

# Randwick Local Planning Panel (Electronic) Meeting

Tuesday 4 June 2024



## **RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)**

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting  
will be held online via Microsoft Team Online via Microsoft Teams on  
Tuesday, 4 June 2024

### **Declarations of Pecuniary and Non-Pecuniary Interests**

#### **Development Application Reports**

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Meryl Bishop  
**DIRECTOR CITY PLANNING**

## Development Application Report No. D41/24

**Subject:** 212 Arden Street, Coogee (DA/122/2024)

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### Executive Summary

**Proposal:** Change of use to a food and drink premises, internal commercial fit-out and associated business signage

**Ward:** East Ward

**Applicant:** Prestige Town Planning Pty Ltd

**Owner:** Simmattown Ltd


**Cost of works:** \$449,900.00

**Reason for referral:** Development involving the demolition of a heritage item.

### Recommendation

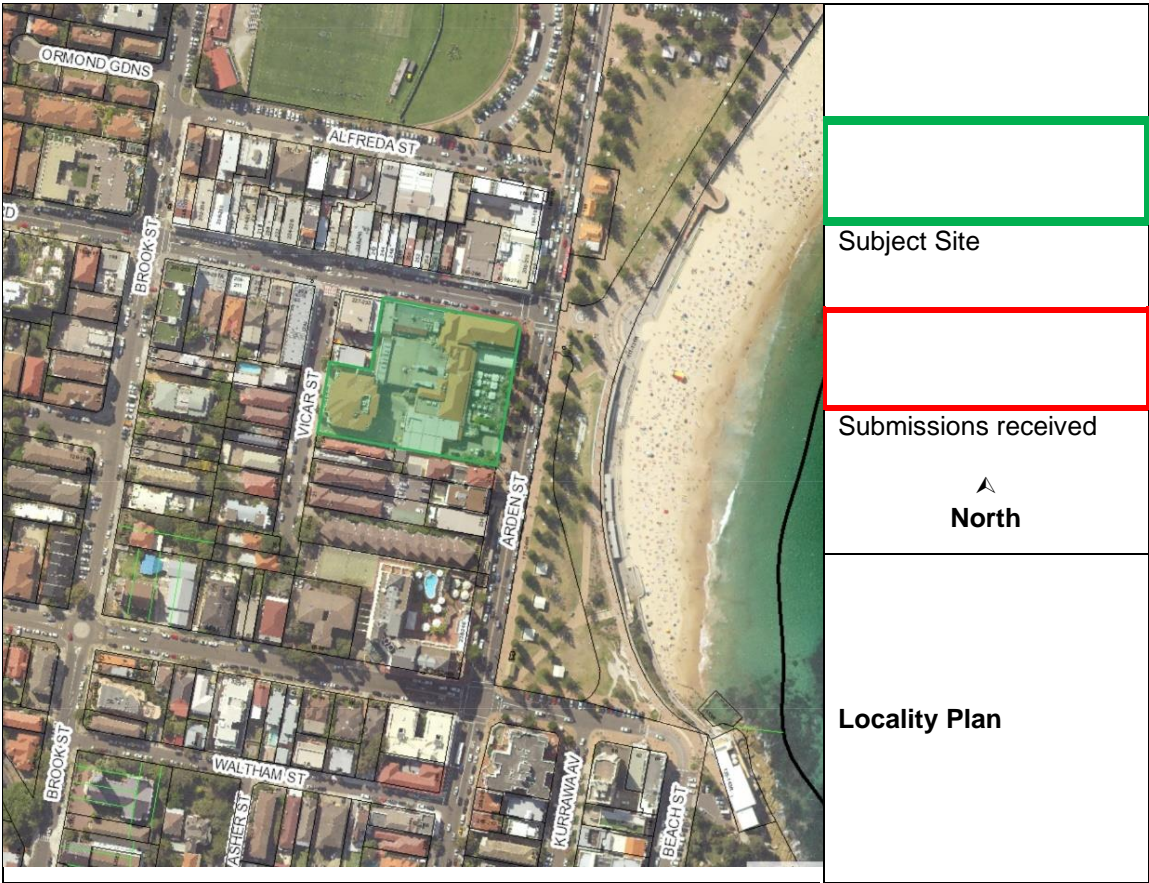
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/122/2024 for the change of use to a food and drink premises, internal commercial fit-out and associated business signage, at No. 212 Arden Street, Coogee, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/122/2024 - 212 Arden Street, COOGEE

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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 the change of use to a food and drink premises, internal commercial fit-out and associated business signage.

The key issues associated with the proposal relate to the site being identified as a Local Heritage Item (I48: Coogee Bay Hotel) and the required internal demolition that forms a part of the proposal.

This report has considered the merit and impacts associated with the proposal. The assessment has identified that the proposal is supported from a Heritage perspective and complies with the relevant sections of the DCP and LEP.

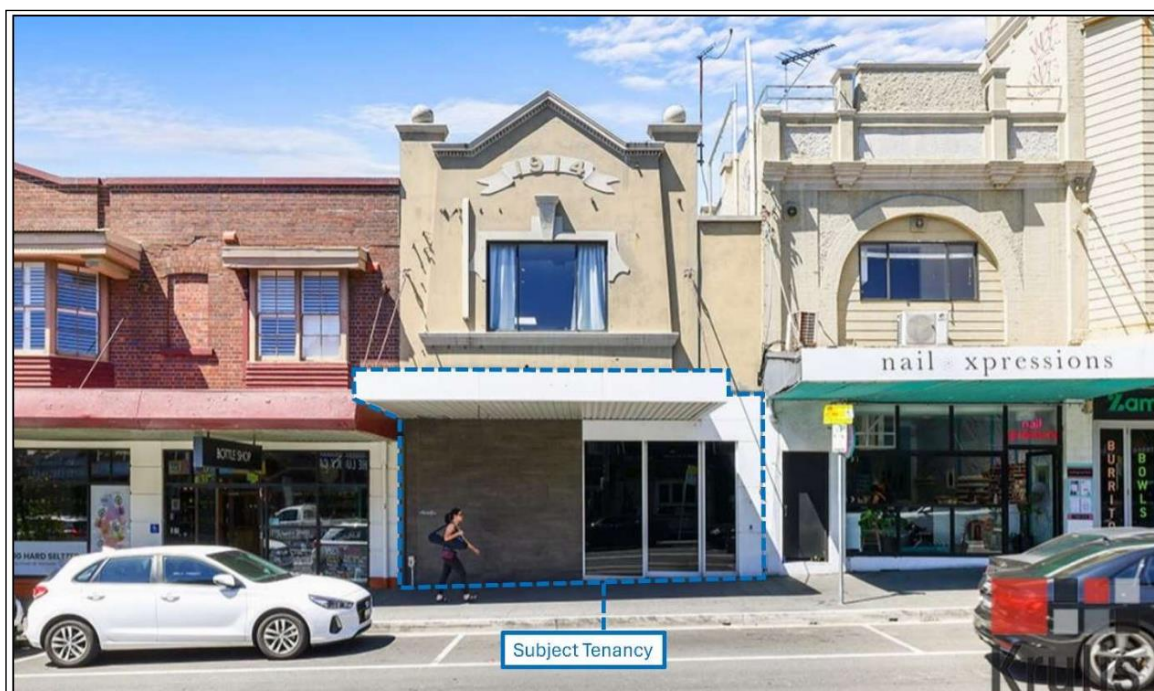
Accordingly, the proposal is recommended for approval.

2. Site Description and Locality

The site is located at 212 Arden Street, Coogee within the E1 Coogee Local Centre. The subject premises has a site frontage of 6.33m onto Coogee Bay Road, a block depth of 19.39m and a rear boundary of 6.543m. The subject premises forms a part of the larger parcel of land Lot 1 in DP 872553, commonly known as 212 Arden Street.



**Figure 1:** Aerial Imagery of the subject site (Source: SEE)



**Figure 2:** Shop 3, 212 Arden Street (Source: SEE)

The entirety of the lot consists of a total land size of 7,263m<sup>2</sup>, which is primarily occupied by the Coogee Bay Hotel. The subject tenancy consists of 123.82m<sup>2</sup> GFA and only consists of the commercial ground floor premise. The applicant confirmed that the first-floor tenancy is entirely separate with alternate access from the rear of the building.

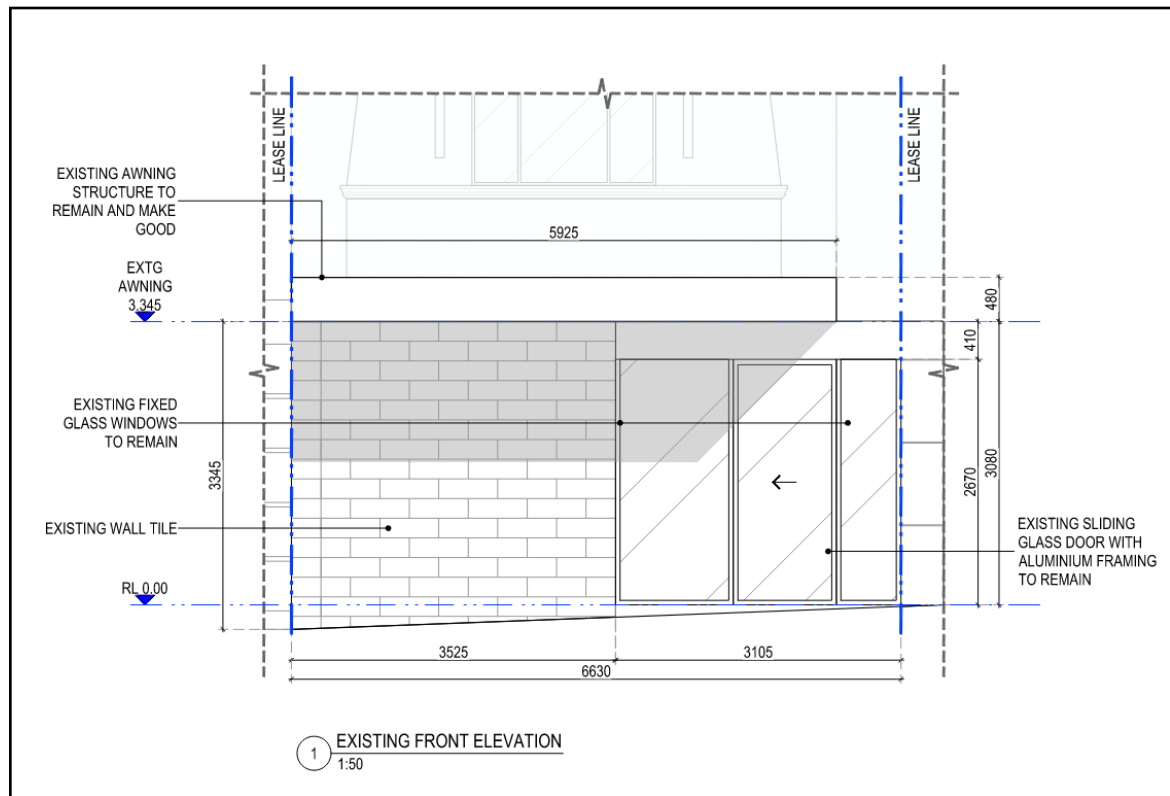
### 3. Relevant history

DA/778/2014 was approved on 18 December 2014 for the fit out and change of use of the premises to a Bank including a new shop front and signage (Heritage Item).

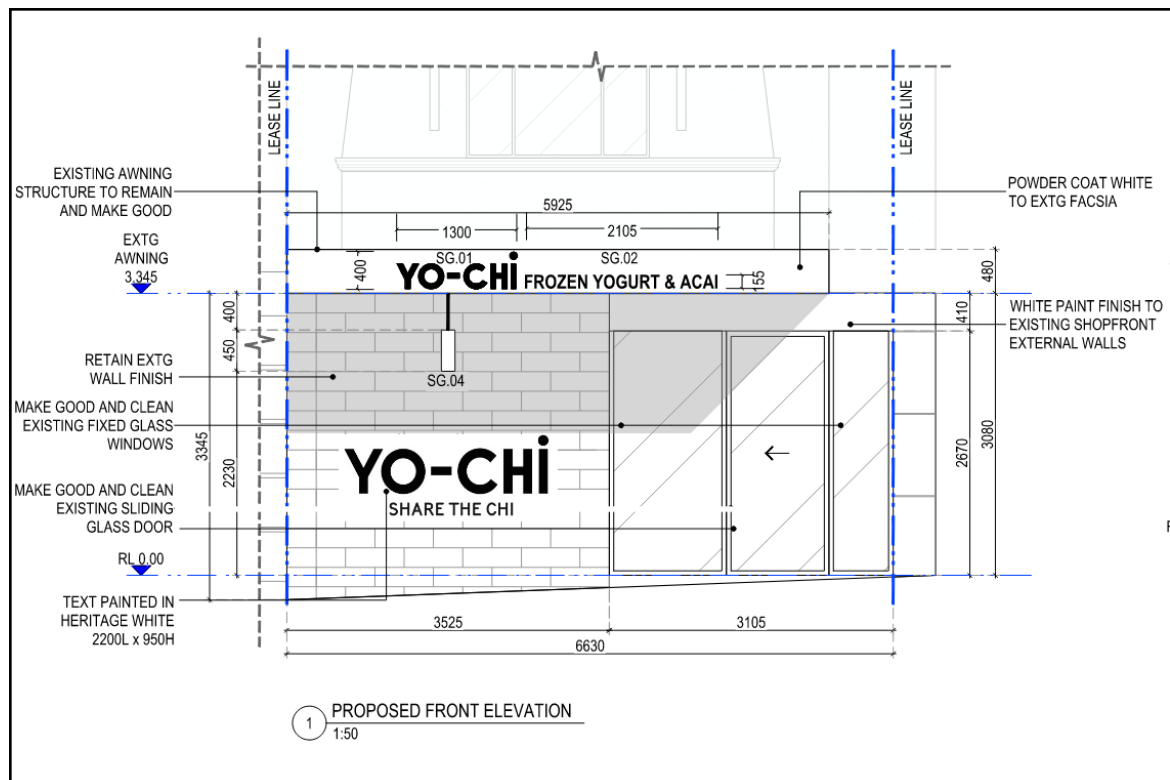
### 4. Proposal

Council is in receipt of a development application seeking consent for the change of use to a Food and Drink premises, internal commercial fit-out and associated business signage (Local Heritage Item), located at 212 Arden Street, Coogee.





