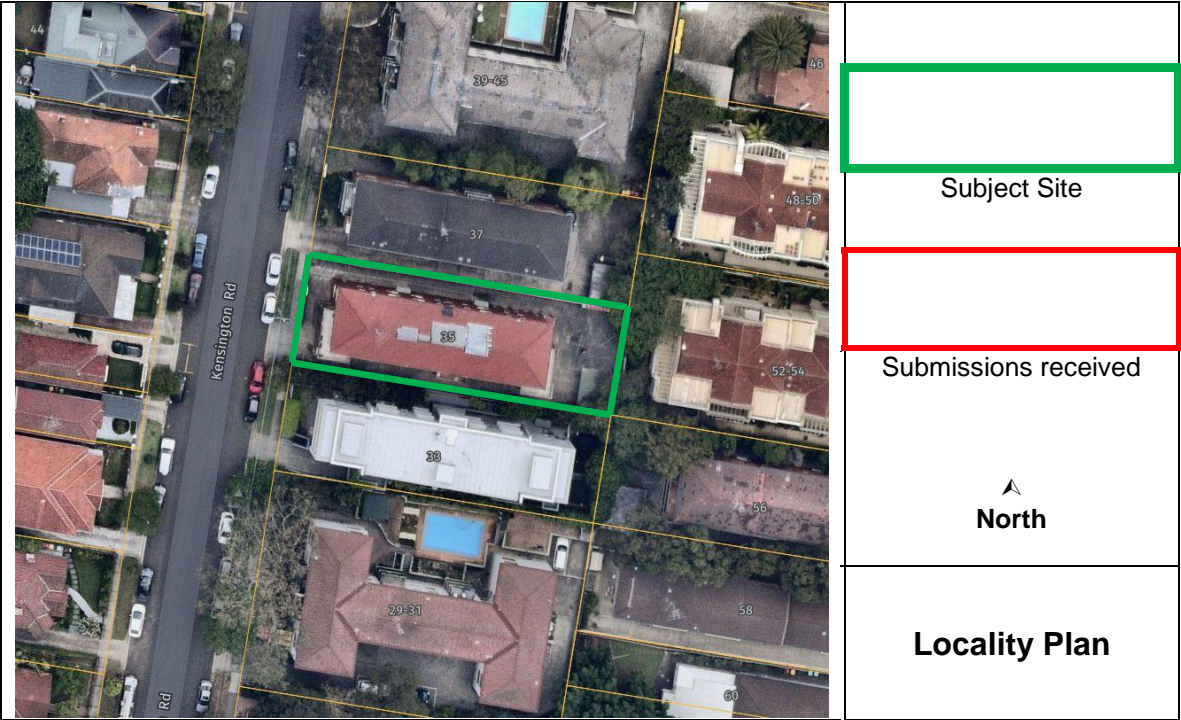


Figure 1: Aerial view, 35 Kensington Road KENSINGTON, December 2023 (*Source: Nearmap*)

1. Executive Summary

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

- The development contravenes the development standard for building height by more than 10%

The proposal seeks development consent for required remedial works to the roof atop an existing residential flat building (RFB) involving the replacement of the existing roof tiles due to recent storm damage.

The key issue associated with the proposal relates to a pre-existing non-compliance with the height of buildings development standards pursuant to clause 4.3 of RLEP 2012.

The proposed works are limited to remedial works only. No changes to the existing ridge height or building envelope or gross floor area is proposed. The proposed variations are supported as the proposal is consistent with the objectives of the height of buildings development standard, and the R3 zone.

The proposal is therefore recommended for approval.

2. Site Description and Locality

The subject site is known as 35 Kensington Road and is legally described as Lot 12 Sect 4 within DP 4092 (Being Lots 1-9 UN SP 3370) and is located on the eastern side of Kensington Road, between the intersections of Balfour Lane to the north and Duke Street to the south, in Kensington.

The site is rectangular in shape with west to east orientation, having a 15.24m frontage to Kensington Road, and overall site depth of 45.27m for a total site area is 689.2m².

The site slopes approximately 1.7m from west to east with a 1.5m cross fall at the street frontage.

The subject site is presently occupied by an existing three (3) storey residential flat building containing nine (9) units plus ground level garaging. Adjoining to the north is no. 37, a similar three

(3) storey RFB with ground level garaging. To the south is no. 33, which is a more contemporary three (3) storey RFB with a basement garage level, and to the east is a three (3) storey RFB with basement garage.

The locality is residential in character predominately comprised of multi-unit developments as well as one and two storey freestanding dwelling houses situated on the opposite side of the road.

The subject site is not listed as a heritage item, is not adjacent a listed heritage item, nor is the subject site located within a Heritage Conservation Area.



Figure 2: Subject site viewed from Kensington Road, Kensington (Source: Google Maps)



Figure 3: Oblique aerial view (east) of 35 Kensington Road within its locality. Temporary roof cover due to storm damage is visible. May 2023 (Source: Google Maps)

D4/24

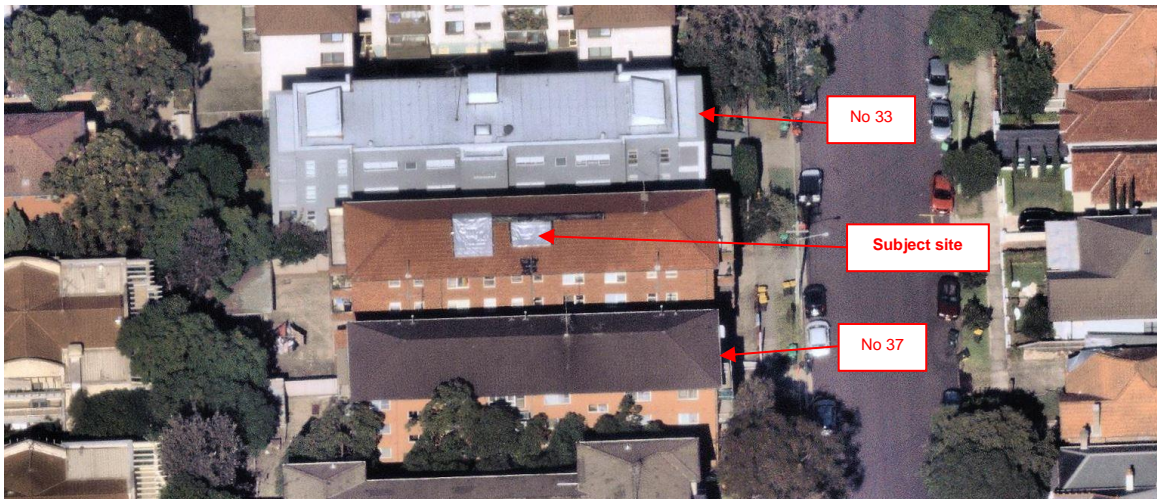


Figure 4: Oblique aerial view (north) of subject site showing temporary roof cover following storm damage. May 2023 (Source: Google Maps)

Local character



Figure 5: 53 Kensington Road (located north of the subject site). January 2023



Figure 6: (Left to right) RFBs No's 61-65. 59 and 57 Kensington Road

3. Relevant History

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

DA/8/1967 – was approved by Council on 4 July 1967 for the construction of a three (3) storey plus ground level garage RFB with nine (9) units.

DA/70/1995 – for a proposed balcony enclosure to Unit 1 was refused by Council on 8 May 1995.

4. Proposal

The proposal seeks development consent for remedial works to the existing residential flat building located at 35 Kensington Road, Kensington. The site contains an existing three (3) storey unit building with ground level garages, which is located centrally on the site. The proposal is limited to the replacement of the existing roof tiles due to storm damage.

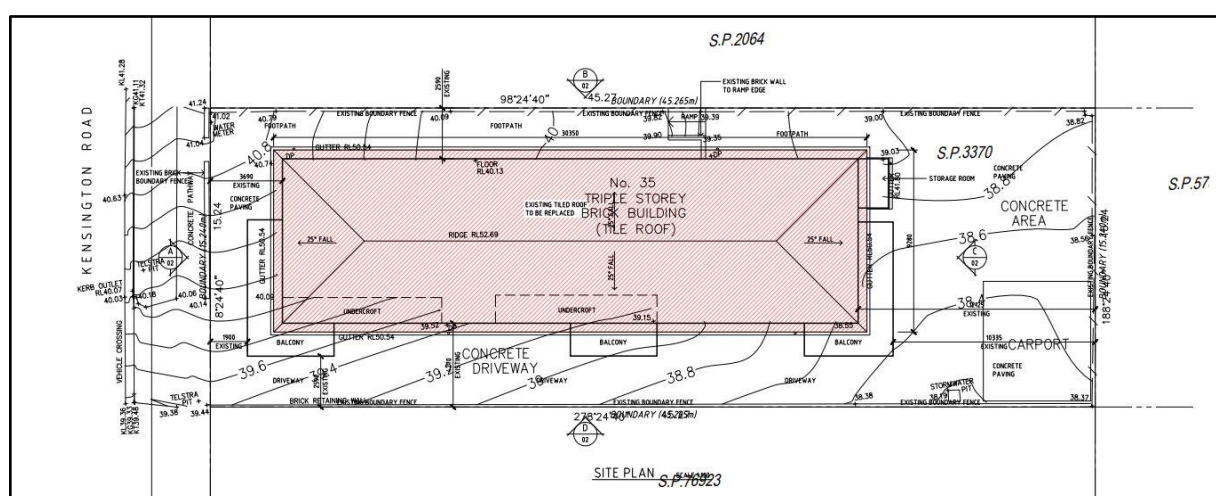
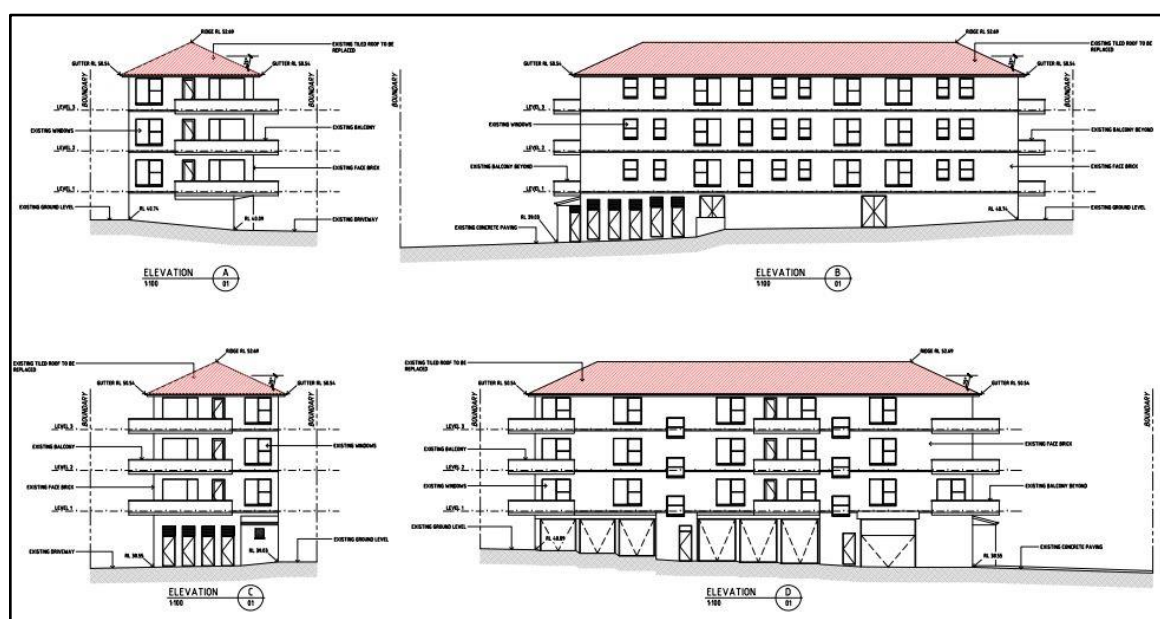


Figure 5: Proposed Site and Roof Plan (Rev B). 07.10.2023 (Source: Urban Building Solutions)



Figures 6-9: Proposed Elevations (Rev B). 07.10.2023 (Source: Urban Building Solutions)

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.

No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

Assessing Officer's comment: A BASIX Certificate has not been submitted with this application, as it does not meet the eligibility requirements of the new *State Environmental Planning Policy (Sustainable Buildings SEPP) 2022*, having an estimated cost of less than \$50,000.

6.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW.

Assessing officer's comment: The development proposal does not involve the removal of any significant trees on the site, and as such, no further consideration of the SEPP is required.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Assessing officer's comment: The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. The application is limited to remedial works and roof tile replacement atop an existing and previously approved RFB. Noting that the site has historically been used for residential purposes, the possibility of contamination is unlikely, and the site is considered suitable for the proposed works.

6.4. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012.

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will maintain for the housing needs of the community whilst not impacting on the aesthetic character or amenity of local residents. Refer to the detailed assessment in Section 7 below.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.3: Building height (max)	12m	13.8m (Existing)	No
Cl 4.4: Floor space ratio (max)	0.9:1	As existing	Yes

6.4.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the building height development standard is discussed in section 7 below.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Clause 4.3: Building height (max)	12m	13.8m (existing)	As existing	15% (as per original approval for the existing building)

D4/24

The NSW Department of Planning and Environment (DPE) made amendments to clause 4.6 of the Standard Instrument which commenced on 1 November 2023. The changes aim to simplify clause 4.6 and provide certainty about when and how development standards can be varied.

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

3. *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard*

Pursuant to section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*, a development application for development that proposes to contravene a development standard must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3).

As part of the clause 4.6 reform the requirement to obtain the Planning Secretary's concurrence for a variation to a development standard was removed from the provisions of clause 4.6, and therefore the concurrence of the Planning Secretary is no longer required. Furthermore, clause 4.6 of the Standard Instrument no longer requires the consent authority to be satisfied that the proposed development shall be in the public interest and consistent with the zone objectives as consideration of these matters are required under sections 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979*, and clause 2.3 of RLEP 2012 accordingly.

Clause 4.6(3) establishes the preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

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

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

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

Chief Justice Preston in ***Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision** in [Four2Five Pty Ltd v Ashfield Council](#) [2015] NSWLEC 90 regarding how to determine whether the applicant's written request has demonstrated that there are

sufficient environmental planning grounds to justify contravening the development standard.

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

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

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

Additionally, in *WZSydney Pty Ltd v Ku-ring-gai Municipal Council* [2023] NSWLEC 1065, Commissioner Dickson at [78] notes that the avoidance of impacts may constitute sufficient environmental planning grounds “as it promotes “good design and amenity of the built environment”, one of the objectives of the EPA Act.” However, the lack of impact must be specific to the non-compliance to justify the breach (*WZSydney Pty Ltd* at [78]).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of a development standard. The assessment and consideration of the applicant’s request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

7.1.Exception to the Height of Buildings development standard (Clause 4.3)

The applicant’s written justification for the departure from the Height of Buildings standard is contained in Appendix 2.

- 1. Has the applicant’s written request demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?**

The applicant’s written request seeks to justify the contravention of the Height of Buildings development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case, and is provided as follows:

Applicant’s response:

“Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard: The proposed replacement of damaged roof tiles does not alter the existing ridge level of the building. As the building is being returned to its original condition, it is considered that the proposal maintains the objectives of the control in providing a bulk and scale similar to that which was previously approved by Council in the original consent.

‘Test 2: The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary: As the proposed works are essentially being undertaken to repair an existing storm damaged roof of a building that was previously approved by Council, we feel that compliance with the numerical standard is unnecessary in this instance, considering that the proposal meets the objectives of both the R3 zone and the objectives of the control.

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable: As the proposed works substantially reflect those present on the site since the original development consent was granted by Council, until the dwelling was recently damaged in a storm, compliance with the control could be considered unnecessary in order to reinstate the building to its previously approved state.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable: As Council had previously approved the building on the site with a building height that exceeded the current standard, compliance with this standard should not be enforced in order for the storm damaged building to be repaired and reinstated.

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone: As previously described, the proposed works are for the reinstatement of a previously approved building. Given the previously approved building exceeded the current standards, it would be unreasonable for reinstatement of the existing building (due to storm damage) to be subject to a control that would have an adverse effect on the ability of the owners to rebuild their building to the same scale previously approved by Council."

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the Height of Building development standard is unreasonable or unnecessary in the circumstances of the case, for the following reasons:

- The works are minor in nature limited to necessary remedial works and like-for-like replacement of roof tiles following recent storm damage.
- The works propose to return the roof to its original condition.
- The current ridge height is a result of a previous historic Council approval from 1967 and is to remain at the existing height (RL 52.69).
- No alteration is proposed to the existing pitched hipped roof form.
- No alterations or additions are proposed to the existing building exterior or interiors.
- Concerns over building integrity and safety of residents if the works are not immediately undertaken.

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

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

Applicant's response:

"The proposed works are for the reinstatement of an existing building to a scale previously approved by Council via Development Consent. The proposed reinstatement works do not alter the existing building footprint, bulk or scale and meet the standards set out by Council in both the DCP and LEP.

The proposed works meet the objectives of the standard and are consistent with both surrounding development and the previously approved Development Consent. As such, there is no additional adverse impact upon adjoining properties that would result should the application be approved, as the proposed bulk and scale is consistent with that already approved for the site by Council."

Assessing officer's comment: The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, for the following reasons:

- The proposal is limited to remedial works and like-for-like roof tile replacement with no alterations to the building's existing bulk or FSR.
- No external alterations or associated landscaping works are proposed.
- No additional or adverse impacts upon adjoining neighbouring properties would result.
- The existing building will be maintained and therefore will remain consistent with the surround development as demonstrated in the above photos (Figures 2-6).

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the maximum height of building development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

Council has commenced a comprehensive review of the existing Randwick Development Control Plan 2013. Stage 1 of the RDCP 2013 review has concluded, and the new RDCP comprising Parts B2 (Heritage), C1 (Low Density Residential), E2 (Randwick) and E7 (Housing Investigation) commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of the new RDCP 2023 are applicable to the proposed development, and the proposal shall be assessed against the new DCP.

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.

Section 4.15 'Matters for Consideration'	Comments
development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received as a result of this process.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Discussion of the relevant matters of concern have been covered and responded to in section 7. No further 'Key Issues' or concerns are identified.

10. Conclusion

That the application to seek consent for “remedial works due to storm damage involving the replacement of roof tiles above the existing residential flat building” be approved 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 demonstrates that compliance with the contravention to the Height of Buildings development standard is unreasonable or unnecessary in this circumstance.
- The proposal is consistent with the specific objectives of the R3 zone in that it protects the amenity of residents.
- The scale of the proposal is considered minor in nature, is suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape via the rectification works.

Appendix 1: Applicant's written request seeking to justify the contravention of the development standard.



O: By Appointment
PA: PO Box 420 Castle Hill NSW 1765



P: 02 8850 3502

E: admin@icrdesign.com.au

Clause 4.6 Variation for 35 Kensington Road, Kensington

Introduction

This Clause 4.6 Variation is being sought in relation to the height of the existing storm damaged residential flat building located at 35 Kensington Road, Kensington.

1. What is the name of the environmental planning instrument that applies to the land?

Response:

The Environmental Planning Instrument that applies to the land is the Randwick Local Environmental Plan 2012.

2. What is the zoning of the land and what are the objectives of the zone?

Response:

The land is located within Zone R3 Medium Density Residential.

Objectives of Zone R3:

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

3. Identify the Development Standard to which this Clause 4.6 Variation applies?

Response:

The development standard to which this Clause 4.6 Variation applies is Clause 4.3 Height of buildings.



O: By Appointment
PA: PO Box 420 Castle Hill NSW 1765



P: 02 8850 3502
E: admin@icrdesign.com.au

D4/24

4. What are the objectives of the development standard?

Response:

- (1) The objectives of this clause are as follows—
 - (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,
 - (b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,
 - (c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2A) Despite subclause (2), the maximum height of a dwelling house or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.

5. What is the numeric value of the development standard in the environmental planning instrument?

Response:

Zone R3 allows for a maximum building height of 12m.

6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?

Response:

Height of Building			
Current Height of Building (m)	Maximum Height of Building under RLEP2012 (m)	Proposed Height of Building (m)	Percentage Variation
13.8m – Prior to the existing dwelling sustaining storm damage.	12m	13.8m – When using the existing ridge RL in relation to the existing ground level at the external face of the existing building.	15% (as per the original approval for the existing building)

D4/24



O: By Appointment
PA: PO Box 420 Castle Hill NSW 1765



P: 02 8850 3502
E: admin@icrdesign.com.au

7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

Response:

Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard:

The proposed replacement of damaged roof tiles does not alter the existing ridge level of the building. As the building is being returned to its original condition, it is considered that the proposal maintains the objectives of the control in providing a bulk and scale similar to that which was previously approved by Council in the original consent.

Test 2: The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary:

As the proposed works are essentially being undertaken to repair an existing storm damaged roof of a building that was previously approved by Council, we feel that compliance with the numerical standard is unnecessary in this instance, considering that the proposal meets the objectives of both the R3 zone and the objectives of the control.

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:

As the proposed works substantially reflect those present on the site since the original development consent was granted by Council, until the dwelling was recently damaged in a storm, compliance with the control could be considered unnecessary in order to reinstate the building to its previously approved state.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:

As Council had previously approved the building on the site with a building height that exceeded the current standard, compliance with this standard should not be enforced in order for the storm damaged building to be repaired and reinstated.

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone:

As previously described, the proposed works are for the reinstatement of a previously approved building. Given the previously approved building exceeded the current standards, it would be unreasonable for reinstatement of the existing building (due to storm damage) to be subject to a control that would have an adverse effect on the ability of the owners to rebuild their building to the same scale previously approved by Council.



O: By Appointment
PA: PO Box 420 Castle Hill NSW 1765



P: 02 8850 3502

E: admin@icrdesign.com.au

8. Are there sufficient environmental planning grounds to justify contravening the development standard?

Response:

The proposed works are for the reinstatement of an existing building to a scale previously approved by Council via Development Consent. The proposed reinstatement works do not alter the existing building footprint, bulk or scale and meet the standards set out by Council in both the DCP and LEP.

The proposed works meet the objectives of the standard and are consistent with both surrounding development and the previously approved Development Consent.

As such, there is no additional adverse impact upon adjoining properties that would result should the application be approved, as the proposed bulk and scale is consistent with that already approved for the site by Council.

9. Is the proposed development, despite the contravention to the development standard, in the public interest?

Response:

Currently, the site contains a fire damaged dwelling that is not only unpleasant to for neighbouring properties to have to look at, but also represents a potential safety issue.

As the proposed works meet all of the objectives of the zone as well as all but one control of the zone, it is considered to be in the public interest for the proposed works to be approved, as they are consistent with the previously approved development on the site.

10. Is there any other relevant information to be considered in order to justify varying the development standard?

Response:

The proposed works are for the reinstatement of an existing fire damaged dwelling. As the proposed works represent an outcome that is consistent with that previously approved by Council for the site, we consider that a Clause 4.6 variation is justified in order to return the existing dwelling to a liveable state so that the owners can move back into their family home.

D4/24

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
3.	Building Envelope		
3.1	Floor space ratio		
	Maximum floor space ratio LEP 2012 = 0.9:1	As existing	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 12m	Existing = 13.8m Proposed = as existing	See Section 7
4.	Building Design		
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	The proposed remedial works do not alter the existing building façade.	Yes
4.2	Roof design		
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size 	<p>The proposed remedial works to not alter or add to the existing hipped roof form.</p> <p>The existing roof form and roof ridge height will be maintained.</p>	Yes

DCP Clause	Control	Proposal	Compliance
	<p>and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. 	<p>The proposed works describe like-for-like replacement of damaged roof tiles without further alteration to any part of the building exterior.</p> <p>Further, the works are limited to the roof top and will not be easily discernable from the public domain or from the adjoining neighbours.</p> <p>A schedule of 'Colours, materials and finishes' is</p>	Yes

D4/24

DCP Clause	Control	Proposal	Compliance
	(v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	therefore not necessary in this case.	

Appendix 2: DCP Compliance Table

2.1 Section C2: Medium Density Residential

Responsible officer: Jose Serrao, Environmental Planning Officer

File Reference: DA/879/2023

Development Consent Conditions (Medium Density Residential)



Folder /DA No:	DA/879/2023
Property:	35 Kensington Road, KENSINGTON NSW 2033
Proposal:	Remedial works due to storm damage – replacement of roof tiles above existing residential flat building.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

	Condition
1.	<p>Approved plans and documentation</p> <p>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:</p>

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
A01 – Site Plan and General Notes	Urban Building Solutions	07.10.2023	03.11.2023
A02 - Elevations	Urban Building Solutions	07.10.2023	03.11.2023

In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
2.	<p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
3.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any</p>

D4/24

Condition	
	further requirements need to be met.
	The Tap in™ service provides 24/7 access to a range of services, including:
	<ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset.
	Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm
	The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.
	Condition Reason: To ensure the development satisfies Sydney Water requirements.
4.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, 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).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
5.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. 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 <i>Principal Certifier</i> 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 <i>Home Building Act 1989</i>, and the

	Condition
	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.
	Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.
6.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>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.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.</p>
7.	<p>Construction Site Management Plan</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>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.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
8.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p>

D4/24

Condition

Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.

DURING BUILDING WORK

Condition

9. **Site Signage**

It is a condition of the development consent that a sign must be erected 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:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and
- c) stating that unauthorised entry to the work site is prohibited.

The sign must be—

- a) maintained while the building work is being carried out, and
- b) removed when the work has been completed.