**Figure 4:** Existing front elevation at 212 Arden Street - where the proposal will occur (Source: Yo-Chi)



**Figure 5:** Proposed front elevation for Yo-Chi shop at 212 Arden Street, Coogee (Source: Yo-Chi)

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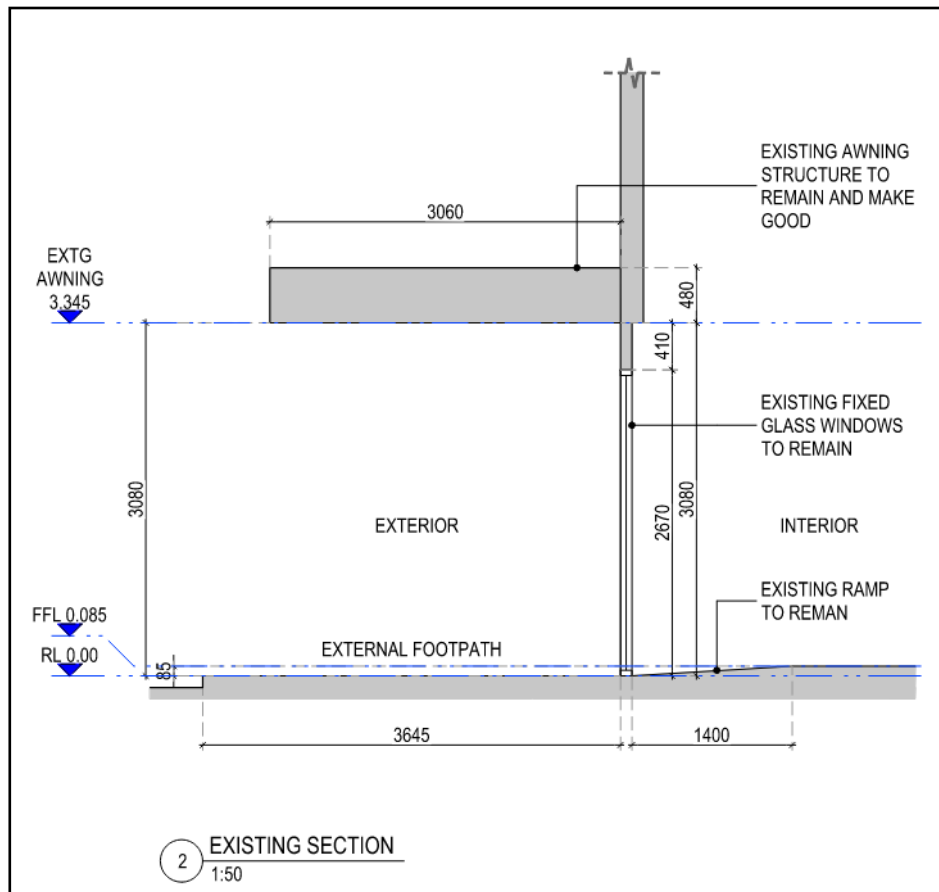


Figure 6: Existing Section of the front of the shop (Source: Yo-Chi)

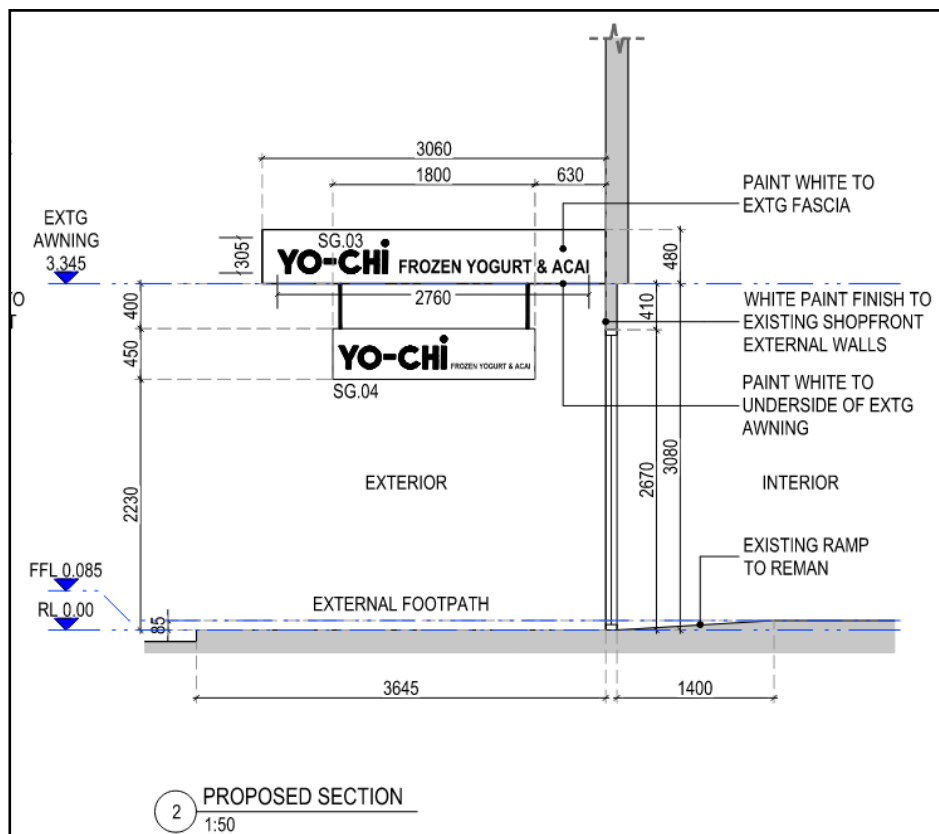
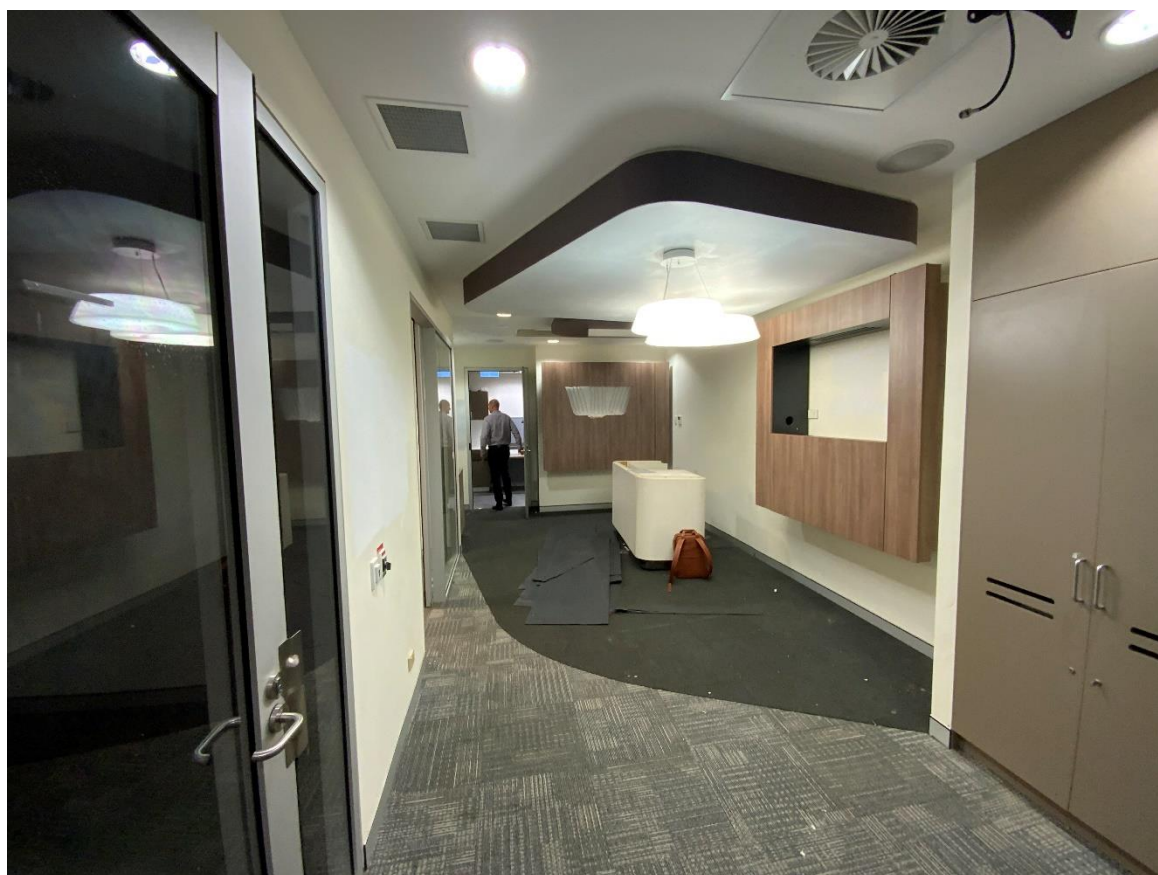


Figure 7: Proposed Section of the shop at 212 Arden Street including signage (Source: Yo-Chi)



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**Figure 8:** Site visit photograph provided by the applicant on 03 May 2024 - detailing the existing state of the tenancy.

## 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 by Council during the notification period.

## 6. Relevant Environment Planning Instruments

### 6.1. State Environmental Planning Policies

#### State Environmental Planning Policy (Industry and Employment) 2021

The proposal includes the installation of business identification signage. The proposed signage includes:

**Sign 1** – 1 x non-illuminated letterform awning fascia sign (3414mm x 400mm x 10mm) – installed directly to the awning fascia on the Southern (Coogee Bay Road) façade (Figure 3).

**Sign 2** – 1 x non-illuminated acrylic letterform awning fascia sign (2760mm x 305mm x 10mm) – installed directly to the western awning fascia along the southern (Coogee Bay Road) footpath (Figure 5).

**Sign 3** – 1 x internally illuminated under awning sign (1800mm x 450mm x 150mm) – perpendicular to the southern building façade along the southern (Coogee Bay Road) footpath (Figure 5).

**Sign 4** – Painting of a logo wall sign in Heritage White (2200mm x 950mm) – painted on external shopfront wall – adjacent to the main entrance on the southern building façade (Figure 3).

White powder coating of the existing awning fascia and under awning ceiling, white paint finish to the existing shopfront external walls, as well as cleaning of the existing fixed glazed shopfront sliding door and windows.

The applicable aims and objectives for the signage under clause 3.1 of the SEPP are outlined as follows:

- i) Is compatible with the desired amenity and visual character of the area, and
- ii) Provides effective communication in suitable locations, and
- iii) Is of high-quality design and finish

A further assessment against the Schedule 5 criteria is provided below:

Assessment Criteria	Comment
1 – Character of the area	The proposal is consistent with the building identification exhibited within the commercial context of the E1 – Local Centre zone.  Consistency with surrounding theme in terms of type, colour, scale and design.
2 – Special Areas	The proposal has incorporated a signage design that does not detract from the Coogee Bay Hotel Heritage Item (I48), as considered by Council's Heritage Planner.
3 – Views and Vistas	The location of the signage does not result in view impacts.  The signage does not block views to other signs in the area.
4 – Streetscape, setting or landscape	The scale, proportion and form are appropriate, contributing to the visual interest of the streetscape. The signage relates to the proposed use, without additional clutter.  The signs will not extend past the existing external building envelope and make use of the existing signage opportunities.
5 – Site and Building	The proposal is compatible with the scale, proportion and other characteristics of the site.  Signs 1 & 2 align with the existing awning fascia, Sign 3 will result in the addition of an internally illuminated under awning sign, considered appropriate for the night time operations.
6 – Associated devices and logos with advertisements and advertising structures	Business name included with the identification sign.
7 – Illumination	Sign 3 will be internally illuminated, this will be perpendicular to adjoining residential properties and so has an acceptable impact. The sign will be lit at an appropriate intensity. The proposed illumination will not be bright enough to negatively affect the safety of pedestrians or vehicles.  The illumination will cease after the premises closes operations for the day.
8 – Safety	No identified safety impacts from the proposed signs.

Overall, the proposed signage is considered appropriate and has been sufficiently justified against the Schedule 5 Criteria.

## 6.2 Randwick Local Environmental Plan 2012 (LEP)

The site is zoned Business E1 Local Centre under Randwick Local Environmental Plan 2012, and the proposal (Food and Drinks Premises) is permissible with 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 proposal does not alter the external building envelope in a manner that results in additional floorspace.

It is also noted that the site is located within the Foreshore Scenic Protection Area, however, there are no changes proposed to building height and only minor cosmetic shopfront restoration works (painting) and signage installation.

#### 6.1.1. Clause 5.10 - Heritage conservation

The proposal was reviewed by Councils Heritage Planner, the complete assessment comments can be seen in the referrals section 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 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 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 assessment below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal should 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 centrally located in close proximity 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 'Matters for Consideration'	Comments
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions relating to this development were received during the notification period.
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

That the application for the Change of use to a Food and Drink premises, internal commercial fit-out and associated business signage (Local Heritage Item) 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 local centre zone in that:
  - The business will serve the needs of the people who live, work or visit the area.
  - The proposal will result in investment which generates employment opportunities and economic growth.
  - The proposal results in a food and drink premises on the ground floor
  - The proposal results in a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the community.
  - The proposal is considered to minimise any negative impacts and will protect the amenity of residents in the zone as well as in the adjoining and nearby residential zones.
  - The proposal contributes to facilitating a safe public domain.
  - The proposal supports a diverse, safe and inclusive day and night-time economy.
- 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 design and planning outcome for the site will establish a positive precedent in the area.
- The development enhances the visual quality of the public domain/streetscape.
- The proposed development will make a positive contribution to the commercial centre.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Heritage planner

##### **Background**

- Significant internal alterations for change of use from a restaurant to bank in 2014.

##### **Proposal**

- Alterations to change the use of the existing shop, previously used as a bank to café/yogurt shop with internal fitout work and changes to the existing shopfront and external signage.

##### **Submission**

- D05224010 - \*Full Set - Architectural Drawings
- D05224004 - HIS

##### **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 2023 provided Objectives and Controls in relation to heritage properties.

#### 1.2. Environmental Health

##### **Background**

Development Application to change the land use of the Ground Floor level tenancy known as Shop 235 located at 212 Arden Street, Coogee, NSW, 2034 (also registered as 9 Vicar Street, Coogee, NSW, 2034) on Lot 1/-/DP872553 from a former "Bank" (Westpack) to a "Food and Drinks Premises" (Yo-Chi Frozen Yogurt Store).

##### **Capacity**

Total of 123.82m<sup>2</sup> GFA with a maximum capacity for up to twenty (20) patrons at any one time while operating with a maximum of six (6) staff members.

##### **Proposed hours of operation**

Hours of operation to be 9:00am to 11:00pm, Monday to Sunday including all bank and public holidays.

Planners to consider a trial period for late night operation.

##### **Deliveries**

Deliveries to be facilitated in the mornings outside of the proposed hours of operation.

It is recommended deliveries are restricted to 7.00am – 10.00pm.

##### **Food fit out plans**

Food fit out plans are deemed to be satisfactory and can be controlled by the standard conditions of consent for a food shop.

All recommended conditions have been included in the conditions of approval.

### **1.3. Building Regulation**

An email from Karl Gray (Acting Manager – Health Building and Regulatory Services) was received on 30 April 2024 confirming that the conditions included in the report satisfy the requirements from a building regulation perspective.

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## Appendix 2: DCP Compliance

Because the subject proposal relates to internal works within an existing established commercial tenancy, the proposal is considered as a change of use and therefore, the broader site planning controls have not been reconsidered.

The relevant provisions of the DCP are addressed below.

### Section D13 – Late Night Trading

Part D13 of the RDCP 2013 provides objectives and controls that are applicable to late night trading premises in Randwick Local Government Area (LGA).

*Part D13 of the RDCP contains the following policy objectives for late night trading:*

- *To protect neighbourhood amenity and property, particularly residential land uses.*
- *To minimise opportunities for anti-social behaviour and crime, through the responsible management of late-night trading premises and their surrounding environment.*
- *To enable local economies that provide for the community's diverse cultural, social and retail needs.*
- *To deliver certainty to applicants, operators and the local community about the planning requirements with regard to late night trading premises.*
- *To ensure a consistent approach in the assessment of DAs for late night trading premises.*

### Section 1.3 – Application

Part D13 of the RDCP 2013 applies to the proposed trading hours outside the recommended hours of operation for late night trading premises in the B2 Local Centre zone (amended as E1 – Local Centre Zone). The proposed unlicensed premise falls within the definition because of the change of use and extended trading hours. The proposed hours of operation are:

- 09:00 am until 11:00 pm - Monday to Sunday (including all bank and public holidays)

The immediate surrounding context of the site is predominantly commercial in nature with interspersed high density residential dwellings distanced from the proposal site or isolated due to the configuration of the built form regarding onsite dwellings above the proposal.

Councils Environmental Health team reviewed the proposal and provided conditions allowing a one-year trial period for late night operation. The trial period is for the period between 10pm and 11pm for a period of 12 months from the issue of an occupation certificate (see condition 8).

### Section B2 – Heritage

Councils Heritage Planner reviewed the proposal and supports the application from a heritage perspective. A detailed assessment can be seen in the referrals section of this report. The proposal is not considered to include demolition of a Heritage fabric with the commercial portion of the development heavily modified by the previous site use. As stated in the SEE, the proposal is considered to compliment and retain the original characteristics of the built form, including the original features of the upper-level façade.

### Section B6 – Recycling and Waste Management

A waste management plan has been submitted outlining that materials will be stored and removed from site in accordance with the existing arrangements for the commercial component. Further detail for recycling and waste processing will be secured via a standard condition of consent to the satisfaction of the principal certifying authority in accordance with Council's policies. Additionally, there is not an intensification of operations at the premises.

### Section B7 – Transport, Traffic, Parking and Access

Comments from Council's Development Engineer stated that the site is in the main Coogee Bay Road Precinct and fronts Coogee Bay Road. Additional parking cannot be provided and is not considered necessary.

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**Responsible officer:** Joseph Edmonds, Environmental Planning Officer

**File Reference:** DA/122/2024

Development Consent Conditions  
(Commercial)



Folder /DA No:	DA/122/2024
Property:	212 Arden Street, COOGEE NSW 2034
Proposal:	Change of use to a Food and Drink premises, internal commercial fit-out and associated business signage (Local 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>
Site Plan and Waste Management – Sheet A01 – Revision A	Yo-Chi	06/02/2024	27 February 2024
Proposed Floor Plan – Sheet A03 – Revision A	Yo-Chi	06/02/2024	27 February 2024
Proposed Elevation and Section – Sheet A05 – Revision A	Yo-Chi	06/02/2024	27 February 2024

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. **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.

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Condition	
	<p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
3.	<p><b>External Colours, Materials &amp; Finishes</b></p> <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> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
4.	<p><b>Section 7.12 Development Contributions</b></p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$449,900.00 the following applicable monetary levy must be paid to Council: \$4,499.00.</p> <p>The levy must be paid in <b>cash, bank cheque</b> or by <b>credit card</b> 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 <b>9093 6000</b> or <b>1300 722 542</b> 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><b>IDC</b> = the indexed development cost</p> <p><b>ODC</b> = the original development cost determined by the Council</p> <p><b>CP2</b> = 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><b>CP1</b> = 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 <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a>.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
5.	<p><b>Long Service Levy Payments</b></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>
6.	<p><b>Security Deposits</b></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</p>

Condition
<p>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"> <li>• \$5,000.00 - Damage / Civil Works Security Deposit</li> </ul> <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/builders 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>7. <b>Sydney Water</b></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"> <li>• Building plan approvals</li> <li>• Connection and disconnection approvals</li> <li>• Diagrams</li> <li>• Trade waste approvals</li> <li>• Pressure information</li> <li>• Water meter installations</li> <li>• Pressure boosting and pump approvals</li> <li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li> </ul> <p>Sydney Water's Tap in™ in online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></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>
<p>8. <b>Building Code of Australia</b></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>

Condition	
	<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><b>Building Code of Australia</b></p> <p>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 development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
10.	<p><b>Design, Construction &amp; Fit-out of Food Premises</b></p> <p>In accordance with section 80 A (11) of the <i>Environmental Planning &amp; Assessment Act 1979</i> and clause 98 of the <i>Environmental Planning &amp; Assessment Regulation 2000</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 of Australia (NCC).</p> <p>Condition Reason: Prescribed condition from the Environmental Health Referral to ensure compliance with NCC.</p>
11.	<p><b>Design, Construction &amp; Fit-out of Food Premises</b></p> <p>The premises is to be designed and constructed in accordance with the <i>Food Act 2003</i>, <i>Food Regulation 2015</i>, Australia &amp; New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.</p> <p>Condition Reason: To ensure the premises is designed and constructed in accordance with relevant Acts, Regulations and Standards.</p>
12.	<p><b>Design, Construction &amp; Fit-out of Food Premises</b></p> <p>The design and construction of the food premises must comply with the following requirements, as applicable:-</p> <ol style="list-style-type: none"> <li>The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non-slip and nonabrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.</li> <li>Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface. <p>The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.</p> </li> <li>Walls where not tiled are to be cement rendered or be of rigid</li> </ol>

	Condition
	smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.
d)	The ceilings of kitchens, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non-absorbent material (i.e. fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material), with a light coloured washable paint finish. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas.
e)	All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
f)	Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.
g)	Fly screens and doors with self-closing devices, are to be provided to all external door and window openings and an electronic insect control device/s are to be provided in suitable locations within the food premises.
h)	Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.
i)	Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
j)	All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
k)	Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).

Condition Reason: Conditions imposed to ensure compliance with Food, Health and Safety Standards.

**Liquid Trade Waste**

Liquid trade waste materials are to be drained to the sewer (via a suitable grease trap) and details of compliance are to be submitted to the Certifying Authority.

13.

Condition Reason: To ensure trade waste is drained to the sewer and not the stormwater system in addition to an appropriate grease trap.

## BEFORE BUILDING WORK COMMENCES

	Condition
14.	<p><b>Building Certification &amp; Associated Requirements</b></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"> <li>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>.</li> </ol> <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"> <li>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</li> <li>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</li> <li>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</li> <li>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</li> </ol> <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>
15.	<p><b>Dilapidation Reports</b></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>
16.	<p><b>Construction Site Management Plan</b></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"> <li>• location and construction of protective site fencing and hoardings</li> <li>• location of site storage areas, sheds, plant &amp; equipment</li> </ul>

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**Condition**

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- 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.

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

17. **Public Liability**

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.

Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.

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**DURING BUILDING WORK**

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**Condition**

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18. **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.

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### Condition

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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"> <li>Monday to Friday - 7.00am to 5.00pm</li> <li>Saturday - 8.00am to 5.00pm</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 3.00pm</li> <li>(maximum)</li> <li>Saturday - No work permitted</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> <li>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

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

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

20. **Noise & Vibration**

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

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

21. **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:

- (a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
- (b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- (c) All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality

Condition
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materials or steel reinforcement mesh as fencing is not permissible.

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

**22. 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.

**23. 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:

- i) 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.
- ii) 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.
- iii) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- iv) 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.
- v) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

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	<p>vi) 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>vii) 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>viii) 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>ix) 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>
24.	<p><b>Building Encroachments</b></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>

#### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
25.	<p><b>Occupation Certificate Requirements</b></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>
26.	<p><b>Post-construction Dilapidation Report</b></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> <p>(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</p> <p>(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>

	Condition
	<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>
27.	<p><b>Structural Certification</b></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>
28.	<p><b>Sydney Water Certification</b></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 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <i>Water Servicing Coordinator</i> 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 building, driveway or landscape design.</p> <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>
29.	<p><b>Noise Control Requirements &amp; Certification</b></p> <p>A report or statement prepared by a suitably qualified and experienced person must be provided to the Principal Certifier and Council, which demonstrates that the noise from the development satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>; Environment Protection Authority Noise Policy for Industry and the conditions of this development consent.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
30.	<p><b>Waste Management</b></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>
31.	<p><b>Food Premises - Inspection</b></p> <p>The food premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.</p> <p>Condition Reason: To ensure compliance with food safety standards.</p>

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OCCUPATION AND ONGOING USE	
Condition	
32.	<p><b>Operational Hours</b></p> <p>The hours of operation of business and commercial premises are restricted to the following:-</p> <p>The hours of operation must be restricted to between 9.00am and 10.00pm Monday to Sunday.</p> <p>Notwithstanding with the above, the use may operate between 10.00pm and 11.00pm for a trial period of 12 months from the date of the issue of the Occupation Certificate. Council's Health, Building and Regulatory Services is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to <a href="mailto:Council@randwick.nsw.gov.au">Council@randwick.nsw.gov.au</a>.</p> <p>Should the operator seek to continue the extended operating hours outlined above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received, and any views expressed by the Police.</p> <p>Condition Reason: To ensure that the approved use is operated within the approved hours of operation, to ensure safety and security and protect the amenity of surrounding areas.</p>
33.	<p><b>Maximum Capacity</b></p> <p>The maximum occupancy capacity (including staff and patrons) is restricted to 26 persons, comprising of 20 patrons and 6 staff members.</p> <p>Condition Reason: to maintain appropriate amenity of the shop.</p>
34.	<p><b>Food Storage</b></p> <p>All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.</p> <p>Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.</p> <p>Condition Reason: to ensure appropriate food preparation, cooking, display and storage.</p>
35.	<p><b>Food Safety Requirements</b></p> <p>The food premises must be Registered with Council's Health, Building &amp; Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.</p> <p>Condition Reason: to ensure compliance with food safety standards.</p>
36.	<p><b>Food Safety Requirements</b></p> <p>A Food Safety Supervisor must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the Food Act 2003, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.</p> <p>Condition Reason: to ensure compliance with the Food Act 2003.</p>

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37.	<p><b>Food Safety Requirements</b></p> <p>A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.</p> <p>A digital probe type thermometer must also be readily available to check the temperature of food items.</p> <p>Condition Reason: to ensure that food safety can be appropriately measured.</p>
38.	<p><b>Food Safety Requirements</b></p> <p>All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60°C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more than 5°C and keep this food cold at or below that temperature.</p> <p>Condition Reason: Requirements for the temperatures of food storage for food safety.</p>
39.	<p><b>Food Safety Requirements</b></p> <p>Food safety practices and the operation of the food premises must be in accordance with the Food Act 2003, Food Regulation 2015, Food Standards Code and Food Safety Standards at all times, including the requirements and provisions relating to:</p> <ul style="list-style-type: none"> <li>• Food handling – skills, knowledge and controls.</li> <li>• Health and hygiene requirements.</li> <li>• Requirements for food handlers and businesses.</li> <li>• Cleaning, sanitising and maintenance.</li> <li>• Design and construction of food premises, fixtures, fitting and equipment.</li> </ul> <p>The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.</p> <p>Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices</p> <p>Condition Reason: to ensure compliance with the Food Act 2003.</p>
40.	<p><b>Food Safety Requirements</b></p> <p>The food premises must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation &amp; exhaust systems &amp; ducting, storage areas, toilet facilities, basins and sinks.</p> <p>Condition Reason: to ensure adequate cleanliness of the premises.</p>
41.	<p><b>Environmental Amenity</b></p> <p>There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.</p> <p>Condition Reason: to maintain surrounding amenity.</p>
42.	<p><b>Environmental Amenity</b></p> <p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the</p>

	Condition
	Environment Operations Act 1997 and Regulations. Condition Reason: to maintain surrounding amenity.
43.	<p><b>No Cooking permitted – No Mechanical Ventilation Installed</b></p> <p>Cooking must not commence until an air handling system, which complies with the requirements of Part F4.12 of the Building Code Australia and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings is approved, installed and operational.</p> <p>Cooking is defined as the process of changing any food from raw to cooked by applying heat, and also includes the preparation of food using heat.</p> <p>Use of a microwave, a sandwich press, a toaster or similar is permitted in accordance with the exemptions contained within AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings.</p> <p>The use of such equipment must not generate heated air, smoke, fumes, steam or grease vapours that is deemed by an enforcement and/or authorised officer of Council to be:</p> <ul style="list-style-type: none"> <li>i) Causing a nuisance to persons within or nearby the premises and/or building;</li> <li>ii) Causing air pollution as defined under the Protection of the Environment Operations Act 1997 or,</li> <li>iii) Not effectively removed from the food premises in accordance with the requirements of the Australia New Zealand Food Standards Code.</li> </ul> <p>Condition Reason: to ensure no cooking occurs without first seeking approval</p>
44.	<p><b>Fire Safety Statement</b></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 &amp; 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>
45.	<p><b>Waste Management</b></p> <p>Adequate provisions are to be made within the confines of the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations.</p> <p>The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.</p> <p>A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.</p> <p>Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.</p>