This section does not apply in relation to—

- a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

10. **Restriction on Working Hours**

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

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 3.00pm (maximum) Saturday - No work permitted Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for

	Condition
	<p><i>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.</i></p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
11.	<p>Construction Site Management</p> <p>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.</p> <p>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.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>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.</p> <p>Notes:</p> <ul style="list-style-type: none"> • <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i> • <i>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.</i> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
12.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. f) During demolition excavation and construction works, dust emissions must

D4/24

	Condition
	be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
g)	Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.
	Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.
	<i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i>
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)	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.

Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

13.

Dust Control

Dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.

Condition	
14.	<p>Site Accessway A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.</p> <p>Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.</p> <p>Condition reason: To minimise and prevent damage to public infrastructure.</p>
15.	<p>Excavations and Support of Adjoining Land in accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
16.	<p>Complaints Register A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigated, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>
17.	<p>Building Encroachments There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
18.	<p>Occupation Certificate Requirements 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 <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
19.	<p>Fire Safety Certificate</p>

D4/24

Condition	
	<p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
20.	<p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>

OCCUPATION AND ONGOING USE

Condition	
21.	<p>Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
22.	<p>Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <p>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.</p>

Condition	
<p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> • 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. 	
<p>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.</p>	
<p>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.</p>	
<p><i>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 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p>	
<p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p>	
<p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>	

DURING DEMOLITION WORK

Condition	
23.	<p>Demolition Work and Removal of Asbestos Materials</p> <p>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 <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> 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

D4/24

Condition
<div>involving materials containing asbestos,</div> <div><ul style="list-style-type: none">• 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.</div>

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

Development Application Report No. D5/24

Subject: 1125 Anzac Parade, Matraville (DA/197/2023)


Executive Summary

Proposal:	Demolition of existing structures and construction of two storey attached dual occupancy and Torrens Title subdivision. Amended plans were received including extended ground floor plan, reduced first floor plan, raised finished floor levels, raised rear yard level, additional planting in the front and rear yard.
Ward:	South Ward
Applicant:	Cantilever Design Collective Pty Ltd
Owner:	Mr A Rastrigo, Mrs N Rastrigo & Mr V Kazakov
Cost of works:	\$946,215.00
Reason for referral:	The minimum lot size and floor space ratio development standards are exceeded by more than 10%.

Recommendation


- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the minimum lot size development standard in Clause 4.1 of Randwick Local Environmental Plan 2012. The concurrence of the Planning Secretary may be assumed.
- B. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Planning Secretary may be assumed.
- C. 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/197/2023 for demolition of existing structures and construction of two storey attached dual occupancy and Torrens Title subdivision, at No. 1125 Anzac Parade, Matraville NSW 2036, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/197/2023 - 1125 Anzac Parade, MATRAVILLE

D5/24

D5/24



Subject Site
Submissions received
North
Locality Plan

N.b. 3x submissions were received from 26-28 Truscott Avenue

1. Executive summary

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

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

The proposal seeks development consent for the demolition of existing structures and construction of two storey attached dual occupancy and Torrens Title subdivision.

The key issues associated with the proposal relate to the deficiency in deep soil permeable area across the site. Council is satisfied that the proposed variation to the minimum lot size and floor space ratio development standards complies with the recently gazetted development standards as per Amendment 9 of the Randwick LEP 2012.

The proposal is recommended for approval, subject to the following non-standard condition:

- An additional 33.36m² of deep soil permeable area, as per the definition of deep soil permeable surfaces in Council’s DCP, shall be provided to the subject site. Deep soil permeable surfaces must be evenly distributed between the pair of dwellings.
- The rainwater tanks within the rear yard can be relocated/changed to above ground rainwater tanks in order to achieve the required deep soil permeable area, so long as they

are not visible from the streetscape and do not adversely impact upon the amenity of the adjoining neighbours.

- Visual privacy treatments to first level bedroom windows.

2. Site Description and Locality

The site is identified as Lot 17, DP 245359, No. 1125 Anzac Parade, Matraville NSW 2036. The site is located on the south-western side of Anzac Parade between Pozieres Avenue to the north-west and Truscott Street to the south-east.

The site is a rectangular shaped allotment with a 15.24m frontage to Anzac Parade, a 39.07m north-western and south-eastern side boundary, and a total site area of 595.4m².

The site rises across approximately 1m in a westerly direction from the Anzac Parade boundary to the rear boundary.

Existing on site is a single storey residential dwelling, an attached carport and a freestanding detached garage within the rear yard. The front and rear of the site is landscaped with lawn and planting. The rear yard includes (4x) trees proposed for removal.

The surrounding area is characterised by residential development, including dwelling houses and dual occupancies. Adjoining the site to the north-west at No. 1123 Anzac Parade is a single storey childcare centre, to the south-east at No. 28 Truscott Avenue is a two storey attached dual occupancy, and to the south-west at the rear of the site at No. 24 Truscott Avenue is a single storey detached dwelling.

The site is not listed as a Heritage Item or within a Heritage Conservation Area.



Figure 1: Google Street View (March 2023) - 1125 Anzac Parade, Matraville (Source: Google Maps)

D5/24

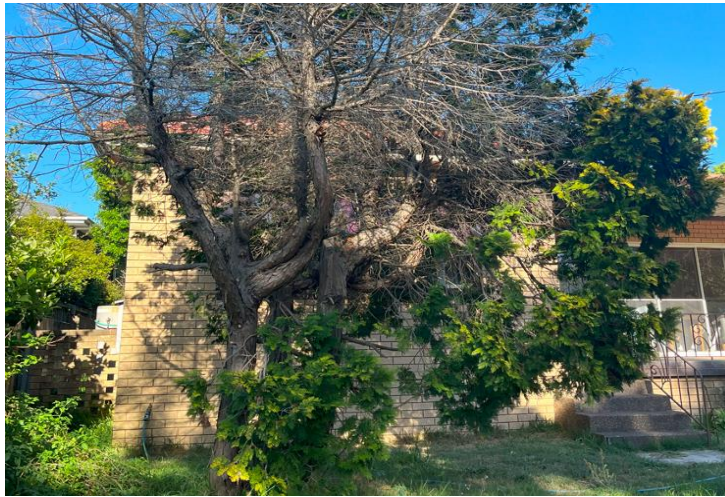


Figure 2: Photo of the front of the existing dwelling - 1125 Anzac Parade, Matraville (Source: Randwick City Council)



Figure 3: South oblique view of the subject neighbourhood (May 2023) - 1125 Anzac Parade, Matraville (Source: Nearmap)

3. Relevant history

There are no recent relevant applications pertinent to the above-mentioned subject allotment.

Additional Information Request

On 10 October 2023, Council sent a formal additional information request to the applicant outlining compliance with the proposed development with the new DCP 2023 controls (including deep soil permeable surfaces, landscaping and tree canopy cover, building height, side setbacks, new semi-detached dwellings design controls and earthworks), as well as Engineering concerns regarding driveway gradients.

On 01 November 2023, the applicant provided a full set of amended architectural plans addressing the concerns raised in the additional information request.

On 05 November 2023, in response to the provided amended architectural plans, Council requested updated BASIX Certificates and Landscape Plans to reflect the subject changes.

On 08 November 2023, amended BASIX Certificates were provided by the applicant.

On 20 November 2023, an amended landscape plan was provided by the applicant.

The amended documentation sought significant changes to the proposed development in terms of the external bulk or built form, including an extended ground floor plan, reduced first floor plan, raised finished floor levels, raised rear yard level, and additional planting in the front and rear yard. As such, in accordance with Council's Community Engagement Strategy, the proposed development was re-notified to adjoining neighbours for a 14-day period between 24/11/2023 and 08/12/2023. It is noted (1x) submission was received during this period, which has been included and addressed below.

4. Proposal

The proposed application seeks consent to demolish all structures on site and construction of a two storey attached dual occupancy with Torrens Title subdivision. See below the proposed layout for each dual occupancy:

No. 1125 (Lot 1) – Northern allotment

- **Ground Floor:** separate driveway and single vehicle garage, guest bed/study, open-plan kitchen/dining/living room, laundry, side courtyard, rear roofed outdoor area, rainwater tank and infiltration system below ground in the rear yard, landscaping at the front, northern side and rear of the site.
- **First Floor:** Master bedroom with ensuite, WIR and front balcony, x2 bedrooms, bathroom and linen in the hallway.

No. 1125A (Lot 2) – Southern allotment

- **Ground Floor:** separate driveway and single vehicle garage, guest bed/study, open-plan kitchen/dining/living room, laundry, side courtyard, rear roofed outdoor area, rainwater tank and infiltration system below ground in the rear yard, landscaping at the front, northern side and rear of the site.
- **First Floor:** Master bedroom with ensuite, WIR and front balcony, x2 bedrooms, bathroom and linen in the hallway.

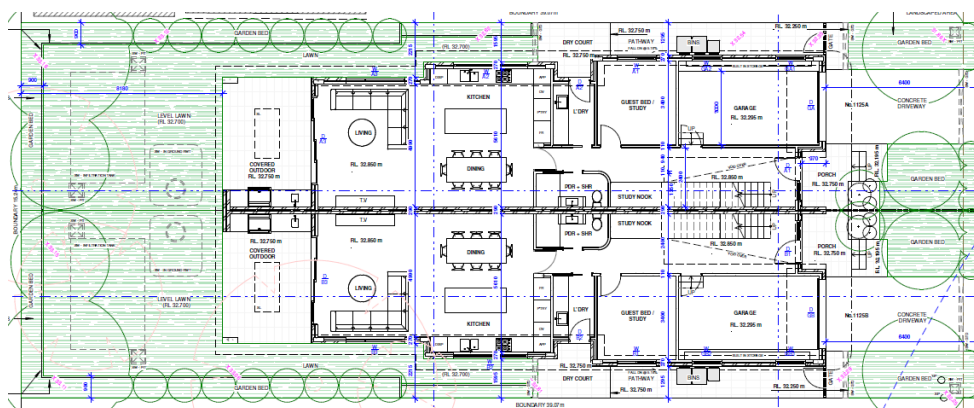


Figure 4: Proposed ground floor plan - 1125 Anzac Parade, Matraville (Source: Cantilever)

D5/24

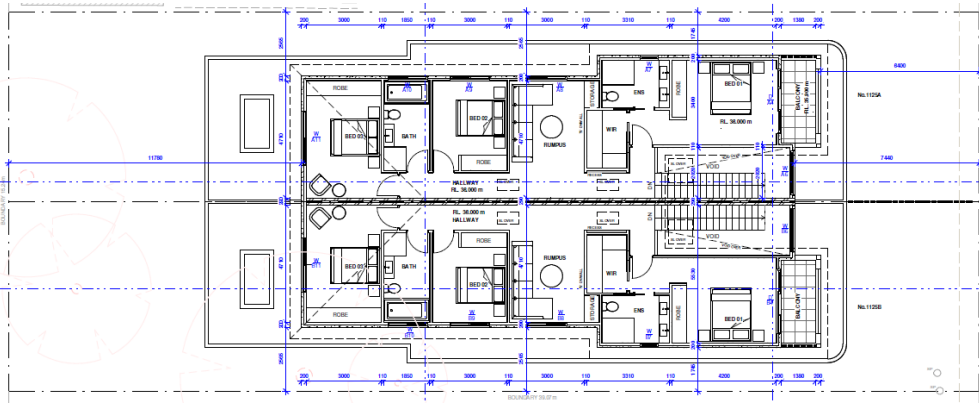


Figure 5: Proposed first floor plan - 1125 Anzac Parade, Matraville (Source: Cantilever)



Figure 6: Proposed eastern elevation - 1125 Anzac Parade, Matraville (Source: Cantilever)



Figure 7: Proposed southern elevation - 1125 Anzac Parade, Matraville (Source: Cantilever)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council’s Community Engagement Strategy. The following submissions were received as a result of the notification process and have been paraphrased and summarised below:

- 28 Truscott Avenue – Submission No. 1 from Planning Consultant

Issue	Comment
<u>Bulk and Scale</u> The overall height, bulk and scale are acceptable to confirm of the relevant planning controls, considering the FSR compliance with the imminent Randwick Comprehensive Planning Proposal.	Agreed, Council is satisfied that the proposed development complies with the intended bulk and scale of development in the R2 zone.
<u>Privacy</u>	See comments below to each element.

Issue	Comment
<p>The proposed development in its current form does not provide for adequate visual and acoustic privacy interfaces with our client's property, noting an unconventional and unique interaction with the principle living and POS areas of both dual occupancies on our client's property.</p> <p><u>Front balcony</u> The inclusion of a blade wall to a minimum height of 1.6m above the FFL that prevents cross viewing into the principle living and POS areas would facilitate a reasonable level of privacy. Alternatively, fixed angled louvres should be installed to achieve the same result.</p> <p><u>First floor side bedroom/bathroom windows</u> It is evident that direct cross-viewing into the ground floor principle living and POS areas of both dual occupancies on our property. it is common practice to include high set or opaque windows on side elevations to reduce cross viewing. For the purposes of achieving reasonable mutual levels of privacy, it is requested that high set windows with minimum sill height of 1.6m be incorporated to the first floor bedroom windows.</p> <p><u>Rear ground floor covered patio area</u> It is unclear whether the area to the rear patio will be enclosed or open. This area is immediately opposed the kitchen and living room areas of the rear dual occupancy on our property. Considering the main POS area use and potential noise generation, it is requested that the opening be fully enclosed and acoustically treated to reduce impacts.</p> <p><u>Rear first floor bedroom windows</u> All these windows will allow cross viewing into the rear POS of the dual occupancy on our property. it is requested that a box frame for these windows be incorporated to limit cross-views.</p>	<p>Council is satisfied that the privacy screen to the southern side of the front balcony provides sufficient visual privacy to the southern adjoining neighbour.</p> <p>Agreed regarding the proposed bedroom windows. As such, in order to protect the visual privacy of the adjoining dwellings to the southern side, a condition of consent will be issued requiring windows B8 & B9 to be either fixed and frosted or have a minimum sill height of 1.6m.</p> <p>Council is satisfied that the amended plans show that the proposed ground floor rear patio areas are below the existing ground level with the boundary fence providing sufficient visual privacy to prevent overlooking. The area is aligned with habitable areas of adjoining properties and not considered to result in unreasonable acoustic impacts.</p> <p>Council is satisfied that the proposed rear first floor bedroom windows are sufficiently inset and setback from the southern adjoining neighbour to prevent adverse overlooking.</p>

- 28 Truscott Avenue – Submission No. 2 from Owner

Issue	Comment
<p><u>Privacy</u> The overall height, bulk and scale are acceptable to confirm of the relevant planning controls, considering the FSR compliance with the imminent Randwick Comprehensive Planning Proposal.</p> <p>The window in the kitchen of 28 Truscott Avenue is alongside one of the proposed new outdoor entertaining areas at 1125 Anzac Parade. Our kitchen Avenue is elevated approximately 15-20cm above the ground level, such that an</p>	<p>Council is satisfied that the amended plans show that the proposed ground floor rear patio areas are below the existing ground level with the boundary fence providing sufficient visual privacy to prevent overlooking.</p>

D5/24

Issue	Comment
<p>average height adult standing in the kitchen can overlook the fence into 1125 Anzac Parade. The elevated height means that a new outdoor entertaining area at 1125 Anzac Parade alongside our kitchen will have a higher privacy and acoustic impact on us.</p> <p><u>Solar</u> I also wanted to note that the development at 1125 Anzac Parade does have a shadow impact on our property, reducing our sun access.</p>	<p>Noted. Refer to solar access assessment in the DCP table below.</p>

- 28 Truscott Avenue – Submission No. 3 from Owner based on amended architectural plans

Issue	Comment
<p><u>Front balcony</u> It is unclear if this is a screen that protects the privacy of 1125 Anzac Parade or whether this is a screen that protects the neighbour's privacy. I repeat the submissions made in the previous submission.</p> <p><u>First-floor bedroom/bathroom windows</u> There are 4 windows on the top floor that view into my duplexes. There is a glass door on the bottom floor that is labelled "frosted" but none of the windows on the top floor are labelled "frosted", nor are they high set. I repeat the submissions made in the previous submission. My duplex's top floor windows were designed to protect the privacy of 1125 Anzac Parade, Matraville, as shown during the site visit.</p> <p><u>Rear ground floor covered patio area</u> The barbecue area has now been moved from the outer side of the patio closest to us to the inner side of the patio further away from us. The side of the patio closest to us is completely open. This increases transmission of acoustics. I repeat the submissions made in the previous submission.</p> <p><u>Rear first-floor bedroom windows</u> I cannot identify any discernible difference between the original plans and amended plans regarding this point, so I repeat the previous submissions that were made.</p> <p><u>Elevation</u> I understand the Amended Plans include "raised finished floor levels" and "raised rear yard level". It is requested that the Council put in place covenants to ensure elevating of floor levels and rear yard levels at 1125 Anzac Parade do not allow a person on the ground floor of either property to look into the other property with a maximum fence height, noting again the currently existing elevations.</p>	<p>Council is satisfied that the privacy screen to the southern side of the front balcony provides sufficient visual privacy to the southern adjoining neighbour.</p> <p>Agreed regarding the proposed bedroom windows. As such, in order to protect the visual privacy of the adjoining dwellings to the southern side, a condition of consent will be issued requiring windows B8 & B9 to be either fixed and frosted or have a minimum sill height of 1.6m.</p> <p>Council is satisfied that the amended plans show that the proposed ground floor rear patio areas are below the existing ground level with the boundary fence providing sufficient visual privacy to prevent overlooking and are in the vicinity of adjoining habitable areas to prevent perceived acoustic conflicts.</p> <p>Council is satisfied that the proposed rear first floor bedroom windows are sufficiently inset and setback from the southern adjoining neighbour to prevent adverse overlooking.</p> <p>Council is satisfied that the proposed level changes within the rear yard will not adversely impact upon overlooking of the southern adjoining neighbours, with a 1.8m boundary fence providing sufficient privacy.</p>

5.1. Re-notification

As noted in the relevant history section of the report, amended architectural plans, BASIX Certificates and landscape plans were provided by the application by 20 November 2023. The amended documentation sought significant changes to the proposed development in terms of the external bulk or built form, including an extended ground floor plan, reduced first floor plan, raised finished floor levels, raised rear yard level, and additional planting in the front and rear yard.

As such, in accordance with Council's Community Engagement Strategy, the proposed development was re-notified to adjoining neighbours for a 14-day period between 24/11/2023 and 08/12/2023. It is noted (1x) submission was received during this period, which has been included and addressed above.

6. Relevant Environment Planning Instruments

6.1. SEPP (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 2.6 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 planting and trees in the front and rear of the site to make way for proposed works.

6.2. SEPP (Building Sustainability Index: BASIX) 2004

BASIX Certificate No's 1363063S_02 and 1362974S_03 have been submitted, prepared by Cantilever Design Collective Pty Ltd, dated 30 October 2023 and 08 November 2023 respectively, satisfying the requirements of the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 'Remediation of land'

Chapter 4 of SEPP (Resilience and Hazards) 2021 applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. In this regard it is Council's position that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.4. SEPP (Transport and Infrastructure) 2021

Division 5 Electricity transmission or distribution

Clause 2.48 'Determination of development applications—other development' of the Transport and Infrastructure SEPP states the following:

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*

- D5/24**
- (b) *development carried out—*
 - (i) *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) *immediately adjacent to an electricity substation, or*
 - (iii) *within 5m of an exposed overhead electricity power line,*
 - (c) *installation of a swimming pool any part of which is—*
 - (i) *within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) *within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
 - (d) *development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*
- (2) *Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—*
- (a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

Comment: The proposed works are located within 5m of an exposed overhead electricity power line, located on the Anzac Parade adjoining the subject site. As such, the proposal was referred to Ausgrid for comment. See below Ausgrid referral in Appendix 1 which notes that Ausgrid does not object to the proposed development. As such, Clause 2.48 of the Transport and Infrastructure SEPP has been satisfied.

Division 17 Roads and traffic

Clause 2.119 'Development with frontage to classified road' of the Transport and Infrastructure SEPP states the following:

- (1) *The objectives of this section are—*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
 - (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment: The proposed works are located adjoining a classified road, being Anzac Parade. As such, the proposal was referred to Transport for NSW for comment. See below Transport for NSW referral in Appendix 1 which notes that Transport for NSW does not object to the proposed development. As such, Clause 2.119 of the Transport and Infrastructure SEPP has been satisfied.

6.5. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Description	Standard	Proposed	Compliance (Yes/No/NA)
Clause 4.1: Lot Size (Minimum)	400m ²	Site area = 595.4m ² Lot 1 (No. 1125A) = 297.7m ² Lot 2 (No. 1125B) = 297.7m ²	No, see Clause 4.6 Assessment below.
Clause 4.1C: Min Lot Size for Dual Occupancy (Attached)	450m ²	595.4m ²	Yes, complies
Clause 4.3: Height of Building (Maximum)	9.5m	7.12m (RL39.36 - RL32.24) N.b. as per the LEP definition, building height is measured from the existing ground level.	Yes, complies
Clause 4.4: Floor Space Ratio (Maximum)	0.5:1 Site area = 595.4m ² Each proposed subdivided allotment = 297.7m ²	Overall site = 0.61:1 (365.72m ²) Lot 1 (No. 1125A) = 0.61:1 (182.86m ²) Lot 2 (No. 1125B) = 0.61:1 (182.86m ²) N.b. includes the storage areas within the garages to each dwelling.	No, see Clause 4.6 Assessment below.

6.5.1. Clause 4.6 - Exceptions to development standards

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

6.5.2. Clause 6.2 - Earthworks

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

The development satisfies Clause 6.2(3) in that:

- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability and adjoining structures.
- The proposed excavation area is primarily within the building footprint, which is suitably scaled for the subject site. The size of the excavation does not have an adverse impact on the likely future use or redevelopment of the land.
- The site has been used for residential purposes for an extended period of time and there is unlikely to be contamination issues with the quality of the soil.
- Conditions of consent are imposed to manage demolition and waste removal.

- The proposed excavation does not have an adverse impact on the amenity of adjoining properties. The excavation is primarily located within the building footprint. Excavation within the rear yard area is setback from the side and rear boundaries with retaining walls. Therefore, there is no adverse visual bulk or privacy impacts to adjoining neighbours.
- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area nor is listed as a heritage item.
- The scale and siting of the proposal minimises impact on waterways, water catchments and environmentally sensitive areas.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Clause 4.1: Lot Size (Minimum)	400m ²	Lot 1 (No. 1125A) = 297.7m ² Lot 2 (No. 1125B) = 297.7m ²	102.3m ²	25.6%
Clause 4.4: Floor Space Ratio (Maximum)	0.5:1	Overall site = 0.61:1 (365.72m ²) Lot 1 (No. 1125A) = 0.61:1 (182.86m ²) Lot 2 (No. 1125B) = 0.61:1 (182.86m ²) N.b. includes the storage areas within the garages to each dwelling.	0.11:1	22%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D5/24

In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

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

Under clause 64 of the *Environmental Planning and Assessment Regulation 2021*, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

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

7.1. Exception to the minimum lot size development standard (CI 4.1)

The applicant's written justification for the departure from the minimum lot size standard is contained in Appendix 2.

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

The applicant's written request seeks to justify the contravention of the minimum lot size development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the minimum lot size standard are set out in Clause 4.1(1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the size of the proposed lots will not impact neighboring amenity, noting that strata subdivision is permitted with no materially different impact or relationship with neighbouring properties.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that there are no such impacts associated with the subject site.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the subdivision of the proposed dual occupancy does not impact on suitability of the proposed building for the site.

Assessing officer's comment:

Whilst Council disagrees with the applicant that Torrens and strata subdivision are materially the same, the proposed development is in keeping with the minimum lot size requirements and future desired characteristics of the R2 Zone. The gazetted Amendment 9 of the Randwick LEP 2012 reduced the minimum lot size for subdivision for sites zoned R2 'Low Density Residential' from 400m² to 275m², with the exception of land within a Heritage Conservation Area.

The subject site meets the requirements of minimum lot size, being 297.7m² for each allotment. In addition, the subject site is not within a Heritage Conservation Area. As such, Council is satisfied that the subdivision complies with the gazetted development standards and will not result in adverse amenity impacts and will sufficiently accommodate suitable dwelling form.

In view of the above, it is considered that the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- a. *The proposal achieves comfortable compliance with the suite of planning controls that determine a suitable building envelope at the site. In particular the proposal complies with the maximum permitted height, wall height, setbacks and landscaped area requirements that apply under the applicable LEP and DCP, as well as resulting in a building form that sits comfortably within the streetscape character.*

Accordingly, the massing and volume of the development as proposed is within a permitted envelope, resulting in a building that is reasonably expected at the site as well as being consistent with the desired future character of the area.

- b. *The applicable envelope controls are in place to manage the relationship of development with the surrounding properties and character of the area. Given compliance with these requirements, the resulting impacts of the proposal on the surrounding properties has been demonstrated to be acceptable in terms of overshadowing, privacy, views as well as the presentation of the dwelling within the streetscape context.*
- c. *The proposed lot size and FSR is consistent with the relevant development standards prescribed by the incoming draft Comprehensive LEP, including minimum lot size of 275m² and maximum FSR of 0.65:1. These development standards have been adopted by Council and the draft LEP has been sent to NSW Planning and Environment for finalisation. These new development standards are therefore considered to be imminent and certain.*
- d. *Based upon the incoming new LEP provisions, the proposal is consistent with the desired future character for dual occupancy development in the locality and the wider Randwick LGA.*
- e. *The proposed development achieves the objects in Section 1.3 of the Environmental Planning & Assessment Act, 1979, specifically:*
 - *The proposal promotes the orderly and economic use and development of land through the redevelopment of the site to provide dwellings that meets current living standards (objective 1.3c);*
 - *The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, and will create improve the amenity for future residents whilst respecting the local built form character (objective 1.3g).*

Assessing officer's comment:

As noted above, the proposed development is in keeping with the minimum lot size requirements and future desired characteristics of the R2 Zone, as per the gazetted Amendment 9 of the Randwick LEP 2012, meets the requirements of minimum lot size, being 297.7m² for each allotment.

In view of the above, it is considered that the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the minimum lot size standard and R2 Low Density zone. As discussed above, the proposed development is consistent with the objectives of the minimum lot size standard. In terms of the R2 zone, see below:

Assessment against objectives of R2 Low Density Residential zone

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a low density development that will contribute to the desired future character of the area.

The proposed subdivision will protect the amenity of residents in creating new lots that are supportive of semi-detached development, suitably scaled for sufficient amenity to future occupants and neighbouring residents. The proposed subdivision supports housing affordability in creating semi-detached dwellings providing additional housing supply into the market.

The development is consistent with the objectives of the minimum lot size standard and the R2 Low Density Residential zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

7.2. Exception to the floor space ratio development standard (CI 4.4)

The applicant's written justification for the departure from the floor space ratio standard is contained in Appendix 2.

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

The applicant's written request seeks to justify the contravention of the floor space ratio development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the floor space ratio standard are set out in Clause 4.4(1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposal will be consistent with the incoming draft LEP provisions and as such, the building form is consistent with what could reasonably be expected at the site. The proposal therefore represents a size that is compatible with the desired future character of the area.

(b) to ensure that buildings are well articulated and respond to environmental and energy needs,

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposal has been designed to fit with the permitted building envelope at the site and in doing so, incorporates visually interesting and well-articulated facades to each side boundary, the rear and to the street. The building is designed to capture good levels of sunlight to east and west facing living areas and will comply with the requirements of SEPP (BASIX) therefore responding to environmental and energy needs.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the site is not located in or in the vicinity of a conservation area or heritage item and as such this objective is not relevant.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposal has been designed to comply with all applicable envelope controls which are drafted to manage impacts and expectations for adjoining properties. In addition, passive design measures have been employed to achieve appropriate privacy to the neighbouring properties including locating living spaces at the ground floor level and primary window design and orientation towards the street and rear boundary.

Assessing officer's comment:

The proposed development is in keeping with the minimum lot size requirements and future desired characteristics of the R2 Zone. The gazetted Amendment 9 of the Randwick LEP 2012 increased the floor space ratio for new attached dual occupancy dwellings in the R2 zone with an allotment size of $\geq 550\text{m}^2$ and $< 600\text{m}^2$ from 0.5:1 to 0.65:1 (Clause 4.4A). The proposed

development meets the requirements of this new floor space ratio, being 0.61:1. As such, Council is satisfied that the subdivision will not result in adverse amenity impacts and will sufficiently accommodate suitable dwelling form.

In view of the above, it is considered that the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case.

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

The applicant's written request seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the floor space ratio standard as follows:

- a. *The proposal achieves comfortable compliance with the suite of planning controls that determine a suitable building envelope at the site. In particular the proposal complies with the maximum permitted height, wall height, setbacks and landscaped area requirements that apply under the applicable LEP and DCP, as well as resulting in a building form that sits comfortably within the streetscape character.*

Accordingly, the massing and volume of the development as proposed is within a permitted envelope, resulting in a building that is reasonably expected at the site as well as being consistent with the desired future character of the area;

- b. *The applicable envelope controls are in place to manage the relationship of development with the surrounding properties and character of the area. Given compliance with these requirements, the resulting impacts of the proposal on the surrounding properties has been demonstrated to be acceptable in terms of overshadowing, privacy, views as well as the presentation of the dwelling within the streetscape context.*
- c. *The proposed lot size and FSR is consistent with the relevant development standards prescribed by the incoming draft Comprehensive LEP, including minimum lot size of 275m² and maximum FSR of 0.65:1. These development standards have been adopted by Council and the draft LEP has been sent to NSW Planning and Environment for finalisation. These new development standards are therefore considered to be imminent and certain.*
- d. *Based upon the incoming new LEP provisions, the proposal is consistent with the desired future character for dual occupancy development in the locality and the wider Randwick LGA.*
- e. *The proposed development achieves the objects in Section 1.3 of the Environmental Planning & Assessment Act, 1979, specifically:*
- *The proposal promotes the orderly and economic use and development of land through the redevelopment of the site to provide dwellings that meets current living standards (objective 1.3c);*
 - *The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, and will create improve the amenity for future residents whilst respecting the local built form character (objective 1.3(g)).*

Assessing officer's comment:

As noted above, the proposed development is in keeping with the floor space ratio standard and future desired characteristics of the R2 Zone, as per the gazetted Amendment 9 of the Randwick LEP 2012, meeting the requirements of the floor space ratio, being 0.61:1.

In view of the above, it is considered that the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the floor space ratio standard and R2 Low Density zone. As discussed above, the proposed development is consistent with the objectives of the minimum lot size standard. In terms of the R2 zone, see below:

Assessment against objectives of R2 Low Density Residential zone

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a low density development that will contribute to the desired future character of the area.

The proposed built form will protect the amenity of residents in creating new semi-detached development that is suitably scaled for sufficient amenity to future occupants and to protect neighbouring residents.

The development is consistent with the objectives of the floor space ratio standard and the R2 Low Density Residential zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

The Draft Part C1 Low Density DCP incorporates changes to support the approved amendments to RLEP 2012 put forward under the Comprehensive Planning Proposal which was endorsed by Council in August and September 2022. At its Council meeting on 22 November 2022, Council resolved to endorse the Draft DCP as an interim policy. As such, development relying on the provisions of the Draft LEP must be assessed against the relevant Draft DCP provisions which accompany the proposed LEP changes. The relevant provisions of the DCP are addressed in the Key Issues section of the Report and attached as Appendix 3.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	The Draft Comprehensive Planning Proposal to update the Randwick Local Environmental Plan (RLEP) 2012 was publicly exhibited from the 31 May to the 12 July 2022. The proposed development would not be inconsistent with the provisions of the draft RLEP 2012.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant residential character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on

Section 4.15 'Matters for Consideration'	Comments
	the locality. Accordingly, the proposal is considered to be in the public interest.

10. Key Issues

Deep soil permeable surfaces

The proposed development includes non-compliance with the controls outlined in Section 2 'Site Planning' of C1 in Council's DCP 2023.

Clause 2.5 'Deep soil permeable surfaces' of the DCP 2023 requires that for an allotment with a size of 595.4m² that 40% (238.16m²) of the site must be allocated for deep soil permeable surfaces. For a dual occupancy development, the controls note that deep soil permeable surfaces are calculated on the overall site area and must be evenly distributed between the pair of dwellings.

The DCP outlines the following definition of deep soil permeable area:

Deep soil permeable surfaces are located at the ground level of a site and provide areas for the growing of plants (including grasses, shrubs and trees) and areas with loose gravels upon soil that water can easily penetrate.

In addition, deep soil permeable surfaces must have a width of not less than 900mm.

The applicant notes that the proposed deep soil permeable surfaces area is 36.44% (216.98m²). Based on the DCP definition and the provided plans, Council has calculated the deep soil permeable surfaces area as approximately 34.4% (204.8m²). The applicant has incorrectly calculated the deep soil permeable surface area by including the respective rainwater tanks located within the rear yard of each proposed dwelling.

Council notes that the rear yard for each dwelling also contains an infiltration tank. As per the Development Engineering comments, the drainage plans have not been approved by Council. Drainage requirements have been imposed as conditions of consent. That being said, should an infiltration tank be located within the deep soil permeable area, Council is satisfied that this area be included in the deep soil permeable surfaces calculation as some small planting could be located above the tanks and sufficiently assist in the drainage requirements as noted in the objectives below.

Based on Council's calculation, the variation to the numerical control is 5.4%.



Figure 8: Deep soil permeable area calculation plan with Council marking in red showing areas that are to be excluded from the calculation – 73 Darley Road, Randwick (Source: Cantilever Design Collective)

In order to assess the non-compliance and consider the justification above, Council needs to consider the proposal against the objectives of the relevant clause. The objectives of Clause 2.5 have been reproduced below:

- *To retain and provide planting area for canopy trees and general vegetation to contribute to the overall tree canopy cover of the LGA and to the establishment of landscaped corridors across the locality*
- *To assist with stormwater infiltration and reduction of overland flow*
- *To improve climate resilience of the site.*

The proposed variation to the deep soil permeable surface area controls is not supported for the following reasons:

- The current DCP under consideration for the proposed development is DCP 2013, which only required 30% deep soil permeable area within the site. However, at the 22 November 2022 Ordinary Council meeting, Council resolved to endorse the Stage 1 Draft DCP as an interim policy (includes changes to support the approved amendments to the Randwick LEP put forward under the Comprehensive Planning Proposal, including minimum lot size, dual occupancy development, heritage conservation areas and housing investigation areas), commencing on the date of gazettal of the Comprehensive LEP.

As the proposed development is relying upon the Amendment 9 of the RLEP 2012 to take advantage of the reduced LEP development standards in terms of minimum lot size and FSR, greater weight is given to the numerical controls under DCP 2023. These controls are relative to the new LEP standards and in keeping with the desired future character of development in the R2 zone.

- The proposed variation of 5.4% with the deep soil permeable numerical control is not considered minor. A variation of this size does not provide sufficient areas for planting and vegetation that establishes landscaped corridors across the locality.
- The variation to the control will not sufficiently assist with stormwater infiltration and reduction of overland flow. Greater deep soil permeable surface area is required within the site to improve permeability of the site.
- The variation does not sufficiently improve climate resilience of the site in being able to reduce potential future flooding impacts on the development.

There is sufficient area within the allotment to demonstrate compliance with 40% of the site being deep soil permeable area, as additional further permeable areas can be provided to either the side of each dwelling or within the front setback area. As such, a condition of consent will be issued requiring that 40% of the site is to be made up of deep soil permeable area, based on the definition of deep soil permeable surface in Council's DCP 2023. This is, an additional 33.36m² of the site.

This will likely require the relocation of the proposed rainwater tanks, of which Council will condition as an option to achieve the 40% DCP 2023 control, subject to the rainwater tanks not impacting upon the streetscape or amenity of adjoining neighbours.

In summary, the deep soil permeable surface is considered to uphold the objectives, subject to conditions.

11. Conclusion

That the application for demolition of existing structures and construction of two storey attached dual occupancy and Torrens Title subdivision be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.

- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The proposal is consistent with Amendment 9 of the RLEP 2012 in terms of the Clause 4.1 for the minimum lot size development standard and Clause 4.4A for the floor space ratio development standard. Therefore, Clause 4.6(4) of the RLEP 2012 has been satisfied.

D5/24

Appendix 1: Referrals

1. External referral comments:

1.1. Ausgrid

Ausgrid has confirmed that they do not object to the proposed development, in terms of the Ausgrid overhead powerlines that are located within the vicinity of the development.

1.2. Transport for NSW

Transport for NSW has confirmed the proposed development is satisfactory and provided the following comments:

“Reference is made to Council’s referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with clauses 2.119 of the State Environment Planning Policy (Transport and Infrastructure) 2021 and concurrence under section 138 of the Roads Act, 1993. TfNSW advises that:

- *Anzac Parade, at this location, is a regional classified road that is under the care and control of Council.*

As such, TfNSW is of the view that it is more appropriate for Council to consider and determine if the proposed vehicle access is acceptable from a network perspective (i.e., acceptable in terms of safety and efficiency).

However, TfNSW requests that the following conditions are included in any determination issued by Council:

1. *All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Anzac Parade boundary.*
2. *A Road Occupancy Licence (ROL) shall be obtained from Transport Management Centre for any works that may impact on traffic flows on Anzac Parade during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.*

Noting the above, TfNSW does recognise that any proposed or conditioned works on Anzac Parade would require section 138 consent from Council and concurrence from TfNSW under section 138 of the Roads Act 1993. Provided Council is satisfied the design for the works is acceptable (taking relevant standards and guidelines into consideration), TfNSW would issue its concurrence under section 138 of the Road Act 1993.”

2. Internal referral comments:

2.1. Development Engineering

Council’s Development Engineer has confirmed the proposed development is satisfactory and provided the following comments:

“General Comments

The issues raised in previous memo have been addressed with the amended plans. Of note the proposed garages have been lowered from RL 32.545 AHD to RL 32.295 AHD. This will allow compliant grades and carspaces to be provided in front of the garage.

There are no objections to the proposal subject to the comments and conditions provided in this report.

Parking Comments

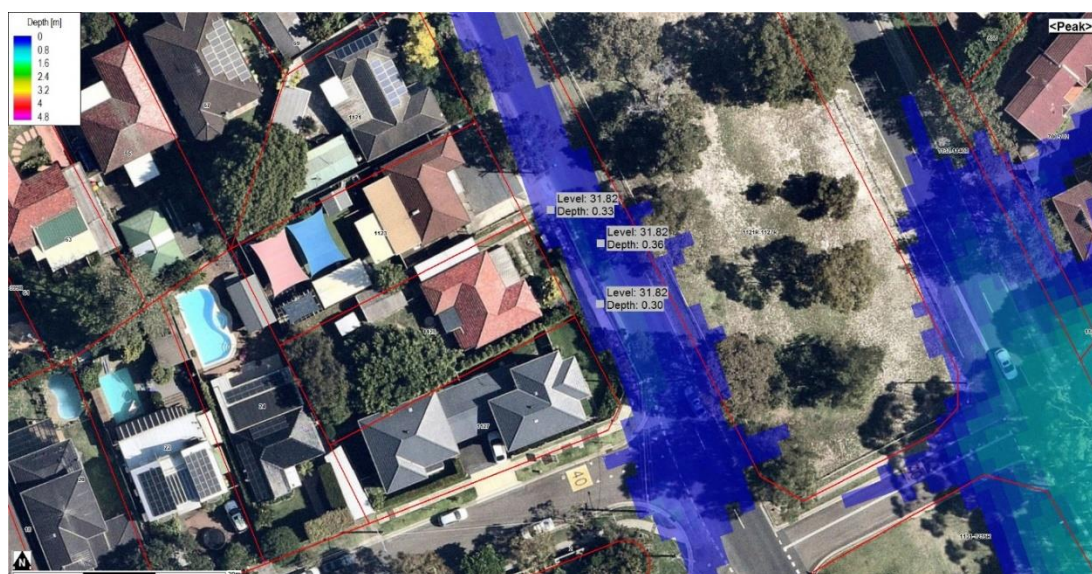
Under Part B7 of Council's DCP 2013 each of the proposed 4-bedroom residences is required to provide a minimum of 2 off-street carspaces. The submitted plans now demonstrate compliance with this requirement.

The proposed garages and driveway will be able to comply with the minimum requirements of Australian Standard 2890.1:2004 in regards to size, grades, and overhead clearances.

Flooding Comments

The site lies within the catchment for the Council commissioned South LGA /Lurline Bay Flood Study'. The study does not predict the site will be impacted by flooding for all storm events up to and including the 1% AEP (1 in 100yr) storm event and the property has not been tagged as a "flood control lot".

Notwithstanding some flooding is expected on the Anzac Parade roadway in front of the site which lies within an entrapped low point with flood depths of approximately 0.3m and a top water level of RL 31.82 AHD predicted for the 1% AEP Flood event (see plot below).



The amended garage floor level of RL 32.295 AHD and main floor level of RL 32.85 AHD are 0.475m and 1.03m above the 1% AEP flood level respectively and so easily meet the minimum flood planning controls for garages and habitable floor as detailed in Sec 5.3 Part B8 of the DCP being

- Garages are to be at or above the level of the 1% AEP Flood
- All habitable floor must be at or above the level of the 1% AEP + 0.5m are

There are therefore no objections to the proposal from a flooding perspective.

Drainage Comments

The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the Principal Certifier for approval prior to the issuing of a construction certificate.

The stormwater must be discharged (by gravity) either:

- Directly to the kerb and gutter in front of the subject site on Anzac Parade via an On Site Detention (OSD) system ; or

- ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

Undergrounding of power lines to site

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

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

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

Waste Management

The assessing officer is advised that the submitted Waste management shall not be approved in conjunction with the DA as it does not contain sufficient information including names of waste contractors nor provide enough detail on the ongoing management of waste. An amended Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste prior to the issuing of construction certificate or prior to commencement of demolition works, whichever the sooner. A suitable condition has been included in this consent.

Subdivision Comments

A subdivision certificate in respect to the 2-lot subdivision must be issued and subdivision plans registered at NSW Land Registry Services prior to the issuing of a full occupation certificate for this development."

2.2. Development Landscaping

Council's Landscaping Officer has confirmed the proposed development is satisfactory and provided the following comments:

"Landscape Comments

Site inspection was undertaken on Thursday 28th Sep 2023, with photos of all vegetation found in SEE (D040951734) and D05069691.

On the Council's Anzac Parade verge, towards the southern site boundary is **T5**, a mature *Angophora costata* (Sydney Red Gum) height of 4 metres, poor vigour, fair health, high retention, under power lines, has been utility pruned, in direct conflict with proposed driveway not significant enough to have a redesign, we will accommodate the removal of this tree, wholly at the applicant's cost, with a like-for-like replacement able to be provided immediately to its north to ensure there is no net loss from the streetscape.

To the front offset of this property, **T6** mature *Cupressus brunniana* (Bunnings Cypress) height of 6 metres, poor vigour, poor health, major deadwood, low retention, co-dominant, in direct conflict with works, so no objections are raised to its removal where needed to accommodate the works as shown, along with all other vegetation in this area as the Landscape Plans detail a high-quality treatment in their place for this same area.

Progressing into the rear yard of this site, along the northern boundary, against the northeast corner to the existing free-standing garage is **T7**, immature *Grevillea robusta* (Silky oak) height of 8 metres, fair vigour, fair health, low retention, self-propagated, co dominant, growing in narrow space between fibrous shed at north western boundary fence, in direct conflict with new building, so no objections are raised to the removal where needed to accommodate the works as shown, particularly as the Landscape Plans detail a high-quality treatment in their place for this same area.

Halfway across the width of the rear/ western boundary is **T1** over-mature, *Agonis flexuosa*

(Willow Myrtle) height of 7 metres, poor vigour, fair health, low retention, excessive pruning over the years, root severance expected to have occurred, from neighbouring western property, poor pruning stubs, large root flare which could conceal fungal infection, in direct conflict with proposed landscaping and the rear inground infiltration water tanks, so can be removed.

*Moving just south of tree above, **T2** mature *Tristaniaopsis laurina* (Water gum) height of 7 metres, fair vigour, good health, tree displays typical form for this species, low retention, in direct conflict with rear inground infiltration water tanks, so can also be removed.*

*Moving to halfway along the southern site boundary is **T3** mature *Ficus benjamina* (Weeping fig) height of 7 metres, fair vigour, fair health, low retention, excessive pruning, suppressed by other trees, not significant enough to have a redesign, and due to new native plantings to be provided by the landscape design, we will accommodate the removal of the tree.*

*Just to its east is **T4** mature *Plumeria* spp. (Frangipani) height of 4 metres, good vigour, good health, low retention, suppressed by other trees and vine coverage limiting assessment, of little insignificance, near the proposed new building, exempt under Council's DCP, this tree will be affected by this proposal, so no objections are raised of the removal of this tree.*

There is no objection to the removal of any other small vegetation, of little significance, in the rear yard of this development site, with proposed new surrounding plants and vegetation of acceptable standard, this will improve the open space living area to a higher standard.

As part of the RFI, the Landscape Plans have been amended to comply with the new controls in Council's Low Density Residential DCP 2023, specifically relating to the minimum quantity of trees planted and future canopy cover targets.

A review of the amended Landscape Plan has confirmed that the following additional treatment has now been provided compared to the original scheme:

- *1 x Magnolia (exotic) in the front corner of each Lot has been replaced with a Blueberry Ash, which will attain larger dimensions and is also a more desirable native coastal species;*
- *An extra 1 x Tuckeroo (evergreen native) has also been added to the areas between each of the internal driveways and their shared/common boundary;*
- *The two separate areas of grass in each of the front setbacks have been completely replaced with mass planted lower growing native species;*
- *Garden beds & planting along each of the rear side boundaries has been extended further to the east, into the side setbacks;*
- *2 x additional evergreen, native coastal canopy trees have now been added across the rear boundary of each Lot, comprising a Sydney Red Gum & a Tuckeroo.*

All of these are positive inclusions, with an assessment against the DCP controls revealing that compliance is achieved with:

- *Clause 2.6: Canopy cover. Variety of species selection was calculated to achieve minimum 25% coverage of site area within 10 years;*
- *Minimum quantity of 2 trees per Lot;*
- *New trees are planted a minimum distance of 2.5m from the buildings;*
- *Plant schedule is almost exclusively native, containing only 1 exotic species, achieving the minimum 60% target;*
- *In excess of 25% of front setback area is planted out."*

Appendix 2: Applicant's written request seeking to justify the contravention of the minimum lot size and floor space ratio development standards.



18 January 2024

AMENDED CLAUSE 4.6 VARIATION – LOT SIZE & FSR

ADDRESS: 1125 Anzac Parade, Matraville

This amended Clause 4.6 Variation Request is to accompany a development application to Randwick Council seeking consent to demolish an existing dwelling to enable the construct of a dual occupancy development with Torrens title subdivision at No. 1125 Anzac Parade, Matraville.

This variation request relates to both Lot Size and Floor Space Ratio with the key justification relating to the imminent Draft Comprehensive Randwick LEP and new provisions that will result in the proposed development being compliant. It is understood that, given the imminence of the draft LEP, Council has been accepting variation requests where a proposed development will be compliant with the incoming LEP provisions.

In particular, the proposal seeks the following variations:

- Clause 4.1 of Randwick LEP 2012 prescribes a minimum lot size of 400m² – the proposal seeks lot sizes of 297.70m², representing a variation to the development standard of 102.30m² or 25.575%;
- Clause 4.4 of Randwick LEP 2012 prescribes a maximum FSR of 0.5:1 – the proposal has an FSR of 0.61:1, representing a variation to the development standard of 68.02m² or 22.85%.

With respect to each of the above variations to RLEP 2012, the draft Comprehensive LEP has a lot size requirement of 275m² and a maximum FSR of 0.65:1 for pre-subdivided lots of between 550-600m² in size. The proposal would therefore become compliant upon gazettal of the new LEP, which is understood to be imminent.

Finally, the impacts on neighbouring buildings are identified in the accompanying Statement of Environmental Effects noting that the proposal will have acceptable impacts on the solar access, privacy and views of neighbouring properties as well as fitting comfortably within the streetscape character.

The remaining parts of this variation request identify the extent of the proposed non-compliances and responds to the statutory requirements of Clause 4.6 of Randwick LEP 2012 detailing that the application of flexibility to the development standards in this instance is appropriate given the environmental planning grounds identified and noting that the proposal is consistent with the future planning context of Randwick.

1. What is the name of the environmental planning instrument that applies to the land?

Randwick Local Environmental Plan 2012.

2. What is the zoning of the land and what are the objectives of the zone?

Objectives of R2 – Low Density Residential zone

- *To provide for the housing needs of the community within a low density residential environment.*

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- To protect the amenity of residents.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

3. Identify the Development Standard to which this Clause 4.6 Variation applies?

This variation request relates to:

- Clause 4.1, minimum Lot Size of RLEP 2012;
- Clause 4.4, maximum FSR of RLEP 2012.

4. Is the standard expressly excluded from operation of Clause 4.6?

Clauses 4.1 and 4.4 are not identified as being expressly excluded from operation of 4.6 as it is not identified at Clause 4.6(6) or (8) of the LEP.

5. What are the objectives of the development standard?

Lot Size:

- to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,
- to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,
- to ensure that lot sizes are able to accommodate development that is suitable for its purpose.

Floor Space Ratio:

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

What is the numeric value of the development standard in the environmental planning instrument?

Clause 4.1, minimum Lot Size of RLEP 2012 – 400m²;

Clause 4.4, maximum FSR of RLEP 2012 – 0.5:1.

6. How do the existing and proposed numeric values relate to the development standard? What is the percentage variation (between your proposal and the environmental planning instrument)?

The proposal seeks the following variations:

- Clause 4.1 of Randwick LEP 2012 prescribes a minimum lot size of 400m² – the proposal seeks lot sizes of 297.70m², representing a variation to the development standard of 102.30m² or 25.575%;
- Clause 4.4 of Randwick LEP 2012 prescribes a maximum FSR of 0.5:1 – the proposal has an FSR of 0.61:1, representing a variation to the development standard of 68.02m² or 22.85%.

7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

The Court decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 provides the five part test to determine if compliance with a development standard is unreasonable or unnecessary with only one test needing to be satisfied.

Note: These five tests are not exhaustive of the ways in which you might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. You do not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, you can demonstrate that compliance is unreasonable or unnecessary in more than one way.

Test 1: In our view, the proposal satisfies the first test in *Wehbe v Pittwater Council* [2007] NSWLEC 827 as the objectives of the standards are achieved notwithstanding non-compliance with the standards. Refer to discussion below relating to compliance with the objectives of the development standards. On this basis, insistence on compliance with the Lot Size and FSR controls is unreasonable and unnecessary in the circumstances.