Condition	
	Condition Reason: to ensure the ongoing provision of appropriate waste storage.
46.	<p><b>Waste Management</b></p> <p>Trade/commercial waste materials must not be disposed via 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 the Council prior to commencing operation of the business.</p> <p>Condition Reason: to ensure that waste is disposed of by the appropriate authority.</p>
47.	<p><b>Sanitary Facilities</b></p> <p>Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be provided for staff and be maintained in a clean and sanitary condition at all times.</p> <p>Condition Reason: ensure appropriate sanitary facilities for staff.</p>
48.	<p><b>Regulatory Requirements</b></p> <p>The primary purpose of the premises is for the provision of food and the premises must not to be used principally, for the sale, supply and consumption of alcohol.</p> <p>The written approval of Council and a relevant Liquor Licence under the (Liquor Act 2007) must be obtained beforehand for any proposed sale, supply and consumption of alcohol on the premises.</p> <p>Condition Reason: To ensure alcohol is not consumed or sold at the premises without the appropriate approval.</p>
49.	<p><b>No outdoor speakers/music</b></p> <p>Speakers and/or noise amplification equipment must not be installed or played in any outdoor areas or directed towards outdoor areas.</p> <p>Condition Reason: to maintain surrounding amenity.</p>
50.	<p><b>Noise from commercial plant</b></p> <p>Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or in accordance with relevant requirements of the NSW EPA Noise Policy for Industry 2017 (NPfI).</p> <p>Note: The stricter of the amenity/intrusiveness criteria becomes the prevailing criteria for the development.</p> <p>An LAeq,15 minute noise level emitted from the development must not exceed the LA90, 15 minute background noise level (measured in the absence of the noise source/s under consideration) by more than 5dB when assessed at the boundary of any affected premises.</p> <p>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>Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.</p> <p>Condition Reason: to maintain surrounding amenity.</p>
51.	<p><b>Offensive noise</b></p> <p>Noise from the development must not cause an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.</p> <p>If "offensive noise" complaints are substantiated by an authorised officer under the</p>

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Condition	
	<p>Protection of the Environment Operations Act, 1997 an acoustic report must be submitted and approved by the Planning Manager of Randwick City Council. The submitted acoustic report must be prepared by a suitably qualified acoustic consultant and include appropriate noise mitigation measure that will be required to allow the premises to cease causing "offensive noise" during their permitted use.</p> <p>Note: A Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member.</p> <p>Condition Reason: provision of a complaints pathway and requirements if offensive noise is reported.</p>
52.	<p><b>Delivery Vehicles</b></p> <p>Deliveries associated with the site that involve the movement of vehicles, must only occur between the hours of 07.00am and 10.00pm.</p> <p>Condition Reason: to maintain surrounding amenity.</p>

### DEMOLITION WORK: BEFORE DEMOLITION WORK COMMENCES

Condition	
53.	<p><b>Demolition Work</b></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"> <li>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.</li> <li>The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> <li>The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>Details of hazardous materials in the building (including materials containing asbestos)</li> <li>Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> <li>Measures to be implemented to minimise any airborne dust and asbestos</li> <li>Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>Other measures to be implemented to ensure public health and safety</li> <li>Date the demolition works will commence/finish.</li> </ul> </li> </ol> <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</i></p>

Condition
<p><i>obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; 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
<p>54. <b>Demolition Work and Removal of Asbestos Materials</b></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"> <li>• A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li> <li>• Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations</li> <li>• A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li> <li>• Council is to be given at least two days written notice of demolition works involving materials containing asbestos,</li> <li>• Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,</li> <li>• 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,</li> <li>• Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.</li> </ul> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.</p>



## Development Application Report No. D42/24

**Subject:** 16/912 Anzac Parade, Maroubra (DA/852/2023)

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### Executive Summary

<b>Proposal:</b>	Alterations to a unit (Unit 16) of an existing residential flat building including enclosure of northern terrace to create two (2) sunrooms and decking and replacement of external spiral stairs
<b>Ward:</b>	Central Ward
<b>Applicant:</b>	Mr M Henderson
<b>Owner:</b>	Mr M Henderson
<b>Cost of works:</b>	\$40,000.00
<b>Reason for referral:</b>	The landowner is a member of council planning staff.

### 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. 852/2023 for Alterations to a unit (Unit 16) of an existing residential flat building including enclosure of northern terrace to create two (2) sunrooms, installation of a new pergola and decking and replacement of external spiral stairs, at Unit 16, No. 912 Anzac Parade, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

-  Development Consent Conditions - DA/852/2023 - 16/912 Anzac Parade, Maroubra

D42/24

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## 1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) because the applicant/landowner is a relative of a Council staff.

The proposal seeks development consent for alterations and additions to Unit 16, on levels 5 and 6 of the existing residential flat building which includes the following:

- Enclosure of the terrace area adjoining the bedrooms to the northern elevation to create two separate sunrooms on level 5.
- Replacement of the spiral staircase leading from level 5 to the rooftop terrace.
- Demolition of the existing storage room on the rooftop terrace (level 6) and replacement with a toilet and storage room.

The key issue with the proposal the fact that approval is being sought retrospectively of works already completed on the site.

The proposal is recommended for approval subject to non-standard conditions ensuring the additions cannot be enclosed unless subject to a separate development application approval and a construction certificate is issued.

## 2. Site Description and Locality

The subject site is known as Unit 16 at 912 Anzac Parade, Maroubra and is legally described as Lot 16 in SP 79777. The total site is 698m<sup>2</sup> and is an irregular shape with access from Anzac Parade to the west and Garden Lane to the north. The site has a 5.195m frontage to Anzac Parade to the west and a 23.47m frontage to Garden Lane to the north. The site contains a commercial unit fronting Anzac Parade (Crust Pizzeria approved under DA322/2008), fifteen (15) residential units and two (2) basement parking levels.

The site is relatively level with a mild slope down from the eastern side of the site to Anzac Parade.



**Figure 1:** View of the site residential apartments from Garden Lane north of the site



**Figure 2:** View from the ground floor to the sunroom additions on level 5 from Garden Lane directly north of the site.



**Figure 3:** Metal spiral staircase from the northern balcony on level 5 to the rooftop terrace.

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**Figure 4:** Northwest view of the top of the spiral staircase and residential flat buildings north to northwest of the site.



**Figure 5:** Northeast view from the top landing of the spiral staircase

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**Figure 6:** Roof and skylight enclosure of the former terrace to sunrooms



**Figure 7:** Rooftop terrace level decking, terrace roof and new toilet/storage room (on right hand side of photo).



**Figure 8:** Northeast view from the rooftop terrace.



**Figure 9:** South view from the rooftop terrace.



**Figure 10:** The southern elevation of the building showing the rooftop terrace as viewed from Byng Lane, approximately 30m southeast of the site.

### 3. Relevant history

A review of the Council's records provides the following site history as listed below:

- **DA/132/2007:** Approval for 'Addition of new 2nd floor to approved mixed commercial/residential development (DA398/2004) containing a 2 bedroom residential unit with a terrace to front & balcony to rear.'
- **DA/283/2007:** Approval for 'Additional information received including strata development contract Staged Strata Subdivision of mixed use development into 20 allotments'
- **DA/132/2007/A:** Approved for 'Modification of approved development by alteration to stairwell windows to opaque glass, internal alterations, change balustrades to masonry, delete sky lights, remove external door, construct garbage storage area, raise finish floor level and install mechanical ventilation riser.'
- **CC/278/2007:** Private certifier construction certificate for 'Erection of residential storey on single storey commercial building.'
- **DA/132/2007/B:** Modification of approval for 'Increase the floor level inside the ground floor shop, relocate the front entry door and alter disabled access ramps; Original proposal: Addition of new 2nd floor to approved mixed commercial/residential development (DA398/2004) containing a 2 bedroom residential unit with a terrace to front & balcony to rear'.
- **DA/245/2003/B:** modification of approved development by provision of roof parapet, correction of levels on plans, alteration to ceiling heights, deletion of exterior screens,

*internal amendments, substitution of glass blocks with windows, alteration to third floor decks and to exterior on southern elevation.*

**Note:** Although the Council's online records do not show the original approval, the modification consent notice of determination states the original approval as *'Demolish existing industrial building at rear of site and erect three storey with mezzanine mixed development of 2 x studio, 3x1 & 4x2 bedroom units with basement parking for 16 cars and strata subdivision.'*

- **DA/245/2003/C:** Approved modification to *'Delete Condition No. 66 and modify Condition No's. 64, 71 & 74 Original Proposal - Demolish existing industrial building at rear of site and erect three storey with mezzanine mixed development of 2xstudio, 3x1 & 4x2 bedroom units with basement parking for 16 cars and strata subdivision'*.
- **CC/456/2007:** Private Certifier issues construction certificate for *'Addition of new 2nd floor to approved mixed commercial/residential development (DA398/2004) containing a 2 bedroom residential unit with a terrace to front & balcony to rear.'*
- **DA/322/2008:** approval for *'use of shop as Pizzeria including internal fitout and modification to shopfront and new signage. Hours of operation are 12noon to 11pm Monday to Sunday'*
- **DA/245/2003/D:** Modification application for changes to the balconies and balustrades was refused by the Council
- **DA/396/2010:** Approval for *'Construction of trafficable roof terraces on top of existing building with planter boxes, screen fencing and access stairs'*. The roof terraces were approved by this application for units 16 (the subject site) and 17.
- **DA/407/2011:** Approval for the construction of sun rooms, on the external terraces of units 16 and 17.
- **CC/557/2011:** Private certifier issued construction certificate for *'Construction of trafficable roof terraces on top of existing building with planter boxes, screen fencing and access stairs.'*
- **DA/610/2023:** Application was refused seek the *'Construction of enclosure to existing balconies on level 5 and upper level additions on the roof top terrace for Units 16 & 17'*

The Statement of Environmental Effects submitted with the application states the application seeks retrospective approval for works that were undertaken by a previous owner of the unit with an estimated time of 12 years ago. This approximate timeframe of unauthorised works is consistent with historic street-view imagery which shows the terraces prior to their enclosure when comparing Figures 1 and 2 to Figure 11 below.

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**Figure 11:** West view from street level to the previous rooftop terrace on Unit 16 in June 2013 outlined in red (Source: Google Streetview Dated June 2013).

The subject application was lodged to the Council on 23 October 2023. The application was notified from 30 October 2023 to 13 November 2023 in which no submissions were received.

The application was referred to the Council's Building Regulatory team who requested additional information via email on 21 December 2023 which raised the following concerns/questions:

- Clarification if the flooring of the deck on the rooftop terrace complies with the fire hazard properties of the materials and assemblies in the building in accordance C2D11 listed as CRA (Compliance Readily Achievable) and Schedule 7 (fire hazard properties).
- Error in the Certificate of Compliance for the spiral staircase.
- Additional information to address the following NCC/BCA requirements:
  - Barriers to prevent falls – Clause D3D17;
  - Height of barriers – Clause D3D18;
  - Openings in barriers – Clause D3D19;
  - Barrier climb ability – Clause D3D20;
  - Protection of openable windows – Clause D3D29;
  - Wet areas construction – Clause F2D2;
  - Sarking type roof barrier – Clause F3D3;
  - Floor waste in the powder room – Clause F2D4;
  - Construction of sanitary compartments – Clause F4D8;

Additional information was submitted by the applicant on 7 February 2024 which included the following:

- Updated BCA Report;
- Decking test report;
- Decking Australia standard testing results;
- Decking report;
- Sarking material data sheet;

- Window safety devices installation information (within the Annual General Meeting for owners in Strata Plan 79777);
- Spiral Staircase Installation certificates; and
- Spiral Staircase formal accreditation.

The additional information was re-referred to the Council's Building Regulatory team who requested additional information on 18 March 2024 to provide a performance solution for the timber deck to ensure its compliance with NCC 2022. A Fire Engineering report in relation to the performance solution was provided to the Council on 3 April 2024 and was considered to address the NCC requirements for the rooftop deck. The building regulatory team does not raise any objections following review of the additional information, subject to a recommended condition of consent as discussed in Appendix 1.

As the additional information requested has been considered to be sufficiently addressed and the proposal does not impact upon adjoining amenity, a recommendation has been made for approval subject to conditions of consent.

#### 4. Proposal

The proposal seeks development consent for alterations and additions to unit 16 which consist of the following:

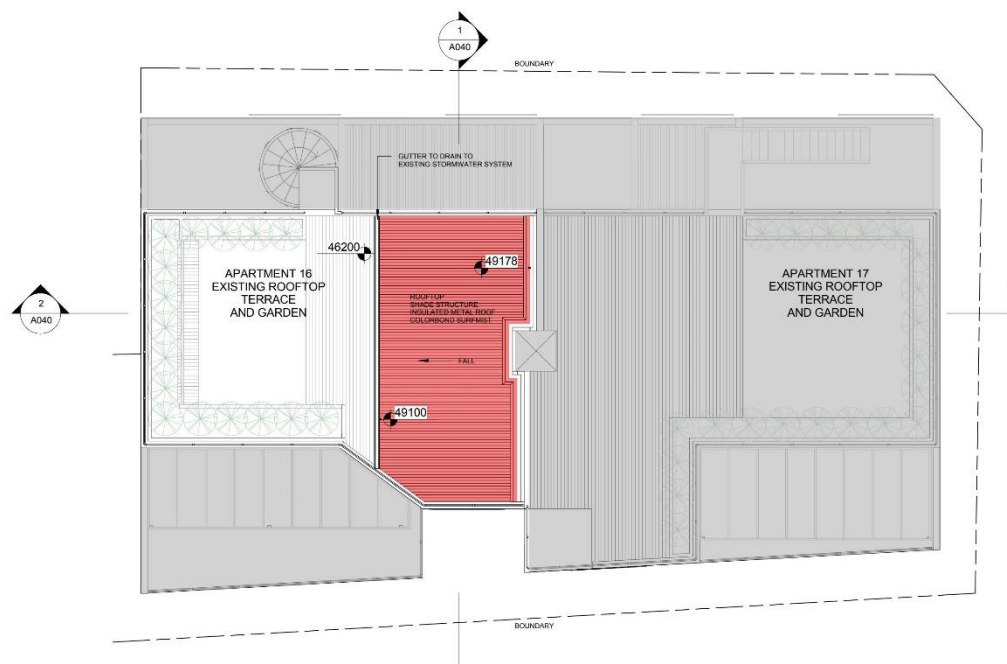
##### Unit 16 on level 5:

- Enclosure of part of the north-facing terrace to create two (2) sunrooms accessed from the existing bedrooms; and
- Replacement of stairs and landing for a metal spiral staircase and landing from the level.

##### Rooftop level:

- Timber decking;
- Metal roofing and structural columns on the eastern part of the decking; and
- Alteration to the rooftop storage to provide a toilet with a storage area.

Figures 12 to 16 illustrate the proposed development – noting that the building works have been completed and consent is sought for the unauthorised works.



**Figure 12: Roof Plan**

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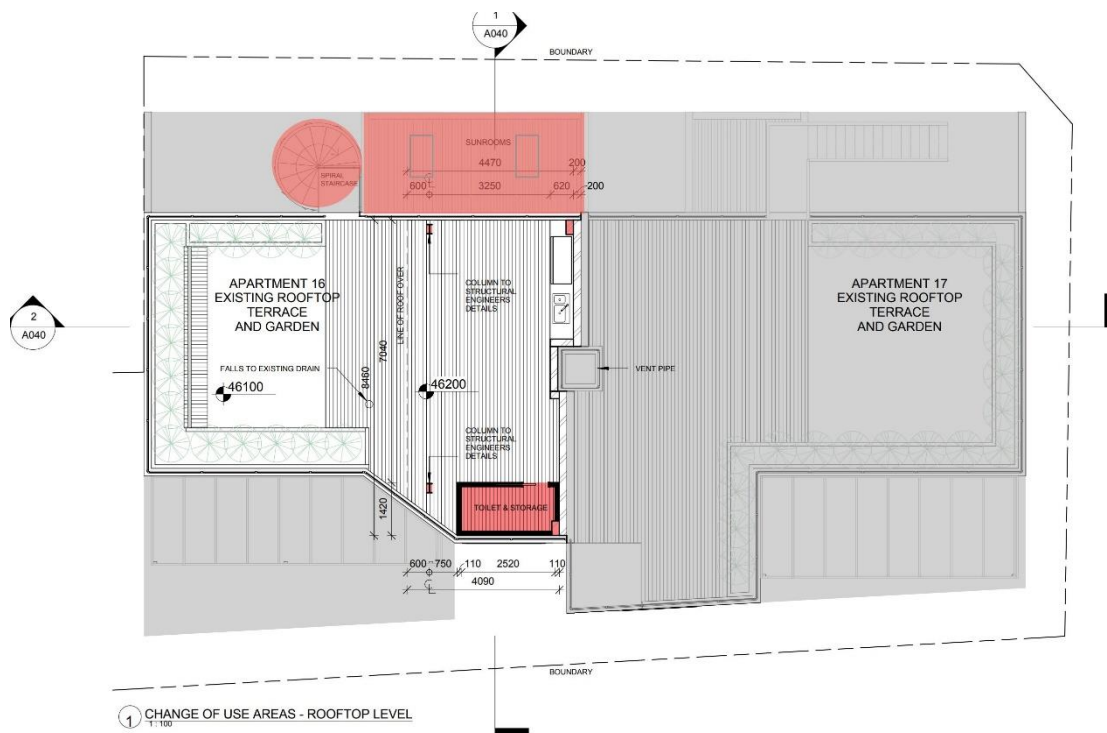


Figure 13: Rooftop Floor Plan



Figure 14: North and East Elevations

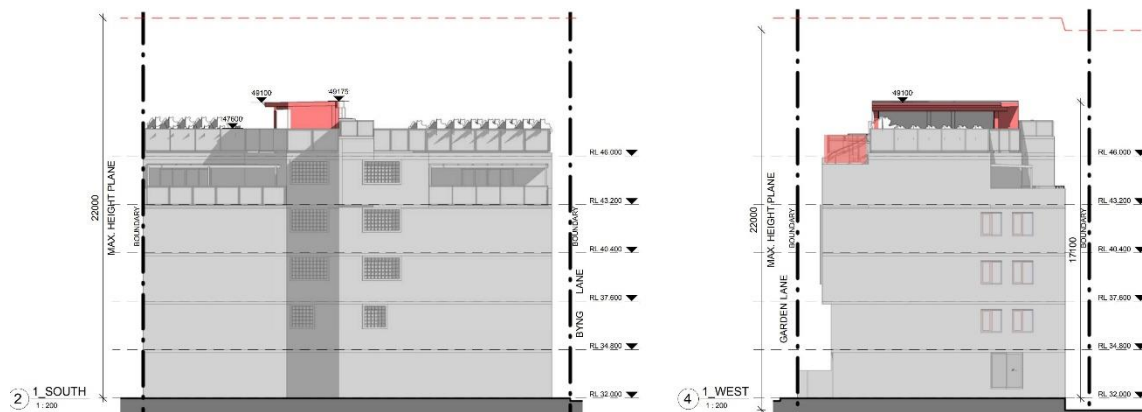


Figure 15: South and West Elevations



**Figure 16: Sections  
Notification**

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy from 30 October 2023 to 13 November 2023. During this time no submissions were received.

## 5. Relevant Environment Planning Instruments

### 5.1. State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Developments

On 14 December 2023, the NSW government consolidated the provisions of SEPP 65 into chapter 4 of the SEPP (Housing) 2021. As this proposal was lodged to the Council on 23 October 2023, the proposal has been considered under the provisions of SEPP 65 are applicable to this proposal.

The [State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development](#) (SEPP 65) aims to promote quality design of Residential Flat Buildings. Section 4 (1) of SEPP 65 gives provisions as for what development is subject to SEPP 65, as copied below:

- ‘(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if—*
- (a) the development consists of any of the following—*
    - (i) the erection of a new building,*
    - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
    - (iii) the conversion of an existing building, and*
  - (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
  - (c) the building concerned contains at least 4 or more dwellings.’*

As the proposal does not involve the construction of a new residential flat building, conversion of a building into an RFB, and involves alterations are constructed to only a small section of only one unit (a GFA increase of 14.77m<sup>2</sup> to a total 95.09m<sup>2</sup>). Therefore, the proposal is not considered a substantial redevelopment of the existing building and SEPP 65 is not considered to apply in this particular proposal.

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

- (a) the advice (if any) obtained from the design review panel, and
  - (b) the design quality of the development when evaluated in accordance with the design quality principles, and
  - (c) the Apartment Design Guide.
- Consistency with the new SEPP (Housing) 2021

Chapter 4 – Design of Residential Apartment Development, section 144 (3) of the Housing SEPP gives provisions for when Chapter 4 of the SEPP applies as copied below:

- ‘(3) This chapter applies to development only if—*
- (a) the development consists of—*
    - (i) the erection of a new building, or*
    - (ii) the substantial redevelopment or substantial refurbishment of an existing building, or*
    - (iii) the conversion of an existing building, and*
  - (b) the building is at least 3 storeys, not including underground car parking storeys, and*
  - (c) the building contains at least 4 dwellings.’*

As the proposal does not involve the construction of a new residential flat building, conversion of a building into an RFB, and involves alterations constructed to only a small section of only one unit, the proposal is not a substantial redevelopment of the existing building. Therefore, Chapter 4 of the Housing SEP (formerly SEPP 65) does not apply to this application.

#### 5.1.1. *Design Excellence Panel (DEP)*

The Design Excellence Panel functions as design review panel for the purposes of SEPP 65. Due to the minor nature of the proposal, the application was not referred to the Design Excellence Panel.

#### 5.1.2. *Design quality principles*

As the proposal is not considered a substantial redevelopment or refurbishment, the proposal was not referred to the Design Excellence Panel for comment. However, the proposed alterations to unit 16 are still considered consistent with the nine quality design principles as discussed below:

#### **1. Context and neighbourhood character**

Planners’ comments: The proposed alterations are notably similar in presentation to Garden Lane as the north facing room and windows of unit 17. The enclosure of the terrace into sunrooms therefore enhance the near symmetrical appearance of level 5 of the existing building.

#### **2. Built form and scale**

Planners’ comments: The proposal increases the GFA of unit 16 on level 5 by 14.77m<sup>2</sup> from 80.32m<sup>2</sup> to 95.09m<sup>2</sup>. The roof level decking and rooftop cover is recessed within the existing building envelope and therefore does not result in a perceived increase in visual bulk when viewed from Anzac Parade or Garden Lane. The nearest views of the rooftop additions are notably a considerable distance south of the site as shown in Figure 10.

#### **3. Density**

Planners’ comments: The proposed additions relate to sunrooms and rooftop level recreational area, and a change in the number of bedrooms is not proposed. Therefore, the proposed alterations and additions do not change the density of unit 16.

#### **4. Sustainability**

Planners’ comments: The proposed sunrooms and skylights allow for natural lighting and ventilation to the bedrooms, thereby reducing the potential for overreliance on artificial lighting and air conditioning and improving efficiency of unit 16.

#### **5. Landscape**

Planners' comments: No change to landscaping is proposed.

**6. Amenity**

Planners' comments: The proposal enhances the practical use of the rooftop terrace above 16 by providing shade to part of the deck. This allows for more regular use throughout the year that is less affected by over exposure to direct sunlight in summer.

**7. Safety**

Planners' comments: The proposal includes replacement of a spiral staircase which includes certification submitted with this application to confirm the staircase is structurally sound for use to access the roof level.

**8. Housing diversity and social interaction**

Planners' comments: The proposed alterations and additions do not affect the diversity of units in terms of number of rooms or room layout. However, the rooftop additions enhance the use of the roof for passive recreation for residents and guests.

**9. Aesthetics**

Planners' comments: The aesthetics of the sunroom additions are notably similar in dimensions, colours and materials to the northern rooms and windows of unit 16. The metal spiral staircase is notably outside of view from the street level. The roof level additions use similar colour and materials and presents as part of the roof when viewed at a distance from the site (refer to Figure 10).

**5.1.3. Apartment Design Guide**

As the proposal includes enclosure of a portion of the terrace to provide two sunrooms, the proposal increases the apartment floor area from 80.32m<sup>2</sup> to 95.09m<sup>2</sup>. Unit 16 therefore remains compliant with Part 4E of the ADG which requires 2 bedroom units to have a minimum internal floor area of 70m<sup>2</sup>. The north facing terrace/balcony is reduced to 13.25m<sup>2</sup> and remains compliant with the minimum balcony requirements of 10m<sup>2</sup> and minimum 2m depth in part 4E of the ADG. The windows and skylights do not reduce the solar access or cross ventilation through the bedrooms as required in Part 4A and 4B of the ADG. In conclusion, the proposed alterations and additions comply with the requirements of the ADG where applicable.

**5.2. SEPP (Sustainable Buildings) 2022**

The alterations to a BASIX building are below \$ 50,000 and the rooftop structures are not fully enclosed. This application is therefore not a BASIX development under the EP&A Regulation 2021 and does not require a BASIX Certificate in this instance.

**5.3. SEPP (Resilience and Hazards) 2021**

- Chapter 2 – Coastal Management

Chapter 2 of the Resilience and Hazards SEPP aims to manage and control development in the coastal zone. This chapter has established development controls for four (4) coastal management areas, known as:

- Coastal wetland and littoral rainforests area;
- Coastal vulnerability area;
- Coastal environment area;
- Coastal use area.

The subject is not identified by the SEPP mapping to be within any of the coastal zones.

- Chapter 4 - Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 of the SEPP states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation

to be undertaken to make the land suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.

It is not considered that the land is contaminated, as the subject site has a history of residential land use. In addition, the surrounding area does not contain any known contaminating land uses that could impact the site and the Council's records do not indicate a contaminating use on the site. Therefore, as per Chapter 4 of SEPP (Resilience and Hazards), it can be concluded that the subject land is suitable for continued residential use.

#### 5.4. SEPP (Transport and Infrastructure) 2021

- Chapter 2 – Infrastructure

The subject site has a frontage to Anzac Parade which is identified as a state classified road. Chapter 2, Section 2.119(2) requires the Council to be satisfied with the following:

- (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.*

The site as existing has vehicular access from Garden Lane to basement level parking. No change is proposed to the existing access or car parking arrangement. The proposal is limited to alterations to Unit 16 on level 5 and the rooftop level above therefore, the proposal is consistent with Section 2.119 of the SEPP.

#### 5.5. 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 (lodged 23 November 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 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 alterations do not adversely impact on the amenity of residents within the building or on adjoining properties.

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)	N/A	N/A	N/A, Enclosure of terrace to sunrooms increase GFA by 14.77m <sup>2</sup>
CI 4.3: Building height (max)	22m	17.178m	Yes
CI 4.1: Lot Size (min)	N/A	No subdivision proposed	N/A

#### 5.5.1. Clause 4.6 - Exceptions to development standards

There are no variations to development standards proposed with this application.

#### 5.5.2. Clause 5.10 - Heritage conservation

The site is not a heritage item, is not adjoining a heritage item and is not located within a heritage conservation area.

#### 5.5.3. Clause 6.11 – Design Excellence

This clause of the LEP applies as the proposal involves alterations and additions to an existing building that is over 15m in height. Clause 6.11 (4) requires the Council to consider the following:

- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*
- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
  - (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
  - (c) *how the proposed development responds to the environmental and built characteristics of the site and whether it achieves an acceptable relationship with other buildings on the same site and on neighbouring sites,*
  - (d) *whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security, resource, energy and water efficiency, renewable energy sources and urban heat island effect mitigation,*
  - (e) *whether the proposed development detrimentally impacts on view corridors and landmarks.*

The proposal is considered consistent with the matters above for the following reasons:

- The architectural design, materials and detailing are notably similar to alterations on Unit 17 which include a similar enclosing of a terrace area on the northern side to provide sunrooms. The rooftop above the decking proposed is recessed within the building footprint and out of view from Anzac Parade and Garden Lane. The nearest view of the rooftop additions is obtained from further south along Byng Lane.
- The alterations and additions to unit 16 does not impact amenity of the public domain from overshadowing or overlooking.
- The partial enclosure of the terrace and rooftop level cover respond to the site orientation by providing partial shade to the rooftop terrace and sunroom while retaining solar access and cross flow ventilation to the bedrooms.

## 6. Development control plans and policies

### 6.1. 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 development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

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

## 7. 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.
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	No submissions were received for this 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.

### 7.1. Discussion of key issues

#### Unauthorised works

As discussed within the assessment report above, this application seeks the retrospective approval for works on level 5 and the rooftop (level 6) of unit 16. The works were initially brought to the Council's attention from a complaint in March 2023 regarding the works on the roof area with the enclosure of the sunrooms later confirmed to have been constructed without development approval or modification of a prior approval.