8. Are there sufficient environmental planning grounds to justify contravening the development standard?

In considering whether there are sufficient environmental planning grounds to support the proposed variations, the following principles are relied on.

In the recent Court decision Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that the clause does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.

As held in Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) does not require the consent authority to directly form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only indirectly in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.

By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the

Amended Clause 4.6 Variation Request – Lot Size & FSR
1125 Anzac Parade, Matraville

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

With regard to the above, there are sufficient environmental planning grounds to support the Lot size and FSR variations for the following reasons:

1. The proposal achieves comfortable compliance with the suite of planning controls that determine a suitable building envelope at the site. In particular the proposal complies with the maximum permitted height, wall height, setbacks and landscaped area requirements that apply under the applicable LEP and DCP, as well as resulting in a building form that sits comfortably within the streetscape character.

Accordingly, the massing and volume of the development as proposed is within a permitted envelope, resulting in a building that is reasonably expected at the site as well as being consistent with the desired future character of the area;

2. The applicable envelope controls are in place to manage the relationship of development with the surrounding properties and character of the area. Given compliance with these requirements, the resulting impacts of the proposal on the surrounding properties has been demonstrated to be acceptable in terms of overshadowing, privacy, views as well as the presentation of the dwelling within the streetscape context;
3. The proposed lot size and FSR is consistent with the relevant development standards prescribed by the incoming draft Comprehensive LEP, including minimum lot size of 275m² and maximum FSR of 0.65:1. These development standards have been adopted by Council and the draft LEP has been sent to NSW Planning and Environment for finalisation. These new development standards are therefore considered to be imminent and certain.
4. Based upon the incoming new LEP provisions, the proposal is consistent with the desired future character for dual occupancy development in the locality and the wider Randwick LGA.
5. The proposed development achieves the objects in Section 1.3 of the Environmental Planning & Assessment Act, 1979, specifically:
 - The proposal promotes the orderly and economic use and development of land through the redevelopment of the site to provide dwellings that meets current living standards (objective 1.3c);
 - The proposed developed promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, and will create improve the amenity for future residents whilst respecting the local built form character (objective 1.3(g)).

In addition, the proposal is in the public interest because it is consistent with the objectives of the standards and the zone in which the development is carried out. Provided below is an assessment of the proposal with respect to the objectives of the Lot Size and FSR requirements, and the R2 – Low Density Residential zone.

The proposal is consistent with the objectives of each development standard, as detailed below.

Lot Size

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

Response: The size of the proposed lots will not impact neighbouring amenity, noting that strata subdivision is permitted with no materially different impact or relationship with neighbouring properties.

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

Response: No such impacts associated with the subject site.

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

Response: Subdivision of the proposed dual occupancy does not impact on suitability of the proposed building for the site.

Floor Space Ratio

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

Response: As outlined in this variation statement, the proposal will be consistent with the incoming draft LEP provisions and as such, the building form is consistent with what could reasonably be expected at the site. The proposal therefore represents a size that is compatible with the desired future character of the area.

(b) *to ensure that buildings are well articulated and respond to environmental and energy needs,*

Response: The proposal has been designed to fit with the permitted building envelope at the site and in doing so, incorporates visually interesting and well-articulated facades to each side boundary, the rear and to the street.

The building is designed to capture good levels of sunlight to east and west facing living areas and will comply with the requirements of SEPP (BASIX) therefore responding to environmental and energy needs.

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

Response: The site is not located in or in the vicinity of a conservation area or heritage item and as such this objective is not relevant.

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

Response: As detailed in the accompanying SEE, the proposal has been designed to comply with all applicable envelope controls which are drafted to manage impacts and expectations for adjoining properties. Section 4.2 of the SEE details the passive design measures employed to achieve appropriate privacy to the neighbouring properties including locating living spaces at the ground floor level and primary window design and orientation towards the street and rear boundary.

Furthermore, the solar impacts are identified noting that the site is located on an east to west axis and that the adjoining southern neighbour is vulnerable to overshadowing. The design ensures that east and west facing living room windows and areas of open space

will receive sunlight to a reasonable extent based on the subdivision pattern and anticipated built form on the site.

Finally, views from or over the site are assessed as being general open aspects to the east and the complaint building envelope proposed results in impacts that are minor and reasonably expected when assessed under the view sharing principles.

In addition to the above, proposal is consistent with the objectives of the R2 – Low Density Residential zone. A consideration of each of the objectives of the zone is detailed below.

Compliance with the objectives of the R2 – Low Density Residential zone	
Objective	Response
To provide for the housing needs of the community within a low density residential environment.	The proposed dual occupancy development will replace the existing single dwelling at the site with two new dwellings that provide high amenity living within an area that is ideally suited for additional residential accommodation.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	N/A – residential development proposed.
To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.	The proposed form and relationship to the street has been predicated on the emerging trend of dual occupancy development that adopt the same form and presentation to Anzac Parade and nearby R2 Low Density zones. This is identified in the site description and context assessment of the accompanying Statement of Environmental Effects.
To protect the amenity of residents.	The residential amenity of the surrounding properties has been assessed in the submitted SEE and determined to be suitably safeguarded when considering privacy, solar access, view impacts and a scale of development reasonably expected at the site.
To encourage housing affordability.	The proposed development will contribute to housing supply which is a measure that seeks to address affordability. It is however noted that a single development of this nature will have a minor, yet acceptable impact on housing affordability.
To enable small-scale business uses in existing commercial buildings	N/A – Residential development proposed.

9. The concurrence of the Secretary has been obtained

Clause 4.6(4)(b) requires that a development consent cannot be granted to a development that contravenes a development standard unless the concurrence of the Secretary of the Department of Planning, Industry and the Environment (DPIE) has been obtained.

As outlined in the DPIE's Planning Circular PS 20-002 dated 5 May 2020, the consent authority may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions

in the table attached to the Circular. The conditions are not applicable to the lot size of FSR development standards and the Secretary's concurrence can therefore be assumed by the consent authority.

10. Matters of significance for State or Regional Environmental Planning.

The proposed variations do not raise any matters of significance for State or regional environmental planning.

11. The public benefit of maintaining compliance with the Development Standard

This variation request demonstrates that the proposed variations are consistent with the relevant zone and standard objectives, and that insistence on strict compliance is unreasonable unnecessary in the circumstances. As also demonstrated in this variation request, there are no unreasonable impacts that will result from the contravention to the development standards and to the contrary, the proposed development facilities important State and Local government planning aims relating to the increased provision of suitable housing, including the form of housing anticipated by the incoming Comprehensive LEP.

On this basis, there is no public benefit in maintaining strict compliance with the development standard. The proposal's consistency with the relevant zone objectives and development standard objectives deems that the subject application is in the public interests.

12. Conclusion

As noted above, the Lot Size and FSR exceedances are consistent with the draft Comprehensive LEP requirements, which are standards that have been adopted by Council and are considered to be imminent and certain. The proposal is therefore contextually appropriate and fits comfortably within the streetscape character and desired future character of the area.

This variation request demonstrates that there are sufficient environmental planning grounds to support flexibility of the development standards as well as detailing that the proposal is in the public interest as it is consistent with the objectives of the development standards and zone within which it is located.

In satisfaction of the statutory tests of Clause 4.6 of Randwick LEP 2012 it is requested that Council support the variations as proposed.

Appendix 3: DCP Compliance Table

3.1 Section C1: Low Density Residential 2013

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 595.4m ²	
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP): • R2 = 400sqm • R3 = 325sqm	Proposed = 297.7m ² each allotment	No, see Clause 4.6 Assessment
	Minimum frontage		
	i) Min frontage R2 = 12m i) Min frontage R3 = 9m ii) No battle-axe or hatchet in R2 or R3 iii) Minimum frontage for attached dual occupancy in R2 = 15m iv) Minimum frontage for detached dual occupancy in R2 = 18m	Minimum lot frontage = 12m each new allotment Proposed = 7.62m Whilst the proposal does not comply with the numerical control, it does comply under the new DCP controls of which greater weight has been given to under the subject development. As such, the development is acceptable. Minimum frontage for attached dual occupancy = 15m Proposed = 15.22m	Yes, complies on merit
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 595.4m ² Proposed = 41% (245.5m ²)	Yes, complies
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	Site = 595.4m ² Proposed = 34.4% (204.8m ²) Complies, however does not comply with the increase 40% control as required under RDCP 2023.	See Key Issues for assessment
2.5	Private open space (POS)		
	Dual Occupancies (Attached and Detached)		

D5/24

D5/24

DCP Clause	Controls	Proposal	Compliance
	POS		
	451 to 600 sqm = 5m x 5m each 601sqm or above = 6m x 6m each	Site = 595.4m ² Proposed = > 5m x 5m each proposed dwelling	Yes, complies
	ii) POS satisfy the following criteria: <ul style="list-style-type: none"> Situated at ground level (except for duplex) No open space on podiums or roofs Adjacent to the living room Oriented to maximise solar access Located to the rear behind dwelling Has minimal change in gradient 	The POS areas are located at the rear of the site, on NGL, adjoining the primary living rooms, free of podiums and roofs.	Yes, complies
3	Building envelope		
3.1	Floor space ratio		
	Maximum floor space ratio LEP 2012 = 0.5:1	Overall site = 0.61:1 (365.72m ²) Lot 1 (No. 1125A) = 0.61:1 (182.86m ²) Lot 2 (No. 1125B) = 0.61:1 (182.86m ²)	No, see Clause 4.6 Assessment above.
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	7.12m (RL39.36 - RL32.24) N.b. as per the LEP definition, building height is measured from the existing ground level.	Yes, complies
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) An alternative design that variates from the above external wall height controls may be acceptable having regard to the following consideration: <ul style="list-style-type: none"> - Site topography - Site orientation - Allotment configuration - Allotment dimensions - Potential impacts on the visual amenity, solar access, privacy and views of the adjoining properties 	Proposed external wall height = 6.45m Proposed F2F height = 3.15m	Yes, complies
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Proposed = 6.4m The proposed dwellings are setback behind the adjoining buildings.	Yes, complies

DCP Clause	Controls	Proposal	Compliance
3.3.2	Side setbacks: <u>Dwellings & Dual Occupancies (Attached & Detached):</u> <ul style="list-style-type: none"> Frontage less than 9m = 900mm Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Minimum = 1.2m Proposed = 1.2m	Yes, complies
3.3.3	Rear setbacks <ol style="list-style-type: none"> Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> Existing predominant rear setback line Reasonable view sharing (public and private) Protect the privacy and solar access 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. For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> Compatibility POS dimensions comply minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Minimum = 8m Proposed = 8.18m The proposed rear setback is sufficient in providing sufficient separation and areas for POS and planting, considering the irregular subdivision pattern of the block.	Yes, complies
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	The proposed dwellings are articulated sufficiently on all sides with openings, mixed materials, wall section <12m in length, and recessed areas. Bedrooms/balconies are sufficiently sized in accordance with the controls.	Yes, complies
4.3	Additional Provisions for Attached Dual Occupancies		
	Should present a similar bulk as single dwellings <ol style="list-style-type: none"> Garage for each dwelling shall have a single car width only Articulate and soften garage entry Minimise driveway width 	The proposed dwellings are symmetrical, with the front façade softened with	Yes, complies

D5/24

DCP Clause	Controls	Proposal	Compliance
	iv) Maximum 2m setback of front entry from front façade v) Maximise landscape planting at front	balconies over garages, entries to the street and recessed garage entries. The proposed garages and single width, with the massing of the development softened by sufficient articulation and planting areas within the front setback area.	
4.4	Roof Design and Features		
	<i>Rooftop terraces</i> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side) <i>Dormers</i> iii) Dormer windows do not dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <i>Clerestory windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.	The proposed skylights are sympathetic to the design of proposed dwellings.	Yes, complies
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	The colours, materials and finishes submitted with the application are considered satisfactory.	Yes, subject to condition
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)	The minimal extent of earthworks pertinent to the proposed dwellings and outside the building envelope including the levelling of the side and rear yards are considered acceptable.	Yes, complies

DCP Clause	Controls	Proposal	Compliance
	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.	Retaining walls are setback from side and rear boundaries so as to minimise the impact on adjoining neighbours.	
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The proposed northern dwelling Lot 1 (No. 1125A) has north-facing windows that receives sufficient solar access. The POS area of each dwelling will receive sufficient solar access.	Yes, complies
	Solar access to neighbouring development:		
	iii) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	See assessment below.	Yes, complies on merit
	<p>The allotment has an east-west orientation (i.e. east being the front and west being the rear). As such, the allotments to the south are reasonably expected to be overshadowed.</p> <p>The north-facing living room windows at No. 28 Truscott Avenue and the POS to No. 30 Truscott Avenue is located along the northern side boundary are overshadowed. Whilst the windows receive afternoon sunlight and the POS morning sunlight, these structures were always susceptible to overshadowing and will continue to receive partial solar access in the</p>		

D5/24

D5/24

DCP Clause	Controls	Proposal	Compliance
	<p>morning and afternoon respectively. These properties also include eastern and western aspects afforded with solar access during mid-winter.</p> <p>The proposed development generally complies with the numerical and objective controls of the LEP & DCP, including site coverage, height, and setbacks. The rear portion of the dwelling, of which overshadows the windows of No. 28, has a setback that is greater than the minimum requirements.</p> <p>As such, Council is satisfied with the level of overshadowing.</p>		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	<p>The submitted development has been accompanied with a BASIX Certificate identifying compliance with thermal and water energy.</p> <p>In addition, the location of windows and doors have been considered as acceptable, addressing the matter of natural light and ventilation.</p>	Yes, complies
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>In order to protect the visual privacy of the adjoining dwellings to the southern side, a condition of consent will be issued requiring windows B8 & B9 to be either fixed and frosted or have a minimum sill height of 1.6m. A similar condition has also been recommended to northern windows A8 & A9 to prevent cross-viewing within the adjoining childcare centre.</p>	Yes, complies
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness</p>	<p>The proposed side courtyard areas are level with the existing ground level. In addition, the proposed</p>	Yes, complies

DCP Clause	Controls	Proposal	Compliance
	<p>(glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>ground roofed floor outdoor areas are below the existing ground level, which will not create any overlooking impacts.</p> <p>The proposed front first floor balconies propose privacy screens to the sides of the adjoining dwellings, sufficiently minimising potential overlooking issues.</p>	
5.4	Acoustic Privacy		
	<p>i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	<p>The proposed dwellings have a mirrored layout that considered acoustic privacy in compliance with the DCP controls (i.e. hallways, bathrooms, stairwells and wardrobes are located along the common boundary).</p>	Yes, complies
5.5	Safety and Security		
	<p>i) Dwelling's main entry on front elevation (unless narrow site)</p> <p>ii) Street numbering at front near entry.</p> <p>iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place.</p> <p>iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)</p>	<p>The proposed dwelling entrances front Anzac Parade. Sufficient window glazing has been provided to support casual surveillance of Anzac Parade, unobstructed by ancillary structures.</p>	Yes, complies
5.6	View Sharing		
	<p>i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas.</p> <p>ii) Retaining existing views from the living areas are a priority over low use rooms</p> <p>iii) Retaining views for the public domain takes priority over views for the private properties</p> <p>iv) Fence design and plant selection must minimise obstruction of views</p> <p>v) Adopt a balanced approach to privacy protection and view sharing</p> <p>vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)</p>	<p>No important views are impacted by the development.</p>	N/A
6	Car Parking and Access		

D5/24

DCP Clause	Controls	Proposal	Compliance
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	The proposed parking facilities are accessible via Anzac Parade, being single-width garages integrated into the dwelling front façade.	Yes, complies
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing	The proposed garages are setback 1.2m from all side boundaries.	Yes, complies
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The proposed driveways have a width of 3m, with sufficient landscaping provided within the front setback area.	Yes, complies
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1	The proposed single garage is 3.4m x 5.7m, with a recessed door width of 2.8m and a clearance of 2.4m. The parapet above forms part of the dwelling form. The additional 400mm of garage width has been included in the GFA calculation.	Yes, complies
6.7	Hardstand Car Space Configuration		
	i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The proposed hardstand parking spaces are 3m x 6.4m.	Yes, complies
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials	The proposed font	Yes, complies

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> 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 	fencing materials of aluminium panelling and rendered wall pillars are satisfactory.	
7.2	Front Fencing		
	<ul style="list-style-type: none"> i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines. 	The proposed front fencing has a height of 1.2m, with solid portions for the pillars and open-aluminium panelling for the length of the fence. No gates are proposed to the parking facilities.	Yes, complies
7.3	Side and rear fencing		
	<ul style="list-style-type: none"> i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished. 	The proposed side boundary fencing has a height of 1.8m (as measured from the existing ground level) and tapers to the front fence with a height of 1.2m.	Yes, complies
7.8	Clothes Drying Facilities		
	<ul style="list-style-type: none"> i) Located behind the front alignment and not be prominently visible from the street 		
8	Area Specific Controls		
8.1	Development in Laneways		
	<ul style="list-style-type: none"> i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey). ii) 1 operable window to laneway elevation 	The proposed clothes drying area to the side of the dwellings are not visible and	Yes, complies

D5/24

D5/24

DCP Clause	Controls	Proposal	Compliance
	(casual surveillance) iii) Aligns with consistent laneway setback pattern (if no consistent setback then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.) iv) Nil side setback allowed subject to: - adjoining building similarly constructed - no unreasonable visual, privacy and overshadowing impacts v) Screen or match exposed blank walls on adjoining properties (ie on common boundary).	prominent from the Anzac Parade.	

3.2 Section C1: Low Density Residential 2023

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 297.7m ² each allotment	
2.1	Minimum lot size		
	Minimum lot size LEP 2012 = 550m²	Proposed = 595.4m ²	Yes, complies with current standard under amendment No.9. Refer to Clause 4.6 assessment above.
2.2	Lot frontage		
	Dwellings & semi-detached		
	Dwellings R2 = 24m parent lot, 12m per dwelling R3 = 18m parent lot, 9m per dwelling Semi-detached R2 & R3 = 15m parent lot, 7.5m per dwelling	Lot 1 (No. 1125A) = 7.62m Lot 2 (No. 1125B) = 7.62m	Yes, complies
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Site = 595.4m ² Proposed = 41% (245.5m ²) N.b. the site coverage is evenly spread across both proposed subdivided sites.	Yes, complies
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed	Site = 595.4m ² Proposed = 34.4% (204.8m ²) N.b. does not include the infiltration tank and rainwater tanks within the rear yard areas. The proposed permeable surfaces	No, see Key Issues

DCP Clause	Controls	Proposal	Compliance
	between the pair of dwellings.	are evenly spread across both proposed subdivided sites. 40% of the front setback area is of permeable surfaces.	
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Site = 595.4m ² Proposed = (8x) canopy trees are proposed within the site. See Landscaping referral for further details.	Yes, complies
	Dual occupancies and semi-detached dwellings		
	Calculated on the overall site area and must be evenly distributed between the pair of dwellings.	The proposed canopy trees are evenly distributed between the pair of dwellings.	Yes, complies
	The front setback must contain at least one (1) tree per dwelling.	2x trees are proposed within the front setback of each dwelling.	Yes, complies
2.7	Private open space (POS)		
	Dual Occupancies POS		
	451 to 600 sqm = 5m x 5m 601 or above sqm = 6m x 6m	Site = 595.4m ² Proposed = > 5m x 5m each proposed dwelling	Yes, complies
	ii) POS satisfy the following criteria: <ul style="list-style-type: none"> Situated at ground level (except for duplex) No open space on podiums or roofs Adjacent to the living room Oriented to maximise solar access Located to the rear behind dwelling Has minimal change in gradient 	The POS areas are located at the rear of the site, on NGL, adjoining the primary living rooms, free of podiums and roofs.	Yes, complies
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.65:1	Overall site = 0.61:1 (365.72m ²) Lot 1 (No. 1125A) = 0.61:1 (182.86m ²) Lot 2 (No. 1125B) = 0.61:1 (182.86m ²)	Yes, complies with current standard under amendment No.9. Refer to Clause 4.6 assessment above.
3.2	Building height		
	Building height LEP 2012 = 9.5m	7.12m (RL39.36 - RL32.24) N.b. as per the LEP definition, building height is measured from the existing ground level.	Yes, complies
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above	Proposed = F2C height = 2.7m Proposed F2F height =	Yes, complies

D5/24

DCP Clause	Controls	Proposal	Compliance																								
	1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> Topography Site orientation Lot configuration Flooding Lot dimensions Impacts on visual amenity, solar access, privacy and views of adjoining properties. 	3.15m The proposed dwellings present as 2 storey from the street frontage.																									
3.3	Setbacks																										
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> 900mm for allotments with primary frontage width of less than 7m 1500mm for all other sites Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	Proposed = 6.4m The proposed dwellings are setback behind the adjoining buildings.	Yes, complies																								
3.3.2	Side setbacks <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th> </tr> <tr> <th>Existing primary frontage width</th> <th>Building heights 0m to 4.5m</th> <th>Building heights >4.5m to 7m</th> <th>Building heights >7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td>0.9m</td> <td>0.9m</td> <td>0.9m + (building height - 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td>0.9m</td> <td>$0.9m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.5m + 2 \times (\text{building height} - 7m)$</td> </tr> <tr> <td>12m and above</td> <td>1.2m</td> <td>$1.2m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.8m + 2 \times (\text{building height} - 7m)$</td> </tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	Frontage = 15.24m Min 0m-4.5m = 1.2m Min 4.5-7m = 1.625m Proposed 0m-4.5m = 1.2m Proposed 4.5-7m = 1.745m	Yes, complies
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
Less than 6m	Merit assessment																										
6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)																								
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$																								
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$																								
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> Existing predominant rear setback line Reasonable view sharing (public and private) Protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> Compatibility 	Minimum = 8m Proposed = 8.18m The proposed rear setback is sufficient in providing sufficient separation and areas for POS and planting, considering the irregular subdivision pattern of the block.	Yes, complies																								

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>		
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The proposed dwellings are articulated sufficiently on all sides with openings, mixed materials, wall section <12m in length, and recessed areas. Bedrooms/balconies are sufficiently sized in accordance with the controls.</p>	Yes, complies
4.2	New semi-detached and dual occupancy (attached) dwellings		
	<ul style="list-style-type: none"> i) Architectural design must respect and enhance character of streetscape ii) Front facade designed to soften visual dominance of parking facilities: <ul style="list-style-type: none"> • Balconies above garages • Windows/ doorways on front elevation so garage entries are not sole façade elements • Recess garage entries below cantilevered elements iii) Predominant built form positioned towards shared boundary to reduce visual bulk iv) Main entrance recessed maximum 2m behind the front facade alignment v) Single car width garage to primary street vi) For corner allotment, each dwelling should independently address a street frontage vii) Maximise landscape planting and deep soil area viii) Incorporate PV rooftop solar and battery storage ix) Dwellings are encouraged to be 100% electric (no natural gas) 	<p>The proposed dwellings are symmetrical, with the front façade softened with balconies over garages, entries to the street and recessed garage entries. The proposed garages and single width, with the massing of the development softened by sufficient articulation and planting areas within the front setback area.</p>	Yes, complies
4.4	Roof terraces and balconies		
	<ul style="list-style-type: none"> i) Locate on stepped buildings only (not on uppermost or main roof) ii) Where provided, roof terraces must: <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements 	<p>The proposed front balconies are relatively small with privacy screens to reduce overlooking.</p>	Yes, complies

D5/24

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> Be uncovered and comply with maximum height iii) Locate above garages on sloping sites (where garage is on low side) <i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i>		
4.5	Roof design and features		
	<i>Dormers</i> <ul style="list-style-type: none"> i) Dormer windows do not dominate ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. iii) Multiple dormers consistent iv) Suitable for existing <i>Clerestory windows and skylights</i> <ul style="list-style-type: none"> v) Sympathetic to design of dwelling <i>Mechanical equipment</i> <ul style="list-style-type: none"> vi) Contained within roof form and not visible from street and surrounding properties. 	The proposed skylights are sympathetic to the design of proposed dwellings.	Yes, complies
4.6	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone 	The colours, materials and finishes submitted with the application are considered satisfactory.	Yes, subject to condition
4.7	Earthworks		
	<ul style="list-style-type: none"> i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Subterranean spaces must not be habitable iv) Step retaining walls. v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vii) cut and fill for POS is terraced <i>where site has significant slope:</i> viii) adopt a split-level design ix) Minimise height and extent of any exposed 	The minimal extent of earthworks pertinent to the proposed dwellings and outside the building envelope including the levelling of the side and rear yards are considered acceptable. Retaining walls are setback from side and rear boundaries so as to minimise the impact on adjoining neighbours.	Yes, complies

DCP Clause	Controls	Proposal	Compliance
	under-croft areas.		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The proposed northern dwelling Lot 1 (No. 1125A) has north-facing windows that receives sufficient solar access. The POS area of each dwelling will receive sufficient solar access.	Yes, complies
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	See assessment below.	Yes, complies on merit
	<p>The allotment has an east-west orientation (i.e. east being the front and west being the rear). As such, the allotments to the south are reasonably expected to be overshadowed.</p> <p>The north-facing living room windows at No. 28 Truscott Avenue and the POS to No. 30 Truscott Avenue is located along the northern side boundary are overshadowed. Whilst the windows receive afternoon sunlight and the POS morning sunlight, these structures were always susceptible to overshadowing and will continue to receive partial solar access in the morning and afternoon respectively. These properties also include eastern and western aspects afforded with solar access during mid-winter.</p> <p>The proposed development generally complies with the numerical and objective controls of the LEP & DCP, including site coverage, height, and setbacks. The rear portion of the dwelling, of which overshadows the windows of No. 28, has a setback that is greater than the minimum requirements.</p>		

D5/24

D5/24

DCP Clause	Controls	Proposal	Compliance
	As such, Council is satisfied with the level of overshadowing.		
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>ii) 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>The submitted development has been accompanied with a BASIX Certificate identifying compliance with thermal and water energy.</p> <p>In addition, the location of windows and doors have been considered as acceptable, addressing the matter of natural light and ventilation.</p>	Yes, complies
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>In order to protect the visual privacy of the adjoining dwellings to the southern side, a condition of consent will be issued requiring windows B8 & B9 to be either fixed and frosted or have a minimum sill height of 1.6m. A similar condition has also been recommended to northern windows A8 & A9 to prevent cross-viewing within the adjoining childcare centre.</p>	Yes, complies
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>The proposed side courtyard areas are level with the existing ground level. In addition, the proposed ground roofed floor outdoor areas are below the existing ground level, which will not create any overlooking impacts.</p> <p>The proposed front first floor balconies propose privacy screens to the sides of the adjoining</p>	Yes, complies

DCP Clause	Controls	Proposal	Compliance
		dwellings, sufficiently minimising potential overlooking issues.	
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposed dwellings have a mirrored layout that considered acoustic privacy in compliance with the DCP controls (i.e. hallways, bathrooms, stairwells and wardrobes are located along the common boundary).	Yes, complies
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	The proposed dwelling entrances front Anzac Parade. Sufficient window glazing has been provided to support casual surveillance of Anzac Parade, unobstructed by ancillary structures.	Yes, complies
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	No important views are impacted by the development.	N/A
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	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. iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable	The proposed parking facilities are accessible via Anzac Parade, being single-width garages integrated into the dwelling front façade.	Yes, complies

D5/24

D5/24

DCP Clause	Controls	Proposal	Compliance
	surfaces)		
	Dual occupancies and new semi-detached dwellings		
	i) Single width garage or carport, including hard stand space in front. ii) Double garages permitted on dual street frontages or corner lots if consistent with predominant pattern. iii) One vehicle access per dwelling <u>only permitted</u> where: <ul style="list-style-type: none"> • Minimum landscaping achieved; • At least one parallel on-street parking space is maintained; and • No net loss of street trees. 	The proposed dual occupancy dwellings have single width garages with a hard stand space in front.	Yes, complies
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing. 	The proposed garages are setback 1.2m from all side boundaries.	Yes, complies
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The proposed driveways have a width of 3m, with sufficient landscaping provided within the front setback area.	Yes, complies
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for 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 single garage is 3.4m x 5.7m, with a recessed door width of 2.8m and a clearance of 2.4m. The parapet above forms part of the dwelling form. The additional 400mm of garage width has been included in the GFA calculation.	Yes, complies
6.7	Hardstand Car Space Configuration		
	i) Permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The proposed hardstand parking spaces are 3m x 6.4m.	Yes, complies
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	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 front fencing materials of aluminium panelling and rendered wall pillars are satisfactory.	Yes, complies
7.2	Front Fencing		
	i) 1200mm max. (solid portion not exceeding	The proposed front	Yes, complies

DCP Clause	Controls	Proposal	Compliance
	<p>600mm), except for piers.</p> <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. <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:</p> <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> <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>	fencing has a height of 1.2m, with solid portions for the pillars and open-aluminium panelling for the length of the fence. No gates are proposed to the parking facilities.	
7.3	Side and rear fencing		
	<p>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	The proposed side boundary fencing has a height of 1.8m (as measured from the existing ground level) and tapers to the front fence with a height of 1.2m.	Yes, complies
7.8	Clothes Drying Facilities		
	<p>i) Located behind the front alignment and not be prominently visible from the street</p>	The proposed clothes drying area to the side of the dwellings are not visible and prominent from the Anzac Parade.	Yes, complies

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/197/2023

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/197/2023
Property:	1125 Anzac Parade, MATRAVILLE NSW 2036
Proposal:	Amended plans including extended ground floor plan, reduced first floor plan, raised finished floor levels, raised rear yard level, additional planting in the front and rear yard. Original proposal: Demolition of existing structures and construction of two storey attached dual occupancy and Torrens Title subdivision.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Existing Site/Site Analysis & Proposed Site Plan, Project No. 2122/58, Sheet No. A01, Rev B	Cantilever Design Collective	01/11/2023	06/11/2023
Proposed Floor Plans, Project No. 2122/58, Sheet No. A02, Rev B	Cantilever Design Collective	01/11/2023	06/11/2023
Proposed Sections, Project No. 2122/58, Sheet No. A03, Rev B	Cantilever Design Collective	01/11/2023	06/11/2023
Elevations and Perspectives, Project No. 2122/58, Sheet No. A04, Rev B	Cantilever Design Collective	01/11/2023	06/11/2023
Landscape Plan, Dwg No. L/01, Rev A	Bluegum Design	15/11/2023	20/11/2023

BASIX Certificate No.	Dated	Received by
------------------------------	--------------	--------------------

		Council
1363063S_02	30 October 2023	08 November 2023
1362974S_03	08 November 2023	08 November 2023

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. An additional 33.36m² of deep soil permeable area, as per the definition of deep soil permeable surfaces in Council's DCP, shall be provided at the subject site. Deep soil permeable surfaces must be evenly distributed between the pair of dwellings.
 - b. The rainwater tanks within the rear yard can be relocated/changed to above ground rainwater tanks in order to achieve the required deep soil permeable area, so long as they are not visible from the streetscape and do not adversely impact upon the amenity of the adjoining neighbours.
 - c. 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:
 - Window B8
 - Window B9
 - Window A8
 - Window A9

Amended plans are to be submitted to and approved by Council's Manager Development Assessment, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*, prior to a Construction Certificate being issued for the development.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape. Any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.

Section 7.12 Development Contributions

5. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$946,215.00 the following applicable monetary levy must be paid to Council: \$9,462.15.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

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

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

• **\$5,000.00 - 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

8. 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:
- **RL 31.75 AHD (northern driveway)**
 - **RL 31.71 AHD (southern driveway)**

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

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

Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.

9. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$914** calculated at **\$60.00** per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Internal Driveway Design

10. The internal access driveway must be designed and constructed to match the alignment levels at the property boundary (as specified by Council) and the driveway must be constructed in accordance with the following requirements:
- The first 1.4m of the internal driveway closest to Anzac grade shall be designed and constructed at a maximum grade of 1 in 6 (16.7%).
 - The remaining 5m length of the internal driveway shall generally comply with a maximum grade of 1 in 14 (7.14%).

A longitudinal section of the driveway must be provided with the construction certificate plans, at a scale of 1:25 or 1:50 along the extremities and the centreline of the driveway. The sections shall demonstrate compliance with the Council issued alignment level at the property boundary, together with satisfactory ramp grades (and transitions) in accordance with the above requirements and Australian Standard 2890.1 (2004).

Sydney Water

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

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

The Sydney Water [Tap in™](#) online service replaces the Quick Check Agents as of 30 November 2015

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

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

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

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

Stormwater Drainage

12. Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier. A copy of the engineering calculations and plans are to be forwarded to Council, if the Council is not the Principal Certifier. The drawings and details shall include the following information:

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

13. The site stormwater drainage system is to be provided in accordance with the following requirements;
- a) The stormwater drainage system must be provided in accordance with the relevant requirements of the Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
 - b) The stormwater must be discharged (by gravity) either:
 - i. Directly to the kerb and gutter in front of the subject site on Anzac Parade or;
 - ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

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

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

- c) Should stormwater be discharged to Council's street drainage system, an on-site stormwater detention system must be provided to ensure that the maximum discharge from the site does not exceed that which would occur during a **10% AEP (1 in 10 year)** storm of one hour duration for existing site conditions. All other stormwater run-off from the site for all storms up to the 5% AEP (1 in 20 year) storm is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier.

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

- d) Should stormwater be discharged to an infiltration system the following requirements must be met;
 - i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.

- ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.

Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.

- iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)
- iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless adjacent to Council land (eg. road, laneway or reserve).
- e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

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

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

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

- g) Generally all internal pipelines must be capable of discharging a 5% AEP (1 in 20 year) storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
- h) A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.

Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:

- The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.
- The pit being constructed from cast in-situ concrete, precast concrete or double brick.
- A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile

material with a high filtration rating located over the weep holes.

- A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).
- Provision of a sign adjacent to the pit stating, "This sediment/silt arrester pit shall be regularly inspected and cleaned".

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

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

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

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

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

- k) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- l) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- m) Mulch or bark is not to be used in on-site detention areas.

- n) Any natural ground seepage is required to be drained and disposed of within the site and must not be drained into Council's stormwater drainage system.
- o) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

Public Utilities

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

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

Undergrounding of Site Power

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

Waste Management

16. The submitted Waste management has not been approved as part of this consent. An amended Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste prior to the issuing of construction certificate or prior to commencement of demolition works, whichever the sooner.

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

- The use of the premises and the number and size of occupancies.
- The type and quantity of waste to be generated by the development.
- Demolition and construction waste, including materials to be re-used or recycled.
- Full details of the proposed recycling and waste disposal contractors.
- Waste storage facilities and equipment.
- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.
- Proposed location of bin presentation area on Council's verge for collection by Council.

Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's website at;
https://www.randwick.nsw.gov.au/_data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf

Street Tree Management

17. The applicant must submit a payment of **\$1,141.68 (GST Inclusive)** to cover the following costs:
- Being the cost for Council to remove, stump-grind and dispose of the existing street tree specimen, *Angophora costata* (Sydney red gum) located on the Councils verge, adjacent the 1125 Anzac Pde property;
 - Replace and provide a planting of 1 x 25 litre replacement tree, centrally between the proposed new driveways, on council verge, of Anzac Pde.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development.**

The applicant must contact Council's Landscape Development Officer on 9093-6613 (quoting the receipt number) and giving at least four working weeks' notice (allow longer for public holidays or extended periods of rain) to arrange for removal of the street tree prior to the commencement of site works, as well as upon completion, to arrange for planting of the replacement street tree.

After this, any further enquiries regarding scheduling/timing or completion of works are to be directed to Council's South Tree Preservation & Maintenance Coordinator on 9093-6687.

AMENDED Landscape Plan

18. The Landscape Plans by Bluegum Design Rev A, dated 15/11/2023 must be amended further to now comply with the following requirements:
- The two new canopy trees now shown across the rear boundary of each Lot (1 x AC & 1 x CU) must both be re-positioned further to the west so that they are planted wholly outside of the infiltration units that are shown for these same areas;
 - The garden bed across the rear boundary of each Lot must also be expanded in width to now measure 1500mm, so as to accommodate these relocated trees within the screening shrubs that are already shown for these areas. Measurements confirming compliance must be shown.
19. 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 AMENDED scheme submitted for the Construction Certificate complies with the requirements specified above, with both this written statement and revised plans to then be submitted to, and be approved by, the Principal Certifier.

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

20. 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

21. 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

22. 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.
23. 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*.

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.

Demolition Work

29. 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 10m² 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 in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

30. 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

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

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

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

Construction Site Management

32. 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.*

33. 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

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

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

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

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

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

Excavations and Support of Adjoining Land

35. 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

36. 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

37. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:
- 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.

Drainage

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

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

Tree Management

39. Approval is granted for the removal of the below trees:

- a) **T1**, over-mature, *Agonis flexuosa* (Willow Myrtle)
- b) **T2**, mature *Tristaniaopsis laurina* (Water gum)
- c) **T3**, mature *Ficus benjamina* (Weeping fig)
- d) **T4**, mature *Plumeria spp.* (Frangipani)
- e) **T5**, mature *Angophora costata* (Sydney Red Gum)
- f) **T6**, mature *Cupressus brunniana* (Brunnings Cypress)
- g) **T7**, immature *Grevillea robusta* (Silky oak)

Transport for NSW Requirements

40. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Anzac Parade boundary.
41. A Road Occupancy Licence (ROL) shall be obtained from Transport Management Centre for any works that may impact on traffic flows on Anzac Parade during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

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

42. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

BASIX Requirements & Certification

43. 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 & Road Openings

44. Prior to the issuing of an occupation certificate the applicant must meet the full cost for a Council approved contractor to:
- a) Construct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements.
 - b) Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
 - c) Re/construct 1.3m wide concrete footpath along the full site frontage, where required. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.
45. 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.
46. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

47. The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.

Sydney Water

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

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

A Section 73 Compliance Certificate must be completed before an occupation certificate or subdivision certificate can be issued, whichever the sooner.

Undergrounding of Power

49. The Principal Certifier shall ensure that all power supply to the development site has been provided as an underground (UGOH) connection from the nearest main pole in Anzac Parade, with all work completed to the requirements and satisfaction of Ausgrid and at no cost to Council. Any private poles must be removed prior to the issuing of an occupation certificate.

Stormwater Drainage

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

Notes:

- a) The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
 - b) The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
 - c) Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.
 - d) The Positive Covenant and Restriction may also be registered on the property in association with the registration of the Plan of Redefinition or strata subdivision plans via an accompanying 88B instrument.
51. A Works-As-Executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer

must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):

- Finished site contours at 0.2 metre intervals;
- The location of any detention basins/tanks with finished surface/invert levels;
- Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

52. The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

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

Waste Management

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

Subdivision Certificate/Registration of plans

54. A subdivision certificate in respect to the 2-lot subdivision must be issued and subdivision plans registered at NSW Land Registry Services prior to the issuing of an occupation certificate for this development.

Street and/or Sub-Address Numbering

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

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

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

Landscape Certification

56. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the AMENDED Landscape Plans by Bluegum Design, Rev A, dated 15/11/2023, and any relevant conditions of consent.
57. Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

58. The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.

REQUIREMENTS PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

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

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

59. All floors, external walls and ceilings depicted in the proposed strata plan must correspond to the building as constructed.
60. All floors, external walls and ceilings depicted in the proposed strata plan must correspond to those depicted in the approved building plans for the site under this consent..

Sydney Water

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

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

A Section 73 Compliance Certificate must be completed before a subdivision certificate or occupation certificate can be issued, whichever the sooner.

Easements

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

Public Utilities

63. The applicant must meet the full cost for telecommunication companies, Jemena, Ausgrid and Sydney Water to adjust/relocate their services as required. This may include (but not necessarily be limited to) relocating/installing new service lines and providing new meters. The applicant must make the necessary arrangements with the service authorities.

Restriction and Positive Covenant

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

Notes:

- a) The "restriction as to user" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b) The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
- c) The Positive Covenant and Restriction may also be registered on the property using standard forms 13PC and 13RPA available from NSW Land registry services under Sec 88E of the Conveyancing Act prior to an occupation certificate being issued.

Subdivision Certificate

65. A formal application for a strata subdivision certificate is required to be submitted to and approved by the Council or registered certifier and all subdivision conditions of this development consent are required to be satisfied prior to the release of the strata subdivision plans.

OPERATIONAL CONDITIONS

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

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning 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

66. 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

67. 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

68. 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

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

Stormwater System

70. The site stormwater system must be regularly cleaned and maintained to ensure it operates as required by the design.

Development Application Report No. D6/24

Subject: 1/11 Mons Avenue, Maroubra (DA/839/2023)


Executive Summary

Proposal:	Alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom.
Ward:	Central Ward
Applicant:	Mr Hon Boey
Owner:	Mr Hon Boey & Ms Hannah Young
Cost of works:	\$110,000.00
Reason for referral:	Development that contravenes a development standard by more than 10%.

Recommendation

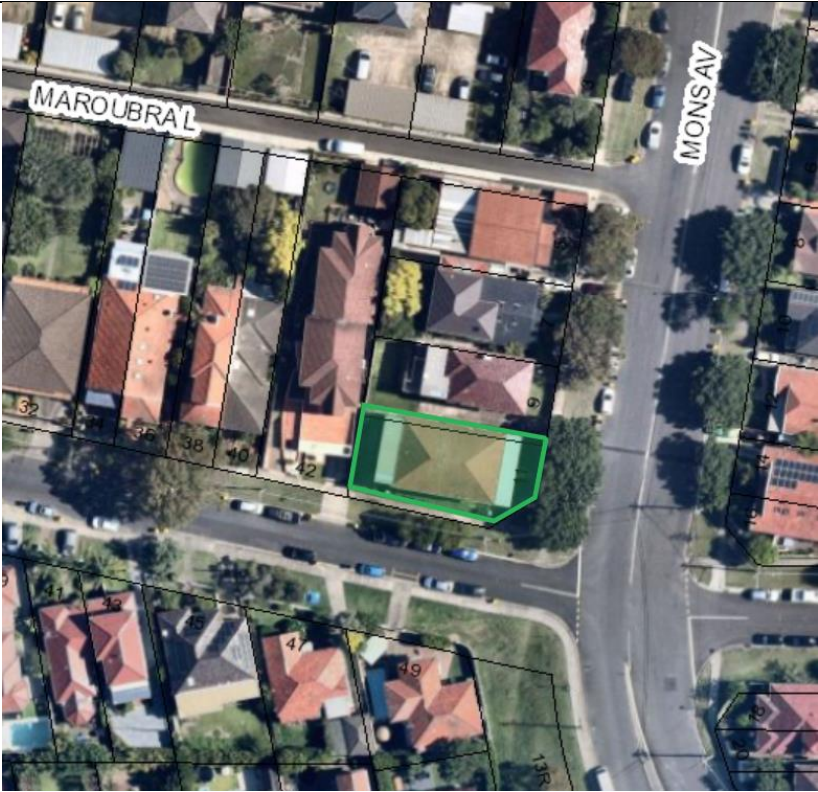
- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 839/2023 for alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom, at No. 1/11 Mons Road, Maroubra, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/839/2023 - 1/11 Mons Avenue, MAROUBRA

D6/24

D6/24



Subject Site

Submissions received

North

Locality Plan

Note: Submission received from two owners within the subject residential flat building.

1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for floor space ratio by more than 10%.

The proposal seeks development consent for alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom.

The proposal was notified in accordance with Council’s Community Engagement Strategy and one (1) submission by way of unique objection from two owners within the building was received with the key issue in relation to the costs associated of the existing electrical meter. This concern has been addressed as a part of the assessment report, noting that the subject development application would not override the obligations of the Strata Management Act 2015 or the established strata by laws of the existing residential flat building.

The key issues associated with the proposal relate to non-compliance with the maximum floor space ratio development standard, existing use rights and the DCP control for private open space. The applicant has submitted a written request to vary the standard, which is considered to be well-founded. The variations are assessed as being in the public interest given the development is consistent with the objectives of the standards and the R2 Low Density Residential zone. The additional FSR is attributed to enclosure of the existing balcony as a sunroom and the proposed increased to GFA will be entirely contained within the existing building envelope.

The proposal is recommended for approval subject to standard conditions.

2. Site Description and Locality

The subject site is known as 1/11 Mons Avenue, Maroubra and has a legal description of Lot 1 in Strata Plan 47913. The subject application relates to a ground floor apartment within a two-storey apartment complex that contains four apartments in total (2x ground floor / 2x first floor). The site is an irregular shaped allotment and has a total area of 367.9m². The site has a dual street frontage and is a corner allotment located to the north-west of the intersection of Mons Avenue and Haig Street. Primary pedestrian access is gained via the approximately 16.69m frontage to Mons Avenue and secondary access afforded to ground floor apartments from the secondary 23.2m frontage to Haig Street at the rear of the site. The existing building does not accommodate off street vehicular access or parking. The site is generally flat and with a minor cross fall of 700mm from the northern side boundary to the secondary street frontage.

The site is zoned R2 – Low Density Residential and is surrounded by residential properties to the north, south, east and west. The Maroubra Junction Centre is located to the far west of the site. The existing streetscape along the subject portion of the western side of Mons Avenue is predominantly older style dwellings and residential flat buildings ranging from one to three storeys in height.



Figure 1 – Subject site as viewed from Mons Avenue.



Figure 2 – Subject site as viewed from the Haig Street frontage.

3. Relevant history

The land has been used for residential purposes for an extended period. There are no recent applications related to the subject site, noting the most recent application was for the strata subdivision of the existing residential flat building in 1994.

4. Proposal

The proposal seeks development consent for alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom, as illustrated in the below floor and elevation plan. Specifically, the works include the following:

- Conversion of front balcony to provide an enclosed sunroom;
- Minor internal reconfiguration of bedroom doorway and to facilitate an open plan living area;
- Provision of an external kitchen sliding door and retractable awning at the rear of the apartment to facilitate access along with a new landing and external stair access; and
- Relocation of the electrical meter for the entire building from the Unit 1 balcony to the southern elevation.

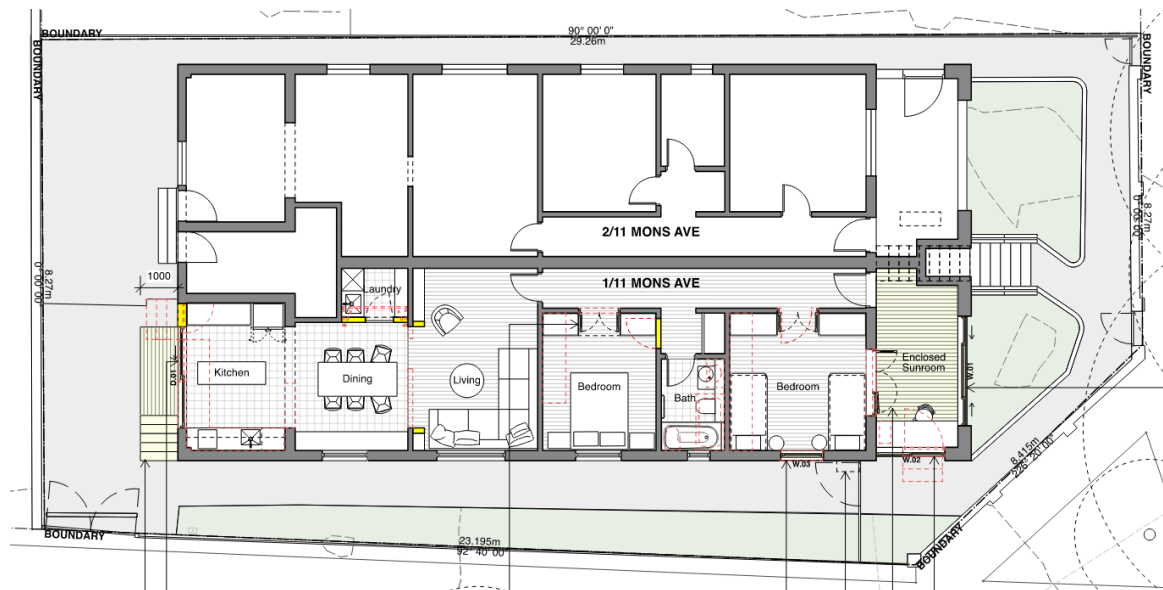


Figure 3 – Proposed Ground floor Plan.



Figure 4 – Proposed Front Elevation Plan.

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 one (1) submission was received during the notification process on behalf of two property owners within the building:

- **Joint submission Unit 3 and 4 – 11 Mons Avenue, Maroubra**

Issue	Comment
Concern raised in relation to the cost associated with the relocation of the electrical meter, given it is currently in functioning condition and whether this will be incurred to Unit 1 or all units within the building.	It is noted that owners consent was provided from all property owners within the strata plan for the lodgement of the application. The concerns are noted, however this would be a matter for the individual owners and not a matter for consideration under the subject application.

D6/24

6. Relevant Environment Planning Instruments

6.1. SEPP 65 - Design Quality of Residential Apartment Developments

The [*State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*](#) (SEPP 65) aims to promote quality design of Residential Flat Buildings. The proposed development is not subject to SEPP 65 as it involves alterations to an existing flat building containing a maximum of two storeys and is not considered to be a substantial redevelopment or refurbishment of the existing building.

6.2. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Sustainable Buildings) 2022 in support of the proposed amendments to Unit 1.

6.3. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012.

The site is zoned Residential R2 Low Density Residential under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent, given that no changes are proposed to the existing residential flat building use that was approved in 1926 (BA/175/1926) and strata subdivided in 1994 (DA/188/1994 & SC/36/1994) in Council's development records. Both approvals predate the current LEP framework and as a result, the site would benefit from existing use rights.

Part 7, Clause 163 of the EPA Regulation 2021 permits an existing use to be 'enlarged, expanded and intensified' and 'altered or extended' provided that the subject works 'does not involve an increase of more than 10% in gross floor area of the premises associated with the existing use'. The existing GFA of the residential flat building is calculated at 378.98m² and the proposed sunroom enclosure would constitute an increase of 11.09m² or (2.92%) Accordingly, the proposal has satisfied the relevant tests for consideration under existing use rights within the R2 Low Density zone.