Notwithstanding the above, the proposed enclosure of part of the terrace on level 5 to form two (2) sunrooms results in a minor increase in GFA of 14.77m<sup>2</sup> which allows the bedrooms to obtain solar access from the north facing windows and skylights. The sunrooms also allow for natural ventilation from the sunrooms to the bedrooms. The proposed increase in GFA does not include a change in the number of bedrooms or density of the unit, and does not require any change to the existing car parking. The resulting sunrooms are also notably similar in streetscape presentation to the north facing rooms and windows of unit 17 as shown in Figures 1, 2 & 5. Therefore, it has been considered that the proposed formalisation of unauthorised works does not impact the streetscape, visual bulk and scale or affect the amenity of the unit or adjoining residents.

## 8. Conclusion

That the application for 'Alterations to a unit (Unit 16) of an existing residential flat building including enclosure of northern terrace to create two (2) sunrooms and decking and replacement of external spiral stairs' at Unit 16, 912 Anzac Parade, Maroubra be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the E2 Commercial Centre zone of 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 alterations do not impact on the amenity of residents in the zone and the adjoining residential zones.
- The scale and design of the proposal is considered to be suitable for the location and are compatible with the desired future character of the locality.

A non-standard condition of consent has been included as the proposal seeks approval for unauthorised works already constructed.

The rooftop structures on the rooftop terrace of Unit 16 cannot be enclosed or added to without the prior development consent of the Council and issue of a Construction Certificate.

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Regulatory Building

- No objections are raised subject to conditions of consent.
- A condition of consent recommended that the rooftop structure cannot be enclosed or additions to the rooftop structure be constructed without prior development consent and issue of a construction certificate.

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**Appendix 2: DCP Compliance Table****3.1 Section B6: Recycling and Waste Management**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>4.</b>	<b>On-Going Operation</b>		
	(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.	No change to waste storage is proposed	N/A
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	No change to waste storage is proposed	N/A
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	No change to waste storage is proposed	N/A
	(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).	No change to waste storage is proposed	N/A
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	No change to waste storage to Unit 16 is proposed	N/A
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	No change to bin rooms proposed	N/A

**3.2 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>3.</b>	<b>Parking &amp; Service Delivery Requirements</b>		
	Car parking requirements: <ul style="list-style-type: none"> <li>1 space per 2 studios</li> <li>1 space per 1-bedroom unit (over 40m<sup>2</sup>)</li> <li>1.2 spaces per 2-bedroom unit</li> <li>1.5 spaces per 3 or more bedroom unit</li> <li>1 visitor space per 4 dwellings</li> </ul>	No change to parking proposed	N/A, Alterations do not add or remove the number of bedrooms
	Motor cycle requirements: 5% of car parking requirement	No change to parking proposed	N/A, No change to parking proposed
<b>4.</b>	<b>Bicycles</b>		
	Residents:	No change to bike storage	N/A,

	<ul style="list-style-type: none"> <li>1 bike space per 2 units</li> </ul> Visitors: <ul style="list-style-type: none"> <li>1 per 10 units</li> </ul>		No change to number of units proposed
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### 3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>2.</b>	<b>Site Planning</b>		
<b>2.1</b>	<b>Site Layout Options</b>		
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> <li>Two block / courtyard example</li> <li>T-shape example</li> <li>U-shape example</li> <li>Conventional example</li> </ul>	No change to lot/block layout	N/A
<b>2.2</b>	<b>Landscaped open space and deep soil area</b>		
<b>2.2.1</b>	<b>Landscaped open space</b>		
	A minimum of 50% of the site area (399.5m <sup>2</sup> ) is to be landscaped open space.	Works are proposed on level 5 and the rooftop, no change to landscaping is proposed.	N/A
<b>2.2.2</b>	<b>Deep soil area</b>		
	(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.	No change to deep soil area proposed	N/A, Works are within Unit 6 Level 5 and rooftop only
	(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 deep soil area proposed	N/A, Works are within Unit 6 Level 5 and rooftop only
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understory planting.	No change to deep soil area proposed	N/A, Works are within Unit 6 Level 5 and rooftop only
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	No change to deep soil area proposed	N/A, Works are within Unit 6 Level 5 and rooftop only
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	No change to deep soil area proposed	N/A, Works are within Unit 6 Level 5 and rooftop only
<b>2.3</b>	<b>Private and communal open space</b>		
<b>2.3.1</b>	<b>Private open space</b>		
	Private open space is to be: <ul style="list-style-type: none"> <li>(i) Directly accessible from the living area of the dwelling.</li> </ul>	Private open space is provided by two existing terraces (one facing north) and a rooftop terrace to maximise solar access	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.		
	<b>For residential flat buildings:</b> (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 <sup>2</sup> and a minimum dimension of 2m.	The works proposed retain two terraces accessible from the living room/kitchen which are over 8m <sup>2</sup> . The rooftop terrace is calculated at 60m <sup>2</sup>	Yes
<b>2.3.2</b>	<b>Communal open space</b>		
	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 communal open space proposed	N/A
<b>3.</b>	<b>Building Envelope</b>		
<b>3.1</b>	<b>Floor space ratio</b>		
	As per clause 4.4 of RLEP Site is not mapped with a max FSR	N/A	N/A
<b>3.2</b>	<b>Building height</b>		
	Maximum 22m as per clause 4.3 of RLEP	17.178m (49.178m AHD rooftop to 32m ground level)	Yes
<b>3.3</b>	<b>Building depth</b>		
	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.	No change to building depth proposed	Yes
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b>		
	(i) The front setback on the primary and secondary property frontages	The sunroom has a 1.4m setback to Garden Lane	Complies on merit

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>must be consistent with the prevailing setback line along the street.</p> <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>	<p>The setback is consistent with the existing terrace setback and the north facing rooms on Unit 17.</p>	
<b>3.4.2</b>	<b>Side setback</b>		
	<p><b>Residential flat building</b></p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> <li>- 14m ≤ site frontage width &lt; 16m: 2.5m</li> </ul> <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"> <li>- Create articulations to the building facades.</li> <li>- Reserve open space areas and provide opportunities for landscaping.</li> <li>- Provide building separation.</li> <li>- Improve visual amenity and outlook from the development and adjoining residences.</li> <li>- Provide visual and acoustic privacy for the development and the adjoining residences.</li> <li>- Ensure solar access and natural ventilation for the development and the adjoining residences.</li> </ul> <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</p>	<p>No change to the side setback is proposed.</p>	<p>Yes No change proposed</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	capable of complying with the relevant provisions of the BCA.		
<b>3.4.3</b>	<b>Rear setback</b>		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	No change to the rear setback is proposed	N/A
<b>4.</b>	<b>Building Design</b>		
<b>4.1</b>	<b>Building façade</b>		
	<ul style="list-style-type: none"> <li>(i) Buildings must be designed to address all street and laneway frontages.</li> <li>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</li> <li>(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.</li> <li>(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.</li> <li>(vi) Conceal building services and pipes within the balcony slabs.</li> </ul>	<p>The sunrooms on level 5 address Garden Lane.</p> <p>No change to building orientation proposed.</p> <p>The sunroom is articulated through the step in building line and windows.</p> <p>The sunroom does not result in an unrelieved blank wall with divisions resulting from the north facing windows.</p>	Yes
<b>4.2</b>	<b>Roof design</b>		
	<ul style="list-style-type: none"> <li>(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.</li> <li>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</li> <li>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</li> <li>(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.</li> <li>(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.</li> </ul>	<p>The rooftop shading above the deck is recessed within the building and is outside of view from the ground/street level.</p> <p>The rooftop shading responds to the orientation with a low pitch skillion roof to solar access.</p> <p>The rooftop shade above the decking is recessed 2.8m from the northern side setback and does not add visual bulk when view from the street.</p> <p>Skylights and windows are provided for the sunrooms allowing natural lighting and ventilation.</p>	Yes

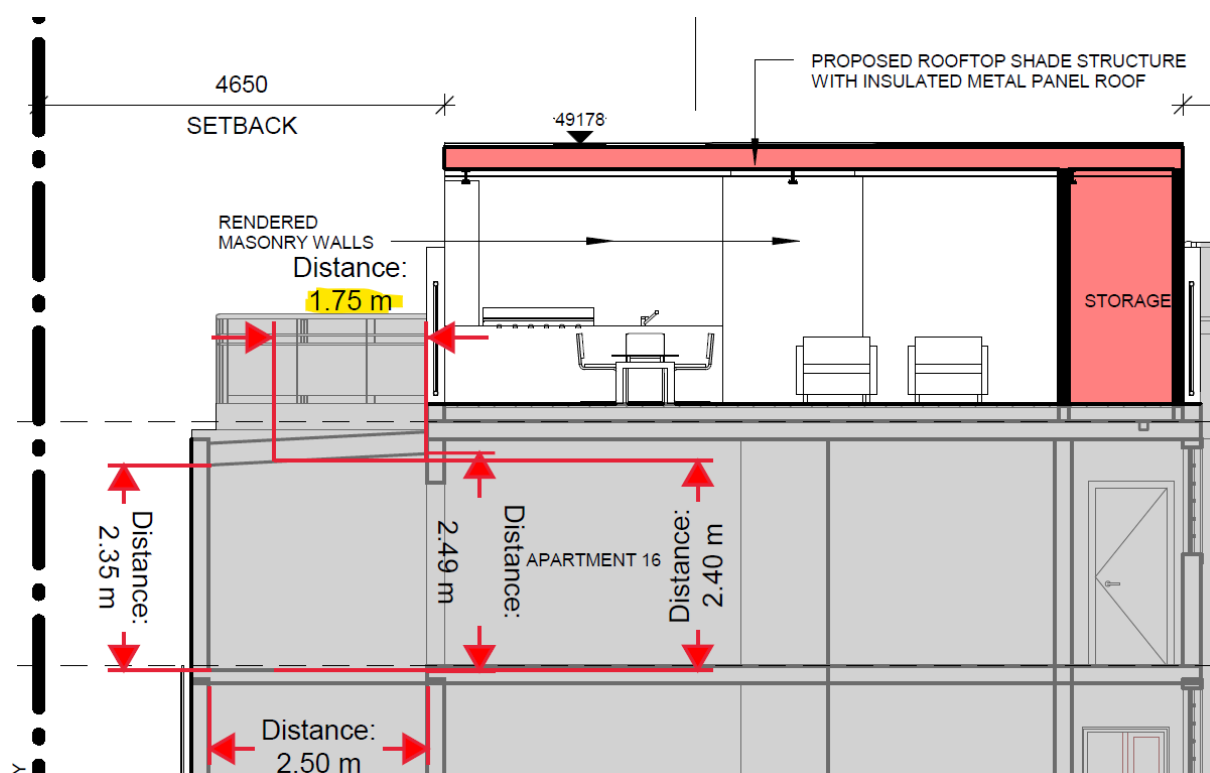
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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet 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"> <li>- There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.</li> <li>- The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.</li> <li>- 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.</li> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>No change to machinery or planting is proposed.</p> <p>The proposal is for approval of decking and covered area on an already approved rooftop terrace.</p> <p>The terrace as approved is oriented to minimise noise impacts to the adjoining terrace.</p> <p>The replacement spiral staircase is sited and designed to be outside of view from Garden Lane.</p> <p>The rooftop terrace is recessed and outside of view from the street. Additionally, the existing balustrades are translucent glass to prevent downward overlooking.</p>	
<b>4.3</b>	<b>Habitable roof space</b>		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> <li>- Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.</li> <li>- Has a maximum floor space of 65% of the storey immediately below.</li> <li>- Wholly contain habitable areas within the roof space.</li> <li>- 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.</li> <li>- Design windows to habitable roof space as an integrated element of the roof.</li> </ul>	<p>The proposal does not seek to change the floor space of the rooftop terrace and the habitable area is entirely within the existing roof space.</p> <p>The rooftop terrace and shading is out of view from Garden Lane. The rooftop terrace and shading appear as a roof when view further south from Byng Lane (refer to Figure 11).</p>	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.		
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	N/A, the site is mapped with a 22m maximum building height	N/A
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	The sunroom floor to ceiling height is calculated to range from 2.35m to 2.5m	Complies on merit

The sunrooms comply with the floor to ceiling height requirements of Part 10.3 of the NCC 2022 which require a minimum 2.4m floor to ceiling height for at least two thirds of the sunroom. A depth of 1.75m out of the 2.5m sunroom width is calculated to have a floor to ceiling height over 2.4m as shown in Figure 10 below. The floor-to-ceiling height of the sunrooms, therefore, meets the requirement of having a height of not less than 2.4m over two-thirds of the floor area of the room.



**Figure 10:** Section 3 with the minimum and maximum floor to ceiling heights, and measurements of the proportion of the sunrooms that have a floor to ceiling height over 2.4m.