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	Control: 0.5:1 Site area: 367.9m ² Maximum: 183.95m ²	Existing: 378.98m ² Additional: 11.09m ²	No

D6/24

		Proposed: 390.07m ² or 1.06:1	
CI 4.3: Building height (max)	Control: 9.5m	No change to existing overall height. Approximately 9m existing. All works accommodated at ground floor level.	Yes
CI 4.1: Lot Size (min)	N/A	Existing strata subdivision unaltered.	N/A

6.3.1. Clause 4.6 - Exceptions to development standards

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

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.5:1 (183.95m ²)	Existing – 1.03:1 or 378.98m ² (Variation 106% or 195.03m ²) Proposed - 1.06:1 or 390.7m ² of GFA. (Variation of 115.9% or 206.12m ²)	206.12m ² (11.9m ² related to subject proposal)	115.9% (9.9% related to subject proposal)

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

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

(b) *the concurrence of the Secretary has been obtained.*

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

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

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

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

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

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

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

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

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

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

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

D6/24

D6/24

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

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

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

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

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

7.1. Exception to the Floor Space Ratio (FSR) development standard (Cl 4.4)

The applicant's written justification for the departure from the FSR standard is contained in Appendix 2.

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

The applicant's written request seeks to justify the contravention of the FSR development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the FSR standard are set out in Clause 4.4 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that proposed works will not impact the overall size and scale of the existing development, given a majority of the works are accommodated within the building envelope. Accordingly, the proposal will maintain compatibility with the desired future character of the locality.

- (b) *to ensure that buildings are well articulated and respond to environmental and energy needs*

The applicant's written justification demonstrates that this objective is satisfied by noting that the sunroom enclosure will have a minor impact on the articulation of the existing building and that the proposed external glazing treatments will respond to both environmental and energy needs.

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

The development is not within a conservation area or near a heritage item and as a result, the objective detailed in Clause 1(c) is not relevant to this development.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed works will not result in unreasonable overshadowing, privacy or visual bulk impacts to adjoining properties

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case. Noting that the proposed works are predominantly accommodated within the existing building envelope to prevent visual bulk impacts and streetscape incompatibility. In addition, the proposed works at the front of site have retained articulation through material diversity and will preserve internal amenity through the incorporation of new glazing that will continue to facilitate high levels of passive surveillance, natural light and ventilation with improved privacy for occupants of the unit. The application was accompanied by a compliant BASIX certificate and no appreciable environmental impacts are identified to result from the additional GFA within the ground floor sunroom. The proposed configuration is also consistent with the sunroom areas afforded to apartments on level 1 of the building.

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

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

- The building envelope is largely retained, and the proposed attic level will predominantly maintain the overall scale of the existing building without any unreasonable impacts to neighbouring development or the public domain.
- The proposed enclosure of the sunroom will match existing building materials and colours to create a consistent appearance that is in keeping with the existing building and surrounding character.
- The proposal will retain the existing height and visual bulk of the building and the development shall remain suitable in the surrounding local context and the desired future character for the locality.
- No visual impacts are identified from adjoining sites.
- The proposed additions are in keeping with the first floor and will retain the front setback alignment on the site and with adjoining development.
- The non-compliance will not contribute to adverse impacts upon adjoining properties with regards to residential amenity.

Assessing officer's comment:

The proposed development is constrained by the existing building on site, which shall be largely retained, and the existing GFA. The proposal will continue to facilitate a residential flat building use within the low-density zone under existing use rights and ensure a variety of housing types are provided within the R2 zone. The proposed additions and resultant GFA shall provide better amenity for occupants by an open plan living and dining areas, and provide for additional privacy and shelter within the front patio area, whilst maintain passive surveillance, natural light and ventilation. The resultant bulk and scale will be generally be consistent with the existing building envelope, given the proposed works relate to the enclosure of a ground floor area within the established building footprint and no changes will result to site coverage or onsite landscaping. The proposed additions are considered sympathetic to the existing building and will mirror the configuration of first level sunroom areas above the subject unit. The proposed façade changes are not considered to substantially alter the streetscape presentation or result in visual impacts to the public domain. Accordingly, the proposed sunroom enclosure shall not result in excessive built form as viewed from the adjoining intersection of Mons Avenue and Haig Street. In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

D6/24

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R2 zone is undertaken.

As discussed in Section 6.3 of the report, the proposal is considered to be consistent with the objectives of the R2 zone, and as outlined above, the proposed development is also found to be consistent with the objectives of clause 4.4 Floor Space Ratio and therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

As the proposed development is for the purpose of alterations to a residential flat building, the provisions of Part C2 of RDCP are applicable in this instance. The relevant provisions of the DCP are addressed in the Key Issues section of the report and **Appendix 3**.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.

Section 4.15 '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 Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential 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.

9.1. Discussion of key issues

Private open space

Part C2 Section 2.3.1 of the Randwick DCP 2013 requires that each unit is provided with private open space directly accessible from its living area, in the form of either a balcony at least 2m deep or a terrace or private courtyard at least 8 square metres in area.

The subject application includes reconfiguration of the front patio to facilitate an enclosed sunroom. This existing patio area at the front of the site provides an additional pedestrian entrance to the unit and does not have connectivity with the rear kitchen and open plan living area as a part of the current apartment layout. The proposed sunroom enclosure would result in a nil provision of private open space to Unit 1.

Notwithstanding, the applicant notes that a communal open space area at the rear of the site is directly accessible from the Unit 1 kitchen and provided with adequate fencing for privacy and would offset the loss of the front patio area.

D6/24

The front sunroom has also retained high levels of glazing to preserve passive surveillance along with natural light and ventilation. The current open patio is accessible to the public including technicians accessing the electrical meter and is afforded with compromised security and privacy as an additional pedestrian entrance to Unit 1. On balance, the proposed enclosed sunroom with operable glazing would provide for an improved amenity outcome for occupants in terms of privacy and is consistent with the existing sunrooms of the first-floor apartments above. It is considered that the proposed sunroom at 11.9m² and 2.2m depth, would exceed the minimum private open space spatial requirement and is also supplementary to the communal living area accessed to the rear of Unit 1, in accordance with the following control objective:

'To provide useful areas of private and communal open space for outdoor living and recreation to serve the needs of the residents and enhance their quality of life'.

Accordingly, the existing site context and proposed design has provided sufficient justification to the variation of the private open space control in this instance.

Enclosure of balconies

Section 4.8, Part C2 of the DCP 2013 states:

'The piecemeal enclosure of balconies or terraces on existing residential flat buildings will not generally be supported unless an overall scheme for the building is implemented using similar materials or materials which will harmonise with the existing building façade'.

The applicant's Statement of Environmental Effects and submitted plans intend to enclose the sunroom with timber framed windows consistent existing window treatment of the first-floor sunrooms above the proposal site, as illustrated in the elevation plans. The proposed materials are intended to integrate with the existing materials and architectural form of the building façade at this upper level and will be further refined via consent conditions for the detailed specification prior to the release of any construction certificate. The proposed sunroom enclosure will be integrated with upper floor and will not contribute to an appearance of piecemeal balcony enclosure.

The proposed balcony enclosure is therefore acceptable in relation to architectural and streetscape character.

10. Conclusion

That the application for alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013 and has satisfied the matters for consideration under Clause 4.6(4) for the contravention of the FSR development standard.
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The proposed development shall not result in any unreasonable impacts upon the residential amenity of the surrounding properties and will improve the amenity afforded to the subject site.

Appendix 1: Referrals

The proposed scope of works did not require referral to external agencies or internal departments.

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



D6/24

1/11 Mons Avenue, Maroubra

REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF Randwick LEP 2012

This Clause 4.6 variation relates to a proposal for alterations and additions to Unit 1 of an existing residential flat building on the subject site.

It is proposed to carry out alterations and additions to existing residential Unit 1 including new glazing, enclosure of existing sunroom and new raised floor, new glass sliding door and timber landing at rear of unit.

The proposal results in a non-compliance with clause 4.4 of the *Randwick Local Environmental Plan 2012 (RLEP)* which relates to floor space ratio (FSR). As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the *Randwick Local Environmental Plan 2012*, which applies to the subject site.

The request demonstrates that compliance with the development standard relating to FSR is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the RLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R2 – Low density residential zone under the RLEP, in which the development is proposed to be carried out.

The nature of the exceedance to the development standard relating to FSR is set out below, followed by consideration of the relevant matters in clause 4.6 of the RLEP.

The NSW Department of Planning, Industry and Environment (DPI&E)

Suite 207 | 59 Great Buckingham Street | Redfern | NSW 2016
telephone: 02 9360 0989 | www.a2p.com.au

provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R2 Low Density Residential. The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*
- *To encourage housing affordability.*
- *To enable small-scale business uses in existing commercial buildings.*

Pursuant to RLEP, the site is zoned R2 Low Density Residential. Although the Land Use Table for the R2 zone provides that development for the purposes of a residential flat building is not permissible, the site has the benefit of existing use rights.

Clause 4.4 – Floor Space Ratio

The Standard

The site has an area of 367.9m².

Clause 4.4 of the RLEP and the associated map prescribe a maximum floor space ratio (FSR) of 0.5:1 (183.95m²) for this site. The proposal seeks to provide a maximum FSR of 1.06:1 (390.07m²), providing a non-compliance with this control. The percentage variation is 115.9% (206.12m²).

The existing building has a gross floor area of 378.98m², equating to a FSR of 1.03:1. This provides an exceedance of 106% (195.03m²) with the control. The proposal seeks to increase the floor area by 11.09m², which increases the exceedance by 9.9%.

The objectives of Clause 4.4

The objectives of Clause 4.4 are as follows:

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

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the RLEP allows for exceptions to Development Standards. The objectives of this Clause 4.6 are:

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

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

D6/24

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

Clause 4.6(4) sets out the matters which a consent authority must be satisfied of in order to grant consent to a development that contravenes a development standard:

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

This document constitutes the written request referred to in Clause 4.6(3) in relation to the proposal's breach of the FSR development standard and provides the necessary information for the consent authority to be satisfied of the matters in clause 4.6(4).

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴. Compliance with the objectives of the height standard is addressed under **Point 4 below**.

The following points are raised:

- Compliance with the development standard is unreasonable and unnecessary as the proposal will not alter the general visual bulk of the building and the building will remain suitable in its context.
- The proposed additional GFA will maintain the existing scale and will not create any additional visual bulk. There will be no visual impacts when viewed from adjoining sites.
- The proposed new sunroom will match existing materials and colours to create a consistent appearance, that is in keeping with the existing building and surrounding character.

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

- The proposed additions will be in keeping with the first floor and will retain the front alignment on the site and with adjoining developments.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.

2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:

Given the consistency of the proposal against the zone objectives and FSR objectives (see **Point 4 below regarding both**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

The components proposed above the FSR control are:

- 213.37m² of GFA

The existing building has a gross floor area of 378.98m². The proposal seeks to increase the floor area by 11.09m² from that existing.

There are sufficient environmental planning grounds which demonstrate that the proposed FSR can be achieved without adverse impacts for the following reasons:

- Overall, the proposal will not alter the building height and bulk of the building, and the building will be retained in its form, which is an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality.
- The proposed additional GFA will maintain the existing scale and will not create any additional visual bulk. There will be no visual impacts when viewed from adjoining sites.
- The proposed enclosure of existing sunroom will match the existing materials and colours to create a consistent appearance that is in keeping with the existing building and surrounding character.

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

- The proposed additions will be in keeping with the first floor and will retain the front alignment on the site and with adjoining developments.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in this bulk would not create additional benefit for adjoining properties or the locality.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
 - The proposal will not result in the loss of views from surrounding development given the works are proposed at ground level and within the outer envelope of the building.
 - The proposal will not result in unreasonable overshadowing of adjoining properties given the works are within the outer envelope of the building. The enclosure of the existing sunroom will include new glazing along the frontage of unit 1, this will not create unreasonable overshadowing to adjoining properties.
 - The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.
 - The proposal will maintain the existing bulk and scale of the development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality. The enclosure of the existing sunroom will occur at ground level and to the front, resulting in no visual impact on adjoining properties.

The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979).

The aspect of the development that breaches the FSR control can be justified as the proposal maintains the existing scale, which is consistent with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome⁶.

⁶ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 1097 at [42]

D6/24

The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds⁷.

3. Clause 4.6(4)(a)(i) - The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3):

Based on the above, the written request adequately addresses the matters referred to above by Clause 4.6(3).

4. Clause 4.6(4)(a)(ii) - The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out:

Objectives of Standard

The proposal will be in the public interest as it meets the objectives of the FSR development standard as follows:

Objective (a)

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

Comment: The proposed works will not impact on the size and scale of the existing development, as majority of the works are within the outer envelope of the building. Therefore the development will maintain its compatibility with the desired future character of the locality.

Objective (b)

(b) to ensure that buildings are well articulated and respond to environmental and energy needs,

Comment: The proposal seeks to enclose the existing sunroom and will have minor impact on the articulation of the existing building. The new glazing will respond to any environmental and energy needs.

Objective (c)

⁷ *Initial Action Pty Ltd v Woolahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

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

Comment: The existing dwelling is not a heritage item and is not near a conservation area contributory or heritage item. Therefore the proposed satisfies this objective.

Objective (d)

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

Comment: The proposal will not result in unreasonable overshadowing or create visual bulk to adjoining properties. The enclosure of the existing sunroom will include new glazing along the frontage of unit 1. This will not create unreasonable overshadowing, given it is within the outer envelope of the building and will not result in loss or privacy to adjoining properties, given the glazing is located to the front.

Objectives of the Zone

The zoning of the property is R2 and the objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- To protect the amenity of residents.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

The existing building, being a residential flat building, is a prohibited use in the R2 zone. However, existing use rights have been established in relation to that use.

The proposed development is consistent with the provisions of orderly and economic development of land, in that it proposes to improve existing housing, in a manner, which meets the objectives of applicable controls.

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard. Given the site has the benefit of existing use rights, and the existing residential flat building comprises medium density development, the zone objective relating to housing needs within a low density residential environment should, pursuant to cl4.67(3) of the *Environmental Planning and Assessment Act 1979*, be considered as being of no application to this proposal, on the grounds that this objective would derogate from the incorporated provisions in the context of this application.

Notwithstanding, the existing building is in keeping with the context. The proposal will not further impact the low density residential area in which the building is located or the adjoining medium density development.

The above demonstrates that compliance with the control is unreasonable and unnecessary in the circumstances of this case.

5. Clause 4.6(4)(b) – the concurrence of the Planning Secretary has been obtained

Concurrence of the Planning Secretary is taken to have been obtained as a result of written notice dated 5 May 2020 attached to the Planning Circular PS 20-002.

6. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The consistency of the development with the zone objectives and the objectives of the FSR standard together with the absence of adverse impacts arising establish that there are sufficient grounds to support the variation from the development standard and confirm that it is unreasonable and unnecessary for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard.

In addition, the resultant development will be in the public interest as it complies with the objectives of the zone and the objectives of the development standard.

The proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R2 zone under the RLEP, in which the development is proposed to be carried out.



Boris Kozuchowski
Consultant Planner
aSquare Planning Pty Ltd

12 October 2023

Appendix 3: Section C2: Medium Density Residential

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2.	Site Planning		
2.1	Site Layout Options		
	<p>Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for:</p> <ul style="list-style-type: none"> • Two block / courtyard example • T-shape example • U-shape example • Conventional example 	Building envelope and footprint retained in proposal.	Yes
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (183.95m ²) is to be landscaped open space.	158.19m ² retained onsite (42.99%)	No, however no change proposed to existing configuration.
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (91.98m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	43.02m ² retained onsite (11.69%)	No, however no change proposed to existing configuration.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	No change to existing planting zones within street frontages	Yes
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	No change to existing planting zones.	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	All included zones at grade and not built on structure.	Yes
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	No change to existing configuration within front and secondary street setback.	Yes
2.3	Private and communal open space		
2.3.1	Private open space		
	<p>Private open space is to be:</p> <ul style="list-style-type: none"> (i) Directly accessible from the living area of the dwelling. (ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to 	Front patio proposed to be enclosed and does not have connectivity with the rear kitchen and open plan living area. Refer to key issues discussion above.	No, however acceptable on merit. Refer to Key issues discussion above.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	passive surveillance of common areas.		
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Front patio proposed to be converted to enclosed sunroom. However, applicant has provided justification for the nil provision noting that the existing kitchen and living area is directly accessible from the communal open space at the rear of the site. Refer to Key Issues discussion above.	No, however supported on merit.
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	No change to existing communal areas which are afforded at the front and rear of the site adjacent to the Unit 1 living area.	Yes
3.	Building Envelope		
3.1	Floor space ratio		
	Floor space ratio LEP 2012 = 0.5:1	Proposed FSR = 1.06:1	Does not comply. See Clause 4.6 assessment.
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 9m	Yes
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	20m proposed, however existing apartment is afforded with multiple external aspects to facilitate high levels of natural light and ventilation.	No, however acceptable on merit.
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street.	Infill of existing building footprint. No change proposed to front setback alignment.	Yes

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>		
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 14m ≤ site frontage width < 16m: 2.5m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	No change proposed to building footprint.	Yes
3.4.3	Rear setback		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (4.4m) or 5m, whichever is the greater.	No change proposed to existing rear setback.	Yes
4.	Building Design		
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	<p>Glazing provided within sunroom enclosure to main street activation at the front of the site and enable material articulation.</p> <p>Proposed service meter relocation is considered a minor feature that will remain visible and accessible from the street scape in accordance with service authority requirements. The proposed relocation is not considered to result in a significant visual impact.</p>	Yes
4.2	Roof design		
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape. (vi) Any services and equipment, such as plant, machinery, ventilation 	No change to the existing roof of the development proposed.	Yes

D6/24

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> - There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences. - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages 	Not applicable	Not applicable

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	showing the front and rear elevations of the development.		
4.4	External wall height and ceiling height		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	No change to overall wall height proposed.	Yes
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	2.9m retained within Unit 1	Yes
4.5	Pedestrian Entry		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Pedestrian entrance provided from living area at the rear of the site.	Yes
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	Street access retained to the rear of the Unit. No change to pedestrian circulation within the site or the location of mailboxes.	Yes
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by:	The proposed operable glazing within the sunroom will continue to	Yes

D6/24

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	<p>enable natural light and ventilation within the apartment.</p> <p>It is also noted that the new kitchen sliding door will also increase natural light and ventilation within the living area, without compromising visual privacy of adjoining development.</p>	
	<p>(ii) Use multiple access cores to:</p> <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	N/A	N/A
	<p>(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.</p>	N/A	N/A
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	<p>Unit 1 will retain multiple aspects and adequate external glazing will be incorporated in the proposed design to facilitate natural light and ventilation.</p>	Yes
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>	<p>Floor layout improved with an open plan living area.</p>	Yes
	<p>(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.</p>	<p>Private open space amenity will continue to be facilitated by the enclosed sunroom. It is also noted that the unit has an</p>	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
		communal open space area at the rear of the site, which is adjacent to the apartment entrance.	
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	The existing kitchen entrance is retained with the provision of a new sliding door. However, the apartment access and configuration is not altered under the subject proposal.	Yes
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Nil provision - refer to key issues discussion above.	No, however supported on merit.
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.	Nil provision - refer to key issues discussion above.	No, however supported on merit.
4.9	Colours, materials and finishes		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry 	A condition of consent is recommended for a final colours and materials scheme to be submitted to Council for approval prior to the issue of a Construction Certification.	Complies, subject to condition.

D6/24

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Light colours or finishes where they may cause adverse glare or reflectivity impacts (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used. 		
4.12	Earthworks Excavation and backfilling		
	<ul style="list-style-type: none"> (i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification. (ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site. (iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling. 	No earthworks are proposed as a part of the subject proposal.	N/A
	Retaining walls <ul style="list-style-type: none"> (iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries. (v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain. (vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing). 	No retaining walls are proposed under the subject application.	Yes
5.	Amenity		
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	<ul style="list-style-type: none"> (i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June. 	The kitchen area and sunroom will receive adequate solar access in the morning and afternoon respectively.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	As above	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	Not applicable - all units orientated to the north, east and west.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	Proposal will meet minimum requirement.	N/A
Solar access for surrounding development			
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.	The existing building footprint is retained and as a result no additional shadowing impacts are identified to neighbouring development from ground level additions adjacent to the intersection of Mons Avenue and Haig Street.	Yes
	(ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.		
	(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.		
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	All part of the apartment will retain natural light and ventilation.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Operable sun shade to be fixed above western façade sliding door.	Yes
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	Living area and sunroom afforded with operable glazing.	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Additional glazing provided to improve natural ventilation within the living areas of the apartment.	Yes

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	No change to existing apartment block layout.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Unit 1 will improve ventilation with additional kitchen glazing.	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	No variation proposed.	Yes
5.3	Visual privacy		
	<ul style="list-style-type: none"> (i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	<p>Proposed sunroom glazing is orientated to the public domain and does not compromise visual privacy of neighbouring development.</p> <p>Further, the proposed kitchen sliding door is predominantly the replacement of an existing door and window at the rear of the property and is opposite a garage and balcony with high levels of visibility from the public domain. Accordingly, the proposed sliding doors would improve the amenity of the apartment without impacting the amenity of adjoining properties.</p>	Yes
5.4	Acoustic privacy		
	<ul style="list-style-type: none"> (i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation 	The apartment layout will retain living areas at the rear and enclose the existing front patio. Accordingly, the proposed	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	reconfiguration works are not considered to result in additional noise transfer within the apartment block.	
5.5	View sharing		
	<p>(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings.</p> <p>(ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms.</p> <p>(iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>	The infill of the ground level to provide for an enclosed sunroom would not compromise sensitive view corridors.	Yes
5.6	Safety and security		
	<p>(i) Design buildings and spaces for safe and secure access to and within the development.</p>	Access retained from the rear kitchen in accordance with the existing configuration and will remain visible from the public domain.	Yes
	<p>(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.</p>	No onsite parking available.	N/A

D6/24

D6/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	The enclosed sunroom and kitchen sliding door will maintain natural ventilation and improve security of the ground floor apartment.	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No change to existing fencing and views from the sunroom are preserved to the public domain.	
	(vi) Resident car parking areas must be equipped with security grilles or doors.	N/A	N/A
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	All units provided with separate access.	N/A
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	No change to communal access and pedestrian circulation proposed.	N/A
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Passive surveillance retained at the front of the site as a part of new glazing within the sunroom.	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Condition recommended to manage external lighting.	Yes, subject to condition.
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	No change to existing configuration.	N/A
7.	Fencing and Ancillary Development		
7.1	Fencing		
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials (iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.	No change to existing fencing.	Yes
7.6	Storage		
	(i) The design of development must provide for readily accessible and	The proposed apartment layout will retain adequate	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(b) 1-bedroom apartments – 6m³</p> <p>(c) 2-bedroom apartments – 8m³</p> <p>(d) 3 plus bedroom apartments – 10m³</p>	storage within bedrooms, hallways, the living area and laundry.	
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Sufficient area afforded within communal open space at the rear of the site and the sunroom.	Yes, can comply.
	(ii) Provide internal laundry for each dwelling unit.	Laundry provided within apartment 1.	Yes
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Sunroom available for clothes drying along with the existing facilities along the rear property boundary.	Yes
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 	No change proposed to mechanical ventilation system as a part of proposal.	Yes

D6/24

Responsible officer: Ferdinando Macri, Senior Environmental Planning Officer

File Reference: DA/839/2023

Development Consent Conditions (Medium Density Residential)



Folder /DA No:	DA/839/2023
Property:	1/11 Mons Avenue, MAROUBRA NSW 2035
Proposal:	Alterations to a ground floor unit (Unit 1) of an existing residential flat building including internal layout changes, new sliding doors for the kitchen and enclosure of sunroom.
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>	<i>by</i>
Site Plan DA-01 Issue A	Studio Williams	October 2023	23 October 2023	October
Existing/Demolition Plan DA-02 Issue A	Studio Williams	October 2023	23 October 2023	October
Proposed Plan DA-03 Issue A	Studio Williams	October 2023	23 October 2023	October
East Elevation (Mons Avenue) DA-04 Issue A	Studio Williams	October 2023	23 October 2023	October
South Elevation (Haig Street) DA-05 Issue A	Studio Williams	October 2023	23 October 2023	October
West Elevation (Rear) DA-06 Issue A	Studio Williams	October 2023	23 October 2023	October
Section AA DA-07 Issue A	Studio Williams	October 2023	23 October 2023	October

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
A1372371	10 October 2023	23 October 2023

In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
2.	<p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
3.	<p>External Colours, Materials & Finishes</p> <p>The colours, materials and finishes of the external surfaces are to be compatible with the existing building and adjacent development to maintain the integrity and amenity of the building and the streetscape.</p> <p>External materials, finishes and colours of the building are required to match, as closely as possible, the existing building and any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.</p> <p>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.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
4.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$110,000.00 the following applicable monetary levy must be paid to Council: \$550.00.</p> <p>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.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>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</p> <p>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.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
5.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the</p>

D6/24

	Condition
	<p>requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • 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. <p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
6.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, 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).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
7.	<p>BASIX Requirements</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
8.	<p>Excavation, Earthworks and Support of Adjoining Land</p> <p>A report must be obtained from a professional engineer prior to undertaking demolition,</p>

	Condition
	<p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
9.	<p>Building Code of Australia & Fire Safety</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a <i>prescribed condition</i> that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: To ensure compliance with the Building Code of Australia (BCA)</p>
10.	<p>Building Code of Australia</p> <p>All new building work (including alterations, additions, fit-out work and fire safety works) are to be carried out in accordance with the relevant provisions of the Building Code of Australia (BCA) and details are to be included in the Construction Certificate, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure compliance with the Building Code of Australia (BCA)</p>

BEFORE BUILDING WORK COMMENCES

	Condition
11.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. » 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 <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and

D6/24

Condition
<p>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 <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>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</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p>

Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.

12.

Home Building Act 1989

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.