The 1.75m out of 2.5m room depth equates to 70% of the sunrooms having a floor to ceiling height over 2.4m and complies with the NCC. Furthermore, the sunrooms are consistent with the objectives of part 4.4 of the DCP which are the following:

- To ensure that the building form provides for interesting roof forms and is compatible with the streetscape.
- To ensure ceiling heights for all habitable rooms promote light and quality interior spaces.
- To control the bulk and scale of development and minimise the impacts on the neighbouring properties in terms of overshadowing, privacy and visual amenity

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
The sunroom visually blends in with the northern façade. The additions provide skylights and windows which ensure the sunroom promotes natural lighting and ventilation. The visual bulk of the sunrooms is similar to the built form on the northern side of Unit 17 adjoining the site. Therefore, the floor to ceiling heights of the sunroom is consistent with the objectives in part 4.4 of the DCP and the variation is supported.			
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	No change to pedestrian entry is proposed.	N/A
	(ii) Present new development to the street in the following manner: - 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.  Postal services and mailboxes (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.	The proposal is for alterations and additions to Unit 16 only. No new entry is proposed.	N/A
<b>4.6</b>	<b>Internal circulation</b>		
	(i) Enhance the amenity and safety of circulation spaces by: - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift	Natural lighting is provided by the north facing windows and skylights above the sunroom. The north facing	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>doors and apartment entry doors.</p> <ul style="list-style-type: none"> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul>	windows also allow natural ventilation.	
	<p>(ii) Use multiple access cores to:</p> <ul style="list-style-type: none"> <li>- Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites.</li> <li>- Articulate the building façade.</li> <li>- Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units.</li> </ul>	No change to pedestrian access is proposed.	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>	No change to access is proposed	N/A
<b>4.7</b>	<b>Apartment layout</b>		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> <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>Natural lighting is provided through the orientation of the unit with north facing terrace, sliding doors, and the proposed sunroom with north facing windows and skylights.</p> <p>The unit currently provides sliding doors on the north side to allow sunlight from the northern terrace to the living/dining room</p>	Yes
	<p>(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.</p>	No change to room layout proposed	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>	Private open space is provided with two terraces on level and a rooftop terrace.	Yes
	<p>(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.</p>	No change to kitchen location	N/A
<b>4.8</b>	<b>Balconies</b>		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	The unit provides two terraces with areas over 8m <sup>2</sup> .	Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m <sup>2</sup> . All ground floor apartments are to have direct access to a terrace.	Unit 16 is on level 5, no change to the ground floor is proposed.	N/A
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	(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"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> (v) Avoid the following materials or treatment: <ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> (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.	The proposal seeks retrospective approval of works completed.  Notwithstanding this, the sunroom has been constructed to complement the building using similar light colour choices for the walls and metal roof. The dark metal spiral staircase is out of view from Garden Lane.  The timber decking on the rooftop terrace uses a lighter grey timber. The shading above the dwelling is a dark grey colourbond roof material to prevent reflectivity.  The glass balustrades as existing have glazing to prevent overlooking and reduce reflectivity.	Yes
<b>4.12</b>	<b>Earthworks Excavation and backfilling</b>		
	(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated	No cut of fill is proposed. Proposed changes are on level 5 of the residential flat building	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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 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>		
	<p><b>Retaining walls</b></p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(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).</p>	No retaining walls are proposed	N/A
<b>5.</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access for proposed development</b>		
	(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.	Unit 16 will continue to receive over 3 hours solar access to the north facing terrace on level 5 and the rooftop terrace.	Yes
	(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.	The alterations do not affect the solar access to other units on the site	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.	The alterations do not change the aspect or orientation of the unit.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	No variation to the solar access is proposed	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<b>Solar access for surrounding development</b>		
	<p>(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.</p> <p>(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.</p> <p>(iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.</p>	The shadow diagrams demonstrate the rooftop shade over the deck does not increase shadows cast over adjoining POS as the previously walls already cast shadows to Unit 17 at 3pm.	Yes
<b>5.2</b>	<b>Natural ventilation and energy efficiency</b>		
	(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.	The sunroom windows and skylights provide solar access and ventilation to the bedrooms of unit 16.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	The proposal seeks retrospective approval of shading above rooftop deck which is to be open	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.	The sunrooms provide north windows facing Garden Lane	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.	The proposal is for alterations to the existing Unit 16 however, ventilation is maintained to habitable rooms	Yes
	(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.	The alterations and additions do not alter the cross ventilation of the unit	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	No change to the kitchen ventilation	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved,	No variation to the ventilation is proposed.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	particularly in relation to habitable rooms.		
<b>5.3</b>	<b>Visual privacy</b>		
	(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"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>	<p>The sunrooms as constructed are more enclosed with less opportunities for overlooking compared to the previous open terrace shown in Figure 9.</p> <p>The north adjoining residential flat building windows are also at an angle with screening that prevent overlooking (see Figure 4). The glazing on the roof level balustrades prevents downward overlooking.</p>	Yes
<b>5.4</b>	<b>Acoustic privacy</b>		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> <li>- Double glazing</li> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>	The unit currently locates the noisy areas such as the living room and kitchen to the centre of the site. The sunrooms are accessible from the quieter bedrooms.	
<b>5.5</b>	<b>View sharing</b>		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the	The site is not within any significant view corridor or vistas.	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>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>	<p>The shade above the rooftop deck does not cast shadows onto adjoining living area windows or private open space.</p>	
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	No change to site access is proposed	N/A
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	No change to site access is proposed.	N/A
	(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.	No change to the ground floor doors and windows are proposed.	N/A
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	No change to structures around the residential flat building are proposed.	N/A
	(vi) Resident car parking areas must be equipped with security grilles or doors.	No change to basement car parking proposed	N/A
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	No change to the existing visitor intercom entry system is proposed.	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	No change to ground floor or street lighting is 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.	No change to the ground floor units is proposed	N/A
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	No change to external lighting is proposed.	N/A
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	No change to lighting is proposed.	N/A
<b>6.</b>	<b>Car parking and access</b>		
<b>6.1</b>	<b>Location</b>		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	No change to the basement car parking is proposed.	N/A
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	No change to the basement car parking is proposed.	N/A
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	No change to the existing driveway to basement parking is proposed.	N/A
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	No change to vehicle entry is proposed.	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	No change to the basement car parking is proposed.	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
<b>6.2</b>	<b>Configuration</b>		
	(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.	No change to the basement car parking is proposed.	N/A
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	No change to the basement car parking is proposed.	N/A
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.	No change to the basement car parking is proposed.	N/A
<b>7.</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>Fencing</b>		
	(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:	No fencing is proposed	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Steel post and chain wire</li> <li>- Barbed wire or other dangerous materials</li> </ul> (iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.		
<b>7.2</b>	<b>Front Fencing</b>		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	No fencing is proposed	N/A
	(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.	No fencing is proposed	N/A
	(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 proposed	N/A
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> <li>- Front fence for sites facing arterial roads.</li> <li>- Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade.</li> </ul> Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	No fencing is proposed	N/A
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	No fencing is proposed	N/A
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	No fencing is proposed	N/A
	(vii) Gates must not open over public land.	No fencing is proposed	N/A
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.	No fencing is proposed	N/A
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	(i) The maximum height of side, rear or common boundary fences is limited	No fencing is proposed	N/A

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>		
<b>7.6</b>	<b>Storage</b>		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m<sup>3</sup></p> <p>(b) 1-bedroom apartments – 6m<sup>3</sup></p> <p>(c) 2-bedroom apartments – 8m<sup>3</sup></p> <p>(d) 3 plus bedroom apartments – 10m<sup>3</sup></p>	<p>Minor change to the existing storage in Unit 16 is proposed. The toilet proposed on the south side of the rooftop terrace retains area for storage.</p>	Yes
<b>7.7</b>	<b>Laundry facilities</b>		
	<p>(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.</p>	No change to the existing clothes drying	N/A
	<p>(ii) Provide internal laundry for each dwelling unit.</p>	No change to the existing laundry	N/A
	<p>(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.</p>	The north facing terrace and rooftop terrace provide areas for clothes drying that take advantage of the site orientation.	Yes
<b>7.8</b>	<b>Air conditioning units:</b>		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"><li>Avoid installing within window frames. If installed in balconies, screen by suitable balustrades.</li><li>Air conditioning units must not be installed within window frames.</li></ul>	No change to air-conditioning proposed	Yes

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**Responsible officer:** GAT & Associates, Town Planners

**File Reference:** DA/852/2023

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**Draft Development Consent Conditions**

<b>Folder /DA No:</b>	DA/852/2023
<b>Property:</b>	16/912 Anzac Parade, MAROUBRA NSW 2035
<b>Proposal:</b>	Alterations to a unit (Unit 16) of an existing residential flat building including enclosure of northern terrace to create two (2) sunrooms, installation of a new pergola and decking and replacement of external spiral stairs.
<b>Recommendation:</b>	Approval

**DEVELOPMENT CONSENT CONDITIONS****GENERAL CONDITIONS**

	Condition
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- 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>
Cover Sheet, Project No.DA-912A, Sheet No A001, Revision 4	Building Design and Draft	2018	23.10.2023
Proposed Site Plan, Project No.DA-912A, Sheet No A020, Revision 4	Building Design and Draft	2018	23.10.2023
Existing Rooftop Plan, Project No.DA-912A, Sheet No A021, Revision 4	Building Design and Draft	2018	23.10.2023
Proposed Rooftop Plan, Project No.DA-912A, Sheet No A022, Revision 4	Building Design and Draft	2018	23.10.2023
Proposed Roof Plan, Project No.DA-912A, Sheet No A023, Revision 4	Building Design and Draft	2018	23.10.2023
Proposed Elevations, Project No.DA-912A, Sheet No A030, Revision 4	Building Design and Draft	2018	23.10.2023
Sections, Project No.DA-912A, Sheet No A040, Revision 4	Building Design and Draft	2018	23.10.2023
Shadow Plans, Project No.DA-912A, Sheet No A050, Revision 4	Building Design and Draft	2018	23.10.2023
Demolition Plans, Project No.DA-912A, Sheet No A060,	Building Design and	2018	23.10.2023

Condition			
Revision 4	Draft		
Floor Plan Level 5	-	-	13.11.2023
Construction Notes, DWG No.1798-S01	R. Balas Consulting Pty Ltd	19.10.1020	23.10.2023
Rooftop Plan, DWG No.1798-S02	R. Balas Consulting Pty Ltd	19.10.1020	23.10.2023
Roof Framing Plan, DWG No.1798-S03	R. Balas Consulting Pty Ltd	19.10.1020	23.10.2023
Structural Notes, Ref. Q1093, DWG NO.S1, Issue A	Donnavan Associates	27.07.2018	23.10.2023
Steel Beam Marking Plan, Ref. Q1093, DWG NO.S2, Issue A	Donnavan Associates	27.07.2018	23.10.2023
Steel Beam Details – Sheet 1, Ref. Q1093, DWG NO.S3, Issue A	Donnavan Associates	27.07.2018	23.10.2023
Steel Beam Details – Sheet 2, Ref. Q1093, DWG NO.S4, Issue A	Donnavan Associates	27.07.2018	23.10.2023
Steel Beam Details – Sheet 3, Ref. Q1093, DWG NO.S5, Issue A	Donnavan Associates	27.07.2018	23.10.2023
FRL 60/60/60 Block Wall 'W1' Details, Ref. Q1093, DWG NO.S6, Issue A	Donnavan Associates	27.07.2018	23.10.2023

Document title	Dated	Received by Council
Fire Engineering Report by Incode Solutions Pty Ltd	3 April 2024	3 April 2024

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.

#### Ongoing use of Rooftop Terrace

The roof over the terrace on the roof level of unit 16 is to remain an open terrace. The rooftop terrace cannot be enclosed, altered or additions constructed without a separate development consent and Construction Certificate issued.

Condition reason: To ensure compliance with the requirements of the Building Code of Australia (BCA)/National Construction Code (NCC), any future building works must require development consent as well as the submission of a performance solution, prepared by a C10 Level fire safety engineer.

### OCCUPATION AND ONGOING USE

Condition	
3.	<b>External Lighting</b> 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.

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Condition	
4.	<p><b>Plant &amp; Equipment</b></p> <p>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 <i>Protection of the Environment Operations Act 1997</i> and Regulations.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
5.	<p><b>Ongoing use of rooftop structures</b></p> <p>The rooftop structure on the rooftop terrace of Unit 16 is not to be enclosed or have any additions constructed without the prior development consent of the Council and issue of a Construction Certificate.</p> <p>Condition reason: To ensure compliance with the requirements of the Building Code of Australia (BCA)/National Construction Code (NCC), any future building works must require development consent as well as the submission of a performance solution, prepared by a C10 Level fire safety engineer.</p>

## Development Application Report No. D43/24

**Subject:** 252 Coogee Bay Road, Coogee (DA/134/2024)

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### Executive Summary

<b>Proposal:</b>	Internal alterations of ground floor level, modification of shopfront facade and use of takeaway food and drink premise.
<b>Ward:</b>	East Ward
<b>Applicant:</b>	The Trustee for Get Sashimi Unit Trust
<b>Owner:</b>	LS9 Pty Ltd
<b>Cost of works:</b>	\$244,915
<b>Reason for referral:</b>	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/131/2024 for internal alterations of ground floor level, modification of shopfront facade and use of takeaway food and drink premise at No. 252 Coogee Bay Road, Coogee, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/134/2024 - 252 Coogee Bay Road, COOGEE

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development involves partial demolition works to a heritage item.

The proposal seeks development consent for internal alterations of ground floor level, modification of shopfront façade, and use of takeaway food and drink premise.

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 subject site is located at 252 Coogee Bay Road, Coogee and is legally described as Lot 7 DP 12462. The site has an area of 131.6m<sup>2</sup>, with a 5m street frontage to Coogee Bay Road, and is rectangular in shape.

The subject site is identified under Schedule 5 of RLEP 2012 as a local heritage item – item No. 1483 known as ‘Federation arts and crafts shop’. As shown in Figure 1, the site is currently occupied by a food and drink premises known as ‘The Lucky Cat Dumpling Bar’.

Surrounding development comprises a mix of retail and commercial premises and shop top housing.



**Figure 1:** Existing development on southern side of Coogee Bay Rd – subject site in red (Source: Council officer)

### 3. Relevant history

- DA/98/2012 – approved 03 March 2012 for outdoor dining area for existing café.
- LA/499/2019 – approved 02 April 2019 for footway dining.
- DA/934/1998 – approved 23 December 1998 for install new timber folding doors to shopfront, construct a courtyard dining area and provide additional restaurant seating on the first floor of the existing building.
- BA/128/1984 – approved 02 March 1984 for alterations to shop.

### 4. Proposal

The proposal seeks development consent for alterations and additions to the existing food and drink premises for use as a takeaway sashimi restaurant, 'Get Sashimi'. As shown in Figures 2 and 3, the proposed works include:

- Demolition of existing joinery and finishes at ground floor level (front of house).
- Fitout of ground floor level (front of house) to include sashimi preparation area, glass display cabinets, dry ager cabinet, and condiment station.
- Frameless glass stacking doors to street (south) elevation.
- 1 x fascia sign and 1 x under-awning sign.

The proposed works are limited to ground floor level only. No works are proposed at lower ground or first floor levels.

Consistent with the operating hours of the existing restaurant at the subject site, the premises is proposed to operate between 7am to 10pm, Monday to Sunday.

No outdoor seating is proposed by way of this Application. Following advice from Council's Property Coordinator, outdoor dining has been deleted from this Application and separate approval will be sought.