Condition reason: Prescribed condition under section 69 & 71 of the *Environmental Planning and Assessment Regulation 2021*.

13.

Dilapidation Reports

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

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

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

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

Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.

Condition	
14.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>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.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
15.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> 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.</p> <p>Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

Condition	
16.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected 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:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed. <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental</p>

D6/24

Condition

Planning and Assessment Regulation 2021.

17.

Restriction on Working Hours

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

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

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

Condition reason: To protect the amenity of the surrounding area.

18.

Public Safety & Site Management

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be

	Condition
	<p>restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p>
	<p>Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p>
	<p><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p>
	<p>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.</p>
	<p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p>
	<p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p>
	<p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p>
	<p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>19.</p>	<p>Building Encroachments There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p>
	<p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
<p>20.</p>	<p>Building Inspection Requirements The works must be inspected by the <i>Principal Certifier</i>, in accordance with sections 109 E (3) of the <i>Environmental Planning & Assessment Act 1979</i> and the <i>Environmental Planning & Assessment Regulation 2021</i>, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.</p>
	<p>Condition Reason: To ensure the requirement of the EPA Act and Regulations are satisfied.</p>

D6/24

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
21.	<p>Occupation Certificate Requirements</p> <p>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 <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
22.	<p>BASIX Requirements</p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
23.	<p>Fire Safety Certificate Requirements</p> <p>Prior to issuing an interim or final Occupation Certificate, a single and complete <i>Fire Safety Certificate</i>, encompassing all of the essential fire safety measures contained in the <i>fire safety schedule</i> must be obtained and be submitted to Council, in accordance with the provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>. The <i>Fire Safety Certificate</i> must be consistent with the <i>Fire Safety Schedule</i> which forms part of the Construction Certificate.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: To ensure fire safety measures are in place.</p>
24.	<p>Noise Emissions - Certification</p> <p>Where plant and equipment is installed in the premises (e.g. air-conditioners, mechanical ventilation/exhaust systems or refrigeration motors etc), a written report or statement must be obtained from a suitably qualified and experienced consultant in Acoustics.</p> <p>The report/statement must demonstrate and confirm that noise and vibration from the development satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources and a copy of the report/statement must be provided to Council prior to the issue of an Occupation Certificate.</p> <p>Condition Reason: To preserve the amenity of surrounding development.</p>
25.	<p>Public Infrastructure</p> <p>The applicant must meet the full cost for Council or a Council approved contractor</p>

	Condition
	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.
	Condition Reason: To protect Council's infrastructure and assets from damage.
26.	<p>Post-construction Dilapidation Report</p> <p>A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none"> a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent. <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>

OCCUPATION AND ONGOING USE

	Condition
27.	<p>External Lighting</p> <p>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.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
28.	<p>Plant & Equipment</p> <p>Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
29.	<p>Fire Safety Statements</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning & Assessment Regulation 2021</i>.</p> <p>The <i>Fire Safety Statement</i> must be provided on an annual basis, each year following the issue of the <i>Fire Safety Certificate</i> and other period if any of the fire safety measures are identified as a <i>critical fire safety measure</i> in the <i>Fire Safety Schedule</i>.</p>

D6/24

Condition

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

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

Condition Reason: To confirm fire safety measures are maintained in accordance with statutory requirements.

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition

30. **Demolition Work Plan**

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

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

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

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

Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

DURING DEMOLITION WORK

Condition

31. **Demolition Work**

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

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro),
- Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",
- Council is to be given at least two days written notice of demolition works involving materials containing asbestos,
- Copies of waste disposal details and receipts are to be maintained and

Condition

- 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.

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

D6/24

Development Application Report No. D7/24

Subject: 66 Coogee Bay Road, Randwick (DA/490/2022/A)

Executive Summary

Proposal:	Delete wording and amend Condition 19 from consent.
Ward:	East Ward
Applicant:	Mr P McGregor
Owner:	Mr P K Briggs
Cost of works:	Nil
Reason for referral:	Section 4.55(2) modification application that seeks to modify a condition of consent that was amended by the RLPP in relation to a development previously approved by the Panel.

Recommendation

That the RLPP, as the consent authority, approve the application made under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. DA/490/2022/A for alterations and additions to a Residential Flat Building and Strata Subdivision, at No. 66 Coogee Bay Road, in the following manner:

- **Amend Condition 19 as follows:**

Condition 19

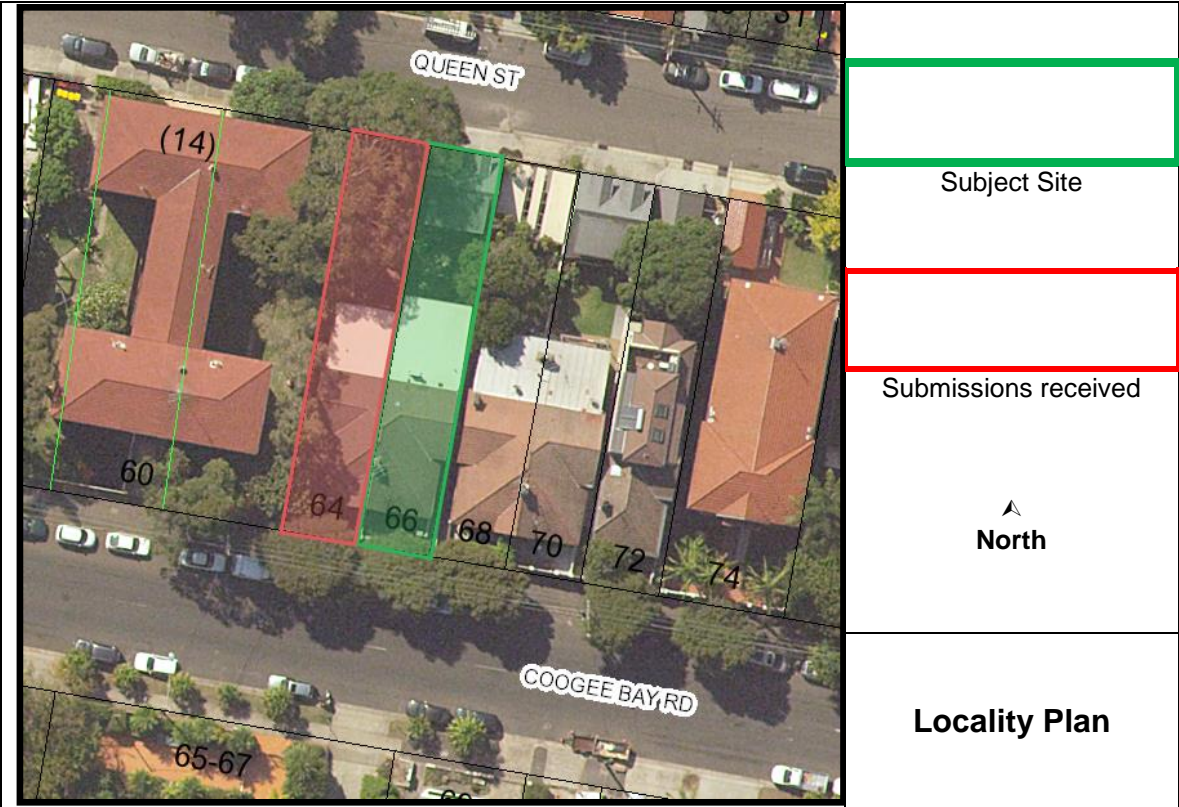
All building works for the new attic level shall be contained wholly within the site 66 Coogee Bay Road and a certificate must be obtained from a professional engineer which certifies that the building works shall have no adverse impact on the structural and/or lateral support provided by the party wall, in terms of its support of 64 Coogee Bay Road, and that all building works satisfy the relevant structural requirements of the NCC/BCAA and approved design document, to the satisfaction of the Principle Certifying Authority. A copy is to be provided to Council with the Construction Certificate.

Attachment/s:

Nil

D7/24

D7/24



1. Reason for referral

This application is referred to the Randwick Local Planning Panel (RLPP) because;

- The application is a Section 4.55(2) modification application that seeks to modify a condition of consent that was amended by the RLPP in relation to a development previously approved by the Panel

The original development application was referred to the RLPP because:

- The development contravenes the development standard for floor space ratio by more than 10%.

2. Site Description and Locality

The site is legally identified as Lot 2, Deposited Plan 553740, and commonly described as No. 66 Coogee Bay Road, Coogee. The site is located on the northern side of Coogee Bay Road between Queen Street at the rear and enclosed by St Luke Street and Carrington Road to the west and east.

The site is a rectangular shaped allotment with a 7.33m frontage to Coogee Bay Road, two (2) side boundaries to the east and west of 38.785m and a rear length of 7.06m. The site has a total area of 280.4m². The site has a steep fall in a Northerly direction by approximately 7m.

The site is zoned R3 - Medium Density Residential and is currently occupied by an existing three (3) storey Residential Flat Building (RFB) and a detached rear double garage with studio accommodation above. The property is surrounded by residential properties to the north, south, east and west. Coogee Beach is located to the far east of the site. The existing streetscape along the subject portion of the northern side of Coogee Bay Road is predominantly older style semi-detached dwellings of two (2) and three (3) storeys (viewed as one (1) or two (2) storeys as viewed from Coogee Bay Road), with attic style or habitable roof form additions located behind the front roof ridge line. The northern streetscape also includes RFBs of three (3) and four (4) storeys. The southern side of Coogee Bay Road is predominantly characterised by older multi-storey RFBs of

up to five (5) storeys. Adjacent to the site, on the opposite side of Queen Street (further to the north) are primarily low-density developments comprising dwelling houses and semi-detached dwellings.

Attached to the subject site is a semi-detached dwelling at No. 64 Coogee Bay Road. This dwelling is attached to the subject dwelling via a party wall, which is shown on the survey plan (refer to Figure 3).



Figure 1: Subject site as viewed from Coogee Bay Road.



Figure 2: Subject site as viewed from the rear at Queen Street.

3. Details of Current Approval

The original development application was determined by the Randwick Local Planning Panel (RLPP) on 13/07/2023.

The approved development is for the alteration and additions of an existing residential flat building, BCA/Fire safety upgrade and strata subdivision.

In the consent issued by the RLPP, condition 19 was imposed in response to the submission made by the neighbour that shares the party wall with the subject site.

4. Proposal

Council is in receipt of a development application seeking consent to delete part of condition 19 from the existing consent at 66 Coogee Bay Rd.

Condition 19 from DA/490/2022 currently reads:

As the consent of the adjoining owner for use of the party wall for lateral or vertical support has not been obtained, a Certificate must be obtained from a professional engineer, which certifies that the new attic level addition is capable of being constructed independent of the party wall for structural and/or lateral support.

A Certificate must be obtained from a professional engineer that also certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the Principal Certifying Authority. A copy of which is to be provided to Council with the Construction Certificate.

The applicant is seeking to remove the first paragraph in bold above from the condition.

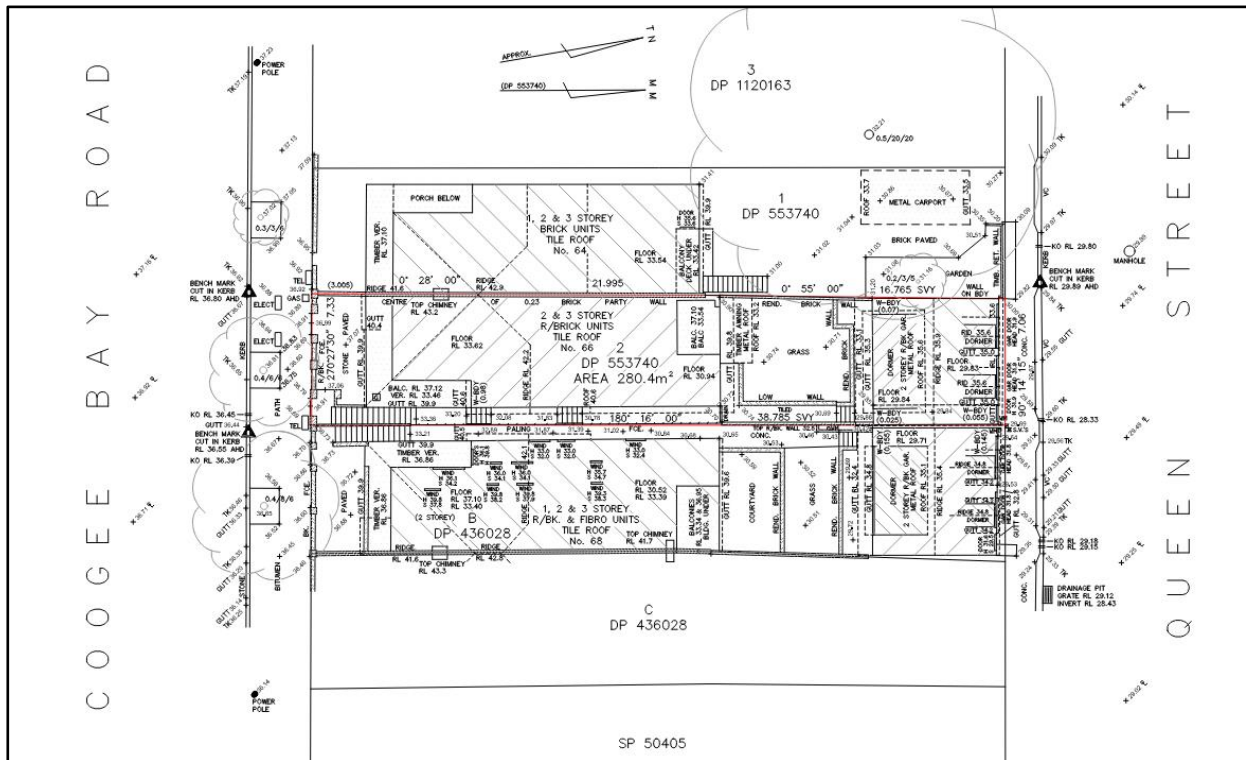


Figure 3: Existing Survey Plan

SEARCH DATE	TIME	EDITION NO	DATE
7/12/2023	11:22 AM	7	1/12/2023
<p>LAND</p> <p>-----</p> <p>LOT 2 IN DEPOSITED PLAN 553740</p> <p>AT COOGEE</p> <p>LOCAL GOVERNMENT AREA RANDWICK</p> <p>PARISH OF ALEXANDRIA COUNTY OF CUMBERLAND</p> <p>TITLE DIAGRAM DP553740</p> <p>FIRST SCHEDULE</p> <p>-----</p> <p>PETER KEVIN BRIGGS (T AH817545)</p> <p>SECOND SCHEDULE (3 NOTIFICATIONS)</p> <p>-----</p> <p>1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)</p> <p>2 N8885 CROSS EASEMENTS (S.181B CONVEYANCING ACT, 1919)</p> <p>AFFECTING PARTY WALL SHOWN ON THE COMMON BOUNDARY OF</p> <p>LOTS 1 & 2 IN DP553740</p> <p>3 AT653536 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA</p> <p>NOTATIONS</p> <p>-----</p> <p>UNREGISTERED DEALINGS: NIL</p> <p>*** END OF SEARCH ***</p>			

Figure 4: Existing Title Search

5. Section 4.55 Assessment

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

1. it is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
2. it has consulted with any relevant public authorities or approval bodies, and
3. it has notified the application & considered any submissions made concerning the proposed modification

An assessment against the above criteria is provided below:

1. Substantially the Same Development

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

2. Consultation with Other Approval Bodies or Public Authorities:

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

3. Notification and Consideration of Submissions:

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

- 64 Coogee Bay Road, Coogee – Theo ten Brummelar

Issue	Comment
<p><u>Objection to the removal of condition No. 19</u></p> <p>The owner of the neighbouring property has concerns regarding the 'additional loading of the existing party wall and its footing/foundation.'</p> <p>They are concerned that they have not given consent to the proposed attic addition which will utilize their portion of the party wall which they share with 66 Coogee Bay Road.</p> <p>There is also concern regarding access on their side of the roof. The owner requests that in the event of damage to their side of the roof, the applicant will repair immediately at the cost of the owner of 66 Coogee Bay Road.</p>	<p>It is agreed by the applicant, assessing officer and owner of 64 Coogee Bay Road that the support of the wall is a legitimate concern. It is noted that the brick party wall could possibly be in disrepair due to the age of the building.</p> <p>As part of Condition 19, an engineer will be required to certify the other parts of the development at 66 Coogee Bay Road. In this time they will be able to identify any footings/foundational issues with the wall. The amended condition will also ease concerns regarding the structural integrity of the party wall.</p> <p>The applicant does not require consent to utilise the brick party wall since the owner of 66 Coogee Bay Road benefits from the ownership and structural support of the wall as per section 181B, Clause (1) of the Conveyancing Act 1919,</p> <p><i>"...cross-easements entitling each of the persons entitled to a portion to have the whole wall continued in such manner that each building supported thereby shall have the support of the whole wall.."</i></p> <p>Any work that requires access to the neighbours side of the boundary is to be decided between the owners of 64 and 66 Coogee Bay Road. It is noted that under the original consent, a dilapidation report was required to be obtained which shall remain.</p>

Section 4.55(3) – Consideration of Reasons for Granting Consent

Under the provisions of Section 4.55(3) of the Act, as amended,

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The following reasons for granting consent for the approved development are relevant:

The Panel has visited the site, considered the submissions and reviewed the assessment report prepared by Council officers that addresses the relevant matters detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

The Panel supports the application for the reasons given in the assessment report.

The Panel has amended condition 19 to make it clear that, in the absence of adjoining owners consent, works are limited to those that do not rely on the party wall for structural support.

The Panel notes the concerns raised by the Applicant relating to condition 17 but this is a matter for the Certifier.

With regard to the above reasons, the proposed modification will not generate adverse or additional impacts in terms of residential amenity and character of the locality. Council's Legal Counsel reviewed the proposed amendments to Condition 19 and this condition has been appropriately worded and modified to capture the intention of condition as originally imposed by the Panel. As such, the proposal satisfies the provisions under Section 4.55(3) of the Act.

6. Key Issues

Party Wall

The applicant is seeking to remove part of condition 19 on the basis that it is unnecessary and an encumbrance to the role of the 'party wall' that exists between the two properties of 64 and 66 Coogee Bay Road. The applicant has submitted a statement which seeks to justify the amendment of the condition.

The statement clarifies that the subject site enjoys the benefit of the easement for cross support on an attached title search. The easement is characterised by the party wall that exists between the two properties. A Party Wall is defined below as,

*"...a wall built or to be built on the common boundary of that land and adjoining land so that the boundary passes longitudinally through the wall, the wall is described as a **party wall**, a wall severed vertically and longitudinally with separate ownership of the severed portions, and with cross-easements entitling each of the persons entitled to a portion to have the whole wall continued in such manner that each building supported thereby shall have the support of the whole wall... (Conveyancing Act 1919, Sc181B)"*

Shown on the survey are the words 'Brick Party Wall'. Furthermore, a title search confirms that an easement exists in the form of the Party Wall.

From the *Real Property Act 1900, Section 48, Clauses 3-4*, more context is provided for the function of a Party Wall,

"(3) Each lot shown in the plan as consisting of or including another portion of the wall is subject to the burden of the easement.

(4) The easement entitles each person for the time being having the benefit of the easement to the continued existence of each portion of the wall—

(a) that is necessary for the support of so much of the building as is contained within the lot to which the easement is appurtenant, and

(b) that consists of or is included within another lot which is subject to the burden of the easement."

It can be concluded that No. 64 and 66 Coogee Bay Road are both entitled to the benefit of the support provided at any portion of the wall. However, the two properties are also burdened by the neighbouring properties right to utilise that support. In these circumstances, 66 Coogee Bay Road benefits from the assurance that the support the wall offers is given by the entire wall (even the side of the wall that faces into 64 Coogee Bay Road). Moreover, the portion of wall that they are seeking support from is fully their portion to use.

Support that is given by the wall for the attic at 66 Coogee Bay Road is support that is fully independent of the property at 64 Coogee Bay Road. However, it has not been demonstrated that the subject wall is structurally able to support that work and as such it is appropriate to seek assurance that the works can be undertaken in a way which does not affect the party wall. As such, Council's Legal Counsel has recommended that the wording of the condition be amended to ensure that all works are contained within the subject site at 66 Coogee Bay Road, and that certification is

to be obtained by a professional engineer which certifies that the building works shall have no adverse impact on the structural and/or lateral support provided by the party wall, in terms of its support of 64 Coogee Bay Road.

7. Referral comments

Engineering

This application to modify the existing consent was internally referred to Council's Development Engineer department for comment. Council's Development Engineer raised no objections to the proposal and provided no amendments or changes to the current consent conditions.

Legal Counsel

Advice was sought from Council's Legal Counsel in terms of the wording of the amended condition which has been adopted.

8. Section 4.15 Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	<p>State Environment Planning Policy (Building Sustainability Index: BASIX) 2004.</p> <p>Standard conditions of consent requiring the continued compliance of the development with the SEPP: BASIX were included in the original determination.</p> <p>Randwick Local Environmental Plan 2012</p> <p>The proposed modifications will not materially change the development in any way. It will remain substantially the same. The development remains consistent with the general aims and objectives of the RLEP 2012.</p>
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The development remains compliant with the objectives and controls of the Randwick Comprehensive DCP 2013.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The proposed modifications have responded appropriately to the relevant planning controls and will not result in any significant adverse environmental, social or economic impacts on the locality.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development and is considered to meet the relevant objectives and performance requirements in the RDCP 2013 and RLEP 2012. Further, the proposed modifications will not adversely affect the character or amenity of the locality.</p> <p>Therefore the site remains suitable for the modified development.</p>
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9. Conclusion

The application is recommended for approval for the following reasons:

- a) The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- b) The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality.
- c) The party wall is identified on the survey plan. It is covered by the Conveyancing Act 1919 as being a benefit to both parties. Moreover, the change in condition will not substantially nor materially alter the approved consent.

Responsible officer: Max Crowe, Student Environmental Planning Officer

File Reference: DA/490/2022/A

D7/24

Development Application Report No. D8/24

Subject: 153 Oberon Street, Coogee NSW 2034 (DA/750/2023)


Executive Summary

Proposal: Additions and alterations to an existing dwelling (Heritage Item)
Ward: East Ward
Applicant: Mr J Oulianoff
Owner: Mrs R E Lingham; Mr R P Lingham
Cost of works: \$249,578.00
Reason for referral: The development involves partial demolition of a heritage item.

Recommendation

That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/750/2023 for additions and alterations to an existing dwelling (Heritage Item), at No. 153 Oberon Street, COOGEE NSW 2034, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  RLPP Dev Consent Conditions (general) - DA/750/2023 - 153 Oberon Street, COOGEE

D8/24

D8/24



1. Executive summary

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

- The development involves partial demolition of a heritage item.

The proposal seeks development consent for additions and alterations to an existing dwelling house (Heritage Item).

The key issues associated with the proposal relate to alterations to a Heritage Item. The proposal is recommended for approval subject to non-standard conditions that require treatment and retention of heritage value.

2. Site Description and Locality

The subject site is located at 153 Oberon Street, Coogee and is legally identified as Lot 38 in DP6489. The property has a frontage of 13.33m to Oberon Street and shares western boundary to Ernest Collins Reserve. The total site area is 582.5m2 and sits on the higher northern side of Oberon Street.

The property includes a two-storey Federation-era dwelling with garage facilities on street level and the main residence above, following the natural topography of the block (refer Figure 4). The main residence is split between a lower-ground level containing laundry, office and utilities room and the ground level which includes 3 x bedrooms (1 with ensuite), 1 x sitting room, 1 x living room, kitchen, bathroom and outdoor laundry.

The subject site is locally heritage listed as Edwardian Bungalow (Item 195). However, it is not located within a Heritage Conservation Area. The site and surrounds are zoned R2 low density residential.

The site has historically been a residential dwelling and this use is continued under the proposal. Adjoining the eastern boundary of the subject site are No.155 & 157 double-storey, side by side duplex also renovated and belonging to the Federation-era. To the west of the site is green open space, Ernest Collins Reserve.

Parking is provided at the front of the site via Oberon Street and access to the site and the dwelling is via concrete steps located on the western side of the double garage. The dwelling has two points of entry on the east and west of the dwelling at lower-ground level.



Figure 1: Existing dwelling at site, viewed to north from Oberon Street (Source: Google Maps)

3. Relevant history

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

- DA/607/2014 was lodged on 02/09/2014 and approved on 19/11/2014. This DA was for alterations and additions to the existing dwelling. These included alterations to the existing rear of the dwelling to provide for an open plan living area and kitchen, a new rear upper level providing for a study, master bedroom and ensuite bathroom with balcony at rear. An in-ground swimming pool and spa was also proposed at rear. This was not constructed, and a CC was never issued.
- DA/52/2008 was lodged on 01/02/2008 and approved on 12/03/2008. This DA was for the construction of a new double garage to front of existing dwelling with grassed roof, new gate, entry & associated works. This was followed by construction certificate CC/452/2009 which was lodged on 15/09/2009 with occupation certificate issued on 21/12/2009.

4. Proposal

The proposal seeks consent for alterations and additions to the existing dwelling house, including internal and external alterations (refer Figures 1, 2 and 3). Specifically, the proposed works include:

- New heritage design timber staircase linking existing lower ground floor sitting room with ground level living room;
- Internal alterations on lower ground level, including:
 - Relocate bathroom from the sitting room to bedroom with new fixtures;
 - New heritage style door between sitting room and bedroom;
 - Addition of sliding timber doors to the sitting room for additional storage area;
 - Reconfiguration of storage space to a wardrobe in bedroom;
 - Replace existing concrete slab with new slab and polished concrete finish to remove internal level changes and create a standard floor to ceiling height clearance of 2500mm, including new footings to engineers' specifications;
 - Reduce length of stone wall to allow larger opening and improved access to the sitting room;
 - Replace ceiling with new soundproof plasterboard and insulation;
- Internal alterations on ground level include replacing tiles to bedroom ensuite and main bathroom as well as new tiling and fixtures to rear laundry & toilet;
- External alterations on lower ground level, including:
 - Replace external side entrance door to bedroom with a heritage style door that comprises stone lintel (western side);
 - Replace aluminium frames and glass panels on street-facing bedroom window with original heritage timber frames and double-glazed panels;
- External alteration on ground level include:
 - Replace street-facing bedroom window with double glazed panels in new federation timber frames;
 - Replace main entry door (western elevation) with new heritage design glazed door and heritage style glazed side panes.



Figure 2: Proposed street elevation (Source: John Normyle Pty. Ltd.)

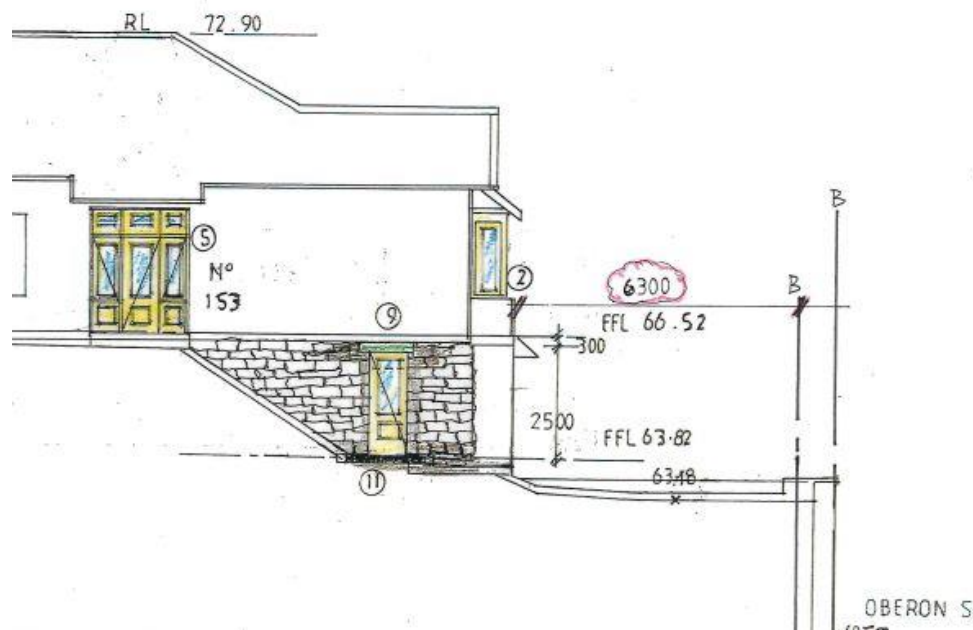


Figure 3: Proposed west elevation (Source: John Normyle Pty. Ltd.)



Figure 4: Lower ground floor plan (Source: John Normyle Pty. Ltd.)

D8/24



Photo 1: Southern Façade



Photo 2 & 3: Southern Façade



Photo 4: Main entry door.



Photo 5: Lower ground entrance doorway – western elevation

D8/24



Photo 5: Lower ground entrance doorway – eastern elevation



Photo 6: Lower ground level – location of proposed stair



Photo 6: Lower ground level – wall to be reduced

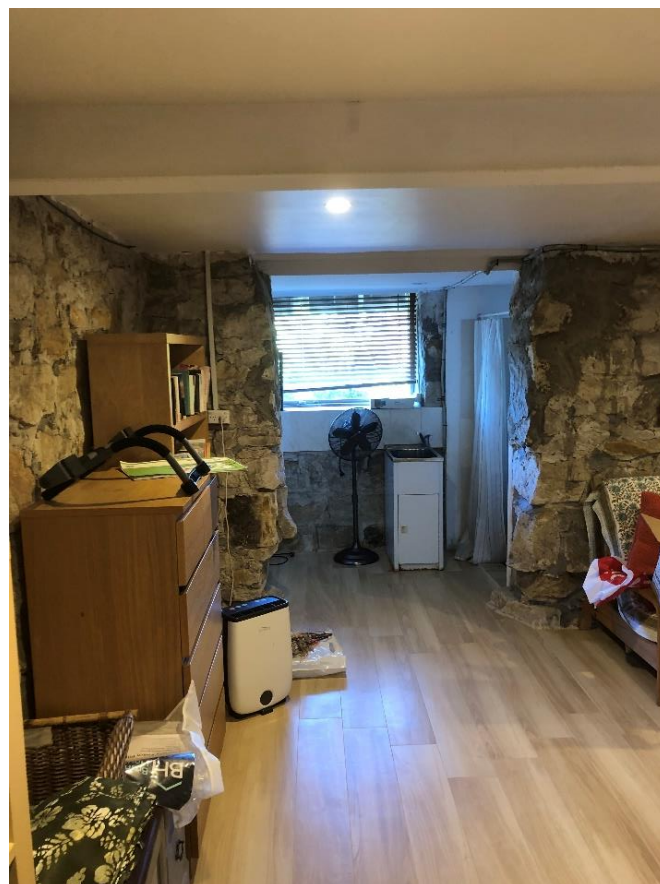


Photo 7: Lower ground level

D8/24

5. Notification

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

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the proposal and subject site. The aims of this Chapter 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.

The proposed development does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) 2021 applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land the subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. In this regard it is Council's position that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.4. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012.

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.9:1	No change to existing 0.48:1	Yes

CI 4.3: Building height (max)	9.5m	No change to existing 9.08m	Yes
-------------------------------	------	-----------------------------	-----

6.4.1. Clause 5.10 - Heritage conservation

Clause 5.10(1) of RLEP 2012 includes the objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

Clause 5.10(4) of RLEP 2012 requires Council to consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area.

Whilst the site is not within a Heritage Conservation Area, it is listed as a Heritage Item Edwardian Bungalow (Item 195). Refer to discussion by Council's Heritage Officer at Appendix 1.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

Council commenced a comprehensive review of the existing Randwick Development Control Plan 2013. Stage 1 of the RDCP 2013 review has concluded, and the new RDCP comprising Parts B2 (Heritage), C1 (Low Density Residential), E2 (Randwick) and E7 (Housing Investigation) commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of the new RDCP 2023 are applicable to the proposed development, and the proposal shall be assessed against the new DCP.

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in Key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.

D8/24

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submission were made in relation to the proposal.
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

DCP and Heritage Summary

No areas of non-compliance were identified in Council's assessment. All works are being done within the existing footprint and do not involve new placement or changes in the dimensions of existing windows. As such there is no unreasonable privacy, overshadowing or environmental impacts on the neighbouring property or Ernest Collins Reserve.

Key issues are all focused on heritage treatment and conservation matters, see Appendix 1 of this report for Heritage Planning assessment, noting that the application is recommended for approval subject to consent conditions.

9. Conclusion

That the application for additions and alterations to an existing dwelling (Heritage Item) 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 proposed amendments to the heritage item were supported in the review of Council's Heritage Planner;
- The proposal is consistent with the specific objectives of the zone; and
- The development enhances the visual quality of the public domain/streetscape.

The recommendations from Council's Heritage Planner shall be imposed in the conditions of consent, should approval be granted. See **Appendix 1**.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

Heritage Planning:

The application was referred to Council's Heritage Officer. As detailed below, no objection was raised, subject to conditions:

Comments

The existing form of the dwelling comprises a large hipped roof with a front (south) gable over bedroom 1 and a side (east) gable over the sitting room. The return verandah to the south and east elevations has a jerkin head roof to the street. The return verandah has been enclosed with casement windows. The original subfloor area was shown in the 2016 drawings as two rooms labelled storage/utility areas (head height <2.1), with a laundry below the front section of the enclosed verandah. The current drawings show these areas as an existing sitting room and bedroom.

The Statement of Heritage Impact submitted with the 2014 development application includes historical research which notes that the subject allotment was undeveloped until the 1930s, with the residence erected between 1933 and 1936. The dwelling displays detailing of various stylistic periods- the jerkin head roof form is generally associated with the Californian Bungalow or Interwar periods, while ceilings and cornices are more typical of the Californian Bungalow style and the inglenook fretwork and fireplace in the living room display an Art Nouveau influence, generally associated with the Federation period. A number of internal doors are high waisted panelled doors typical the Federation and Californian Bungalow styles, while glazed doors the original verandah including french doors, are low waisted doors more typical of earlier periods. The windows to the original verandah display an Arts and Crafts influence associated with the Federation period.

Ground floor changes

In relation to the front bay window, the existing window comprises a single fixed glass sheet to the front of the bay and plain casements with plain highlights to the sides of the bay. The form of the proposed replacement windows in unclear- while the drawings show a pair of possibly casement windows with a central mullion, the HIS shows an arrangement of four casement windows with multipaned highlights. The new bay window detailing should match as closely as possible the original windows in the sitting room, the living room, and bed 2 and bed 3 on the western side of the dwelling, ie- three casement windows with multipaned highlights and multipaned inserts to the bottom edge of the window. An appropriate consent condition should be included.

In relation to the main entrance door on the western elevation, a further submission has now been received which includes a photograph of the existing door, indicating that it comprises sidelight and highlight glazing around a half-glazed panelled timber door. The submission notes repair/replacement of damaged sections of the front door, including frames and glazing as follows:

Existing Front Entry will have the main door, frame, sill, side lights, hi light and glazing detailing will be restored to its original design and detailing in its existing opening. The restoration may require some new sections of doors and frames to be repaired and or replaced in timber like for like. All Glazing in the main door, side lights and hi lights over the door will be restored and reinstated as original period glazing in the existing/restored framework.

A consent condition should be included that the existing frames and glazing to the sidelight and highlight panels of the main entrance door on the western elevation, and to the half-glazed door itself should if possible be retained and repaired, and not replaced. If they cannot be salvaged and reused, replacement framing and glazing components are to match the existing as closely as possible.

D8/24

In relation to the doorway to bedroom 1, the further submission notes that a new doorway will be provided between bedroom 1 and living room. The submission advises that the new door will comprise a timber 4 panel heritage style door to match the house interior doors and timber panel detailing, with new architraves and heritage style door hardware matching the original house detailing. It is suggested that a consent condition be included that a plainer/simplified architrave detailing (or even a plain rather than faux-heritage door), should be provided to assist in interpreting this new, not original opening, and facilitating the future removal of the doorway should a future owner wish to restore privacy to the bedroom.

In relation to the new stairway, the original subfloor area is accessed via external doors on the east and west elevations. A new stairway is to be provided to allow internal access. The new stairway is to be located in the east facing area of the enclosed return verandah. The new stairway will not impact on the ability to interpret the original main rooms of the dwelling or their associated detailing. A consent condition should be included that the stairway be installed to minimise impact on existing detailing including original windows. There are no heritage objections to the proposed to retiling of existing bathrooms.

Basement level changes

In relation to the existing sitting room window (not bedroom 4 as noted in HIS), the further submission provides a photograph which confirms that the existing window apparently comprises a two frameless sliding glass panels. The form of the replacement window is a pair of double glazed casement windows. There are no heritage objections to the proposed replacement of this non-original window.

In relation to the entry door on the western elevation, the further submission provides a photograph which confirms that the existing door comprises a plain solid core door. The submission advises that the new door will have no side panels, but will comprise a heritage designed timber panelled door with clear glazed top panel and heritage detailed timber bottom panel, and the same frame detailing as the Front Door. It is suggested that a consent condition be included that a plainer/simplified architrave detailing (or even a plain rather than faux-heritage door), should be provided to assist in interpreting this new, not original opening.

In relation to the new concrete floor slab and replacement of existing ceiling, photos in the HIS indicate timber flooring (possibly on an existing concrete slab) and a set plaster ceiling. Cross sections indicate a 2.5m ceiling height, suggesting 400mm of excavation. Cross sections also indicate a new concrete slab and footings supporting brickwork to underpin the existing sandstone block walls. Excavation and underpinning of existing sandstone block walls and the means of waterproofing the existing walls should be carried out to engineer's details, preferably and engineer with heritage experience, to ensure that the works do not impact on the structural integrity of existing walls is maintained. A consent condition should be included that any required repointing of existing mortar joints should be carried out using a soft mortar mix. A soft mortar mix is required to avoid long term fretting of the surface of the sandstone blocks.

In relation to the proposal to reconfigure bathroom and storage areas in sitting room and bedroom, enlarge opening between stairway hall and sitting room, and provide new door between sitting room and bedroom, there are no heritage objections to proposed internal changes in these areas which comprise secondary areas of the building lacking the important detailing which is evident on the main floor above.

Recommendation

The following conditions should be included in any consent:

- *A photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, in accordance with Section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. One bound copy and one digital copy (DVD or USB) of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:*

- *A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs;*
- *Digital copies of the archival photographs in JPEG and TIFF formats.*
- *The detailing to the new bay window in the ground floor bedroom should match as closely as possible the original windows in the sitting room, the living room, and bed 2 and bed 3 on the western side of the dwelling, ie- three casement windows with multipaned highlights and multipaned inserts to the bottom edge of the window. Amended drawings are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *The existing frames and glazing to the sidelight and highlight panels of the main entrance door on the western elevation, and to the half-glazed door itself should if possible be retained and repaired, and not replaced. If they cannot be salvaged and reused, replacement framing and glazing components are to match the existing as closely as possible.*
- *The new doorway between bedroom 1 and the living room door is to adopt a plainer/simplified architrave detail (or even a plain rather than faux-heritage door), in order to assist in interpreting this new opening, and to facilitate the future removal of the doorway should a future owner wish to restore privacy to the bedroom.*
- *The new internal stairway to access the existing basement area is to be installed to minimise impact on existing detailing including original windows on the eastern elevation.*
- *The new entry door on the western elevation is to adopt a plainer/simplified architrave detailing (or even a plain rather than faux-heritage door), in order to assist in interpreting this new, not original opening.*
- *Excavation and underpinning of existing sandstone block walls and the means of waterproofing the existing walls should be carried out to engineer's details, preferably and engineer with heritage experience, to ensure that the works do not impact on the structural integrity of existing walls is maintained.*
- *Existing mortar joints to the sandstone block walls should be repointed if necessary using a soft mortar mix. A soft mortar mix is required to avoid long-term fretting of the surface of the sandstone blocks.*
- *The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and consistent with the architectural style of the building, and are to be in accordance with the Materials and Finishes Schedule prepared by Noff Haus Studios, dated 12/07/2023, and received by Council on 05/10/2023, and the further submission from Noff Haus Studios prepared dated 4 December 2023, and received by Council on 04/12/2023. Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- *Details of any changes to the proposed paint scheme are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. Unpainted surfaces, eg- brickwork/stonework are to remain unpainted, and no applied finishes are to be used.*

Planning comment: The above advice from Council's Heritage Planner is considered and concurred with. The above recommendations shall be imposed in the conditions of consent, should approval be granted.

Appendix 2: DCP Compliance Table

3.1 Part C1 Low Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	451 to 600 sqm = 50%	Site = 582.5m ² Existing site coverage = 261.4m ² (45%) The works are wholly internal of the existing building footprint, involving reconfiguration and the replacement of doors and windows. The proposal involves no changes to the existing site coverage.	Yes
2.4	Landscaping and permeable surfaces		
	i) 451 to 600 sqm = 30% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply.	Existing deep soil = 159.73m ² (27%) The proposal involves internal works that do not require any vegetation/tree removal. The current permeable surfaces (deep soil landscaped areas) are unchanged by the proposal.	N/A
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	451 to 600 sqm = 7m x 7m	No impact on POS.	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.9:1	No impact on existing.	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Existing = 9.08m Proposed = 9.08m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	No change to the height of building or the wall height. Floor to ceiling height in lower ground floor is being increased to 2.5m	Yes
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none	There is no change to existing front setback	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>then no less than 6m) Transition area then merit assessment.</p> <p>ii) Corner allotments: Secondary street frontage:</p> <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites <p>iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front</p>	which is greater than 6m.	
3.3.2	<p>Side setbacks:</p> <p>Semi-Detached Dwellings:</p> <ul style="list-style-type: none"> • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels <p>Dwellings:</p> <ul style="list-style-type: none"> • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	There are no changes to the existing side setbacks.	Yes
3.3.3	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p>	There is no change to the existing rear setback.	Yes
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m encourage innovative design 	There are no changes to the existing building form, scale or massing.	Yes
4.4	Roof Design and Features		
	<p><i>Rooftop terraces</i></p> <p>i) on stepped buildings only (not on uppermost or main roof)</p> <p>ii) above garages on sloping sites (where garage is on low side)</p>	There are no changes to the existing roof building form.	Yes
4.5	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes</p> <p>ii) Finishing is durable and non-reflective.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</p> <p>vi) recycle and re-use sandstone</p>	<p>The changes to the existing doors and windows complement and add to the heritage item.</p> <p>Refer to conditions 4 & 5.</p>	Yes

D8/24

D8/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep	Minor excavation at lower ground floor to make floor level. Cross sections indicate a 2.5m ceiling height, with approximately 400mm of excavation.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	No impact to existing condition.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.	No impact to existing condition.	Yes
5.2	• Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and	Proposed ceiling insulation at basement level and two double glazed windows at the facade enhance thermal efficiency.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	laundries iii) living rooms contain windows and doors opening to outdoor areas • <i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable		
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	The changes to the two windows on the south elevation (façade) and the entry door (west elevation) have no impact to the adjoining neighbours.	Yes
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer.	No impact.	Yes
5.5	Safety and Security		
	i) Dwelling's main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	No impact.	Yes
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must	No impact identified from changes within the existing building envelope.	Yes

D8/24

D8/24

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	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)		

Responsible officer: Thomas Awford, Environmental Planning Officer

File Reference: DA/750/2023

Development Consent Conditions



Folder /DA No:	DA/750/2023
Property:	153 Oberon Street, COOGEE NSW 2034
Proposal:	Additions and alterations to an existing dwelling (Heritage Item).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Ground floor plan – sheet 2	John Normyle Interior Design	26/09/2023	5/10/2023
Basement floor plan- sheet 3	John Normyle Interior Design	26/09/2023	5/10/2023
Western elevation – sheet 4	John Normyle Interior Design	26/09/2023	5/10/2023
Cross section aa – sheet 6	John Normyle Interior Design	26/09/2023	5/10/2023
Front façade – sheet 7	John Normyle Interior Design	26/09/2023	5/10/2023
Cross section bb – sheet 9	John Normyle Interior Design	26/09/2023	5/10/2023
Materials and Finishes Schedule	Noff Haus Studios	12/07/2023	5/10/2023

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
A501328	5/10/2023	5/10/2023

In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **Amendment of Plans & Documentation**

D8/24

D8/24

Condition
<p>a) The detailing to the new bay window in the ground floor bedroom should match as closely as possible the original windows in the sitting room, the living room, and bed 2 and bed 3 on the western side of the dwelling, ie- three casement windows with multipaned highlights and multipaned inserts to the bottom edge of the window. Amended drawings are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.</p> <p>b) The new doorway between bedroom 1 and the living room door is to adopt a plainer/simplified architrave detail (or even a plain rather than faux-heritage door), in order to assist in interpreting this new opening, and to facilitate the future removal of the doorway should a future owner wish to restore privacy to the bedroom.</p> <p>c) The new entry door on the western elevation is to adopt a plainer/simplified architrave detailing (or even a plain rather than faux-heritage door), in order to assist in interpreting this new, not original opening.</p> <p>d) The existing frames and glazing to the sidelight and highlight panels of the main entrance door on the western elevation, and to the half-glazed door itself should if possible be retained and repaired, and not replaced. If they cannot be salvaged and reused, replacement framing and glazing components are to match the existing as closely as possible.</p> <p>e) The new internal stairway to access the existing basement area is to be installed to minimise impact on existing detailing including original windows on the eastern elevation.</p>

Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation, and to ensure the heritage significance of the dwelling is maintained.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition
<p>3. Consent Requirements The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
<p>4. External Colours, Materials & Finishes The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and consistent with the architectural style of the building, and are to be in accordance with the Materials and Finishes Schedule prepared by Noff Haus Studios, dated 12/07/2023, and received by Council on 05/10/2023, and the further submission from Noff Haus Studios prepared dated 4 December 2023, and received by Council on 04/12/2023.</p> <p>Details of any changes to the proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments, in accordance with Section 4.17 of the</p>

	Condition
	<p>Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. Unpainted surfaces, eg- brickwork/stonework are to remain unpainted, and no applied finishes are to be used.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development, and maintain the heritage significance of the heritage item.</p>
5.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$249,578 the following applicable monetary levy must be paid to Council: \$2,495.78.</p> <p>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.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $\text{IDC} = \text{ODC} \times \text{CP2/CP1}$ <p>Where:</p> <p>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.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
6.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$600.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>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.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation</p>

D8/24

	Condition
	certificate or completion of the civil works.
	Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.
7.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • 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. <p>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</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
8.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, 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).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
9.	<p>Heritage Archival Recording</p>

	Condition
	<p>a) A photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, in accordance with Section 4.17 (2) of the Environmental Planning and Assessment Act 1979. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Film or Digital Capture. One bound copy and one digital copy (DVD or USB) of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:</p> <ul style="list-style-type: none"> o A PDF copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs; o Digital copies of the archival photographs in JPEG and TIFF formats. <p>b) The detailing to the new bay window in the ground floor bedroom should match as closely as possible the original windows in the sitting room, the living room, and bed 2 and bed 3 on the western side of the dwelling, ie- three casement windows with multipaned highlights and multipaned inserts to the bottom edge of the window. Amended drawings are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.</p> <p>c) The existing frames and glazing to the sidelight and highlight panels of the main entrance door on the western elevation, and to the half-glazed door itself should if possible be retained and repaired, and not replaced. If they cannot be salvaged and reused, replacement framing and glazing components are to match the existing as closely as possible.</p> <p>Condition Reason: To provide a historical record of heritage significant fabric on site for archival purposes.</p>
10.	<p>Structural Adequacy</p> <p>Certificate of Adequacy supplied by a professional engineer shall be submitted to the Certifier (and the Council, if the Council is not the Certifier), certifying the structural adequacy of the existing structure to support the approved development.</p> <p>Excavation and underpinning of existing sandstone block walls and the means of waterproofing the existing walls should be carried out to engineer's details, preferably and engineer with heritage experience, to ensure that the works do not impact on the structural integrity of existing walls is maintained.</p> <p>Condition Reason: To ensure the structural integrity of the building is maintained.</p>
11.	<p>BASIX Requirements</p> <p>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.</p> <p>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.</p>

D8/24

Condition	
	<p>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.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
12.	<p>Stormwater Drainage</p> <p>A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p> <ol style="list-style-type: none"> Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2); The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit; Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises; External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises; Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works. <p>Condition Reason: To control and manage stormwater run-off.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
13.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):</p> <ol style="list-style-type: none"> a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. <p>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.</p> <ol style="list-style-type: none"> a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and

Condition
<p>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 <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>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</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p>

Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.

14. **Home Building Act 1989**
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.

Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.

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

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

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

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

Condition Reason: To establish and document the structural condition of adjoining

D8/24

	Condition
	properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.
16.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>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.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
17.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> 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.</p> <p>Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

	Condition
18.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected 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:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed. <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an

Condition
existing building, if the work does not affect the external walls of the building, or
b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

19.

Restriction on Working Hours

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

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

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

Condition reason: To protect the amenity of the surrounding area.

20.

Public Safety & Site Management

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

- 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.
- 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.
- Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- Any damage caused to the road, footway, vehicular crossing, nature strip or

D8/24

	Condition
	any public place must be repaired immediately, to the satisfaction of Council.
	<p>f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</p> <p>g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p> <p>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.</p> <p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p> <p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
21.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
22.	<p>Heritage Retention</p> <p>Existing mortar joints to the sandstone block walls should be repointed if necessary using a soft mortar mix. A soft mortar mix is required to avoid long-term fretting of the surface of the sandstone blocks.</p>

Condition
Condition Reason: To ensure the preservation of heritage fabric.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>23. Occupation Certificate Requirements 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 <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>24. BASIX Requirements In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
<p>25. Council's Infrastructure, Vehicular Crossings and Street Verge 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:</p> <ul style="list-style-type: none"> (a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors. (b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a <i>Pre-paid Works Application Form</i>, prior to issuing an occupation certificate, together with payment of the relevant fees. (c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee. (d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure rectification of any damage to public infrastructure</p>

D8/24

Condition
and that works are completed in accordance with Council's requirements with Council's approval.

OCCUPATION AND ONGOING USE

Condition
<p>26. Use of Premises The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p> <p>Condition reason: To ensure the development is used for its intended purpose.</p>
<p>27. External Lighting 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.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
<p>28. Plant & Equipment Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition
<p>29. Demolition Work Plan A demolition work plan must be developed and be implemented for any demolition works in accordance with AS2601 (2001)- Demolition of Structures.</p> <p>The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.</p> <p>The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).</p> <p>A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.</p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition
<p>30. Demolition Work Any demolition work must be carried out in accordance with relevant Safework</p>

Condition
<p>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.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress", • Council is to be given at least two days written notice of demolition works involving materials containing asbestos, • Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request, • A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works. <p>Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.</p>