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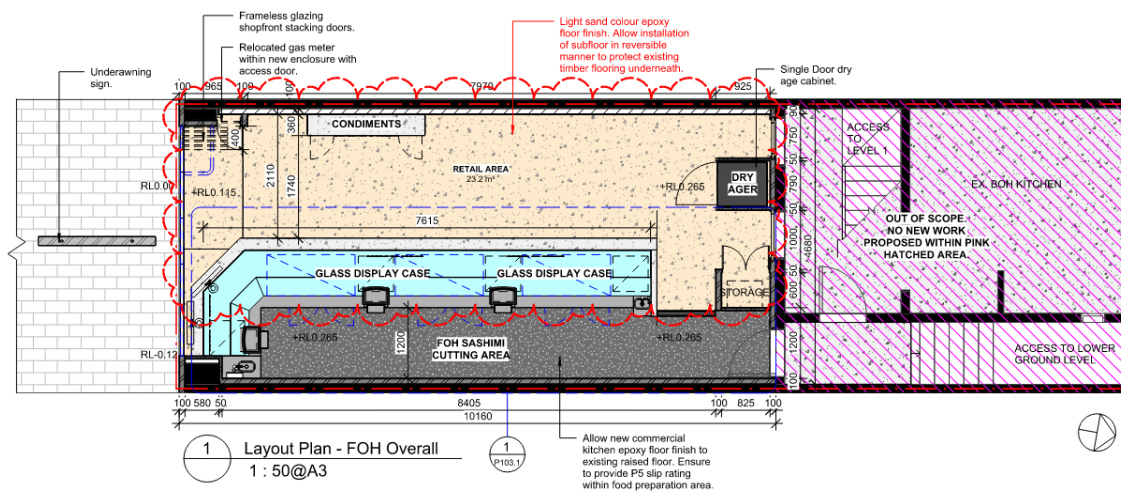


Figure 2: Proposed ground floor plan (Source: Liteco Studio)

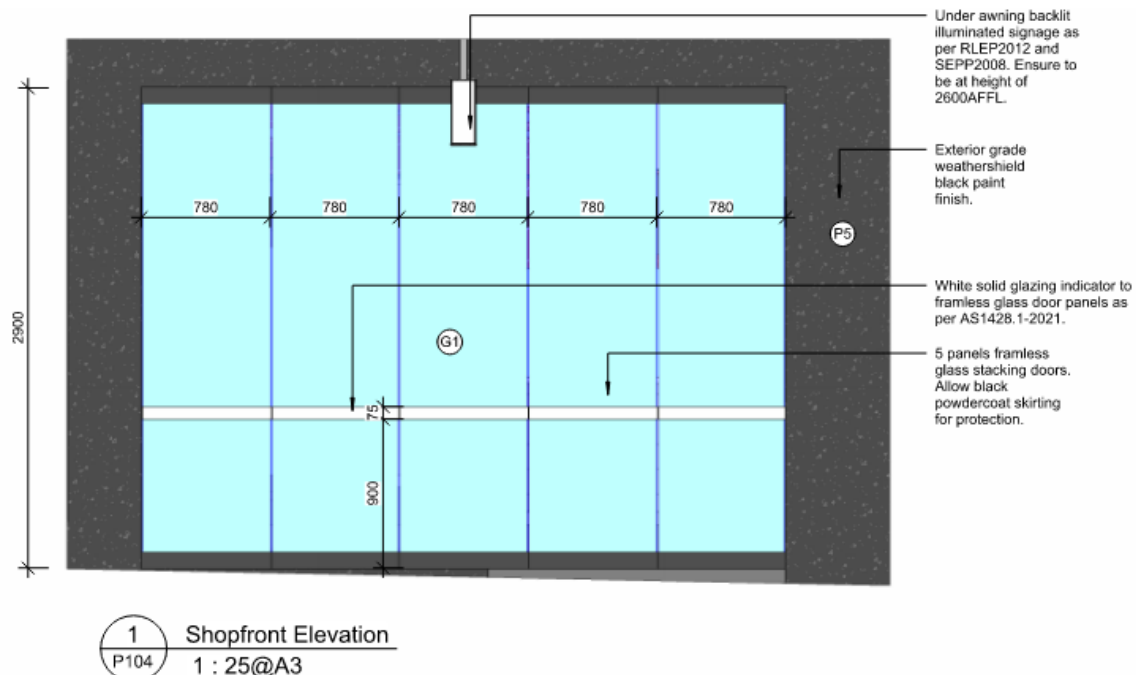


Figure 3: Street (south) elevation plan (Source: Liteco Studio)

## 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 (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**

The provisions of SEPP (Resilience and Hazards) 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 only previously been used for retail purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to a food and drink premises) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

**6.3. SEPP (Industry and Employment) 2021**

Chapter 3 of the Industry and Employment SEPP seeks to improve the amenity of urban and natural settings by managing the impact of outdoor advertising and signage.

The proposal includes 1 x fascia sign and 1 x under-awning sign to replace the existing signage. Consent is sought for the size and location of signage only. The proposed under-awning sign will be backlit. Signage details must be provided to and approved by Council prior to issue of a construction certificate.

Part 3.2 of the Industry and Employment SEPP applies to signage generally, and states:

*(a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*

*(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

Compliance with the objectives of Chapter 3 and the criteria in Schedule 5 is assessed in the below table. As detailed below, the proposed signage is consistent with the requirements of the Industry and Employment SEPP.

Industry & Employment SEPP	Comment
<b>Industry &amp; Employment SEPP – Section 3.1</b>	
(1) This Chapter aims: (a) to ensure that signage (including advertising)— (i) is compatible with the desired amenity and visual character of an area, and (ii) provides effective communication in suitable locations, and (iii) is of high-quality design and finish, and (b) to regulate signage (but not content) under Part 4 of the Act, and (c) to provide time-limited consents for the display of certain advertisements, and (d) to regulate the display of advertisements in transport corridors, and (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.	The proposed signage is compatible with the desired amenity and visual character of the locality.  The site is located within a local centre, which is characterised by commercial uses and signage. The signage communicates the presence of the business within the local centre.  The proposal satisfies the objectives of Chapter 3.
<b>Industry &amp; Employment SEPP – Schedule 5</b>	
<b>Character of the area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The size and location of the proposed signage is compatible with the existing character of the local centre.

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Industry & Employment SEPP	Comment
	Details of the signage must be provided to and approved by Council prior to issue of a construction certificate.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The locality does not have a particular theme for outdoor advertising.
<b>Special areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<p>The size and location of the proposed signage will not detract from the amenity or visual quality of the local centre.</p> <p>Details of the signage must be provided to and approved by Council prior to issue of a construction certificate.</p>
<b>Views and vistas</b>	
Does the proposal obscure or compromise important views?	The size and location of the proposed signage will not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The size and location of the proposed signage does not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The size and location of the proposed signage does not affect the viewing rights of other advertisers.
<b>Streetscape, setting or landscape</b>	
Are the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The size and location of the proposed signage is compatible with the scale and proportions of the existing building. The sign would not dominate or obscure any views.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	<p>The size and location of the proposed signage does not have an adverse impact on the visual interest of the streetscape.</p> <p>Details of the signage must be provided to and approved by Council prior to issue of a construction certificate.</p>
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The size and location of the proposed signage will not create any undue clutter.
Does the proposal screen unsightliness?	The size and location of the proposed signage will not create any undue unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The size and location of the proposed signage will not protrude above buildings.
Does the proposal require ongoing vegetation management?	The proposal does not require ongoing vegetation management.
<b>Site and building</b>	

Industry & Employment SEPP	Comment
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The size and location of the proposed signage is compatible with the scale and proportions of the existing building. The sign does not dominate or obscure any views.
Does the proposal respect important features of the site or building, or both?	The size and location of the proposed signage will not detract from the building features.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The size and location of the proposed signage is suitable for the site and building.
<b>Associated devices and logos with advertisements and advertising structures</b>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed under-awning sign will be backlit.
<b>Illumination</b>	
Would illumination result in unacceptable glare?	The proposed under-awning sign will be backlit. Suitable conditions are included to prevent unacceptable glare.
Would illumination affect safety for pedestrians, vehicles or aircraft?	Capable of complying, subject to condition.
Would illumination detract from the amenity of any residence or other form of accommodation?	Capable of complying, subject to condition.
Can the intensity of the illumination be adjusted, if necessary?	Capable of complying, subject to condition.
Is the illumination subject to a curfew?	Capable of complying, subject to condition.
<b>Safety</b>	
Would the proposal reduce the safety for any public road?	The size and location of the proposed signage will not affect the safety of surrounding roads.
Would the proposal reduce the safety for pedestrians or bicyclists?	The size and location of the proposed signage will not affect the safety of pedestrians or cyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The size and location of the proposed signage will not obscure sightlines from public areas.

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

The site is zoned E1 Local Centre under Randwick Local Environmental Plan 2012 and the proposal, being for a food and drink premises, is permissible with 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.

No change is proposed to the existing building height or gross floor area (GFA). Hence, further consideration of clauses 4.3 and 4.4 of RLEP 2012 is not warranted in this instance.

#### Heritage conservation (clause 5.10)

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

The subject site is identified under Schedule 5 of RLEP 2012 as a local heritage item – item No. 1483 known as ‘Federation arts and crafts shop’.

As detailed at Appendix 1, Council’s Heritage Planner has reviewed the amended proposal and raises no concern, subject to conditions.

#### Foreshore scenic protection area (clause 6.7)

The subject site is identified as being within the Foreshore Scenic Protection Area. Pursuant to clause 6.7 of RLEP 2012, development consent must not be granted for development on land within this area unless the development is located and designed to minimise the visual impact as viewed from the public domain of the coastline, and that the development contributes to the scenic quality of the coastal foreshore.

The proposed new works are primarily internal and are sympathetic to the existing building. The proposal will not attribute to any additional building height, bulk, or scale.

The proposal is consistent with the context of the site’s locality, including established retail and commercial development along Coogee Bay Road. The proposed works are located within the existing building footprint and are not readily visible from the foreshore. In this regard, the proposal is consistent with the provisions of clause 6.7.

#### Development in local centres (clause 6.22)

Pursuant to clause 6.22(3) of RLEP 2012, consent must not be granted to development on land in the E1 Local Centre zone unless the consent authority has considered:

- The impact of the development on the amenity of surrounding residential areas;
- The impact of the development on the desired future character of the local centre; and
- Whether the development is consistent with the hierarchy of centres.

The proposal will contribute to the ongoing viability of the local centre as a destination for retail and food and drink premises, whilst protecting the amenity of residents in the nearby residential zones. As detailed in this report, the proposal is compatible with the desired future character of the local centre and is consistent with the hierarchy of centres. The proposal is consistent with the context of the site’s locality, including established retail and commercial development along Coogee Bay Road.

## **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 B2 – Heritage

Refer to discussion by Council’s Heritage Planner at Appendix 1 of this report.

#### Part B6 – Recycling and Waste Management

Capable of complying, subject to suitable conditions.

Part B7 – Transport, Traffic, Parking and Access

There is no existing car parking at the subject site, and no change is proposed to this arrangement.

Part B10 – Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>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.</li> <li>ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture).</li> <li>iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues).</li> <li>iv) Must not use high reflective glass</li> <li>v) Use durable materials suited to coast</li> <li>vi) Use appropriate plant species</li> <li>vii) Provide deep soil areas around buildings</li> <li>viii) Screen coping, swimming and spa pools from view from the public domain.</li> <li>ix) Integrate rock outcrops, shelves and large boulders into the landscape design</li> <li>x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.</li> </ul>	<p>The proposed new works are primarily internal and are sympathetic to the existing building. The proposal will not attribute to any additional building height, bulk, or scale.</p> <p>The proposal is consistent with the context of the site's locality, including established retail and commercial development along Coogee Bay Road. The proposed works are located within the existing building footprint and are not readily visible from the foreshore.</p>	Yes

Part D6 – Neighbourhood Centres General Controls

The proposed works are limited to ground floor level only. No works are proposed at lower ground or first floor levels, and no change is proposed to the existing building envelope.

The proposed changes to the front building façade are consistent with Part D6, Section 3 of RDCP 2013. The proposed frameless glass stacking doors have been designed to match the façade design of the adjacent property at No. 254 Coogee Bay Road, which is currently occupied by 'Fishbowl', a takeaway food and drink premises.

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 proposal does not seek consent for the sale/consumption of alcohol on the premises.

No change is proposed to the existing operating hours of the premises (7am to 10pm, Monday to Sunday). The proposed operating hours are consistent with the DCP requirements for premises in the E1 Local Centre zone.

## Part F2 – Outdoor Advertising and Signage

DCP Clause	Control	Proposal	Compliance
<b>2</b>	<b>General Design and Siting</b>		
	(i) Signage should recognise the legitimate needs for directional advice, business identification and promotion.	Consent is sought for the size and location of signage only. A condition is included requiring signage details to be provided to and approved by Council prior to issue of a construction certificate.	Complies subject to conditions.
	(ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development.	The size and location of proposed signage is compatible with the existing and adjoining development.	Complies
	(iii) Signage should not obscure architecturally decorative details or features of buildings or dominate building facades. It should be placed on the undecorated wall surfaces or designed sign panels provided.	The size and location of proposed signage does not dominate the building or obscure its architectural features.	Complies
	(iv) Entire building facades and /or walls must not be painted or covered with cladding or other material to act as a large billboard type.	The size and location of proposed signage is suitably scaled for the building façade.	Complies
	(v) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	The size and location of proposed signage is compatible with other signage in the surrounding local centre.	Complies
	(vi) Signage shall be displayed in English but may include a translation in another language.	Capable of complying, subject to condition.	Complies subject to conditions.
	(vii) Signage erected or displayed on identified heritage buildings or within heritage conservation areas must not detract from the architectural character and heritage significance of such buildings or areas.	The size and location of proposed signage does not dominate the building or detract from its heritage significance. The proposal seeks to replace existing signage only.	Complies
	(viii) Outdoor advertising attached to vehicles or trailers which are parked for advertising purposes will not be permitted.	None proposed.	N/A
	(ix) Signage must not be flashing or animated.	A condition is included to ensure that the signage is not flashing or animated.	Complies subject to conditions.

DCP Clause	Control	Proposal	Compliance
<b>3</b>	<b>Signage Based on land use zones</b>		
<b>3.2</b>	<b>Business Zones</b>		
	(i) The size and shape of any signage must relate to the size of the building or space to which it is to be attached to or placed on. Larger building facades are capable of accommodating larger signs without detracting from the appearance of the building.	The size and location of proposed signage does not dominate the building or streetscape.	Complies
	(ii) Signage must not dominate or obscure a building or its architectural features. Advertising should highlight and reinforce architectural details.	The size and location of proposed signage does not dominate or obscure the building.	Complies
	(iii) Roof signs and advertising structures must not project above the parapet of the building or that part of the building to which they are attached (including signs and bunting mounted on plant rooms or other roof structures).	No signs are proposed to project above the building.	Complies
	(iv) Avoid fin signs, projecting wall signs and above awning signs (sitting on the awning).	None proposed.	N/A
	(v) The visual amenity and value of streetscapes should be protected through careful consideration of proposals for flush wall signage.	The size and location of proposed signage will not result in adverse impact to visual amenity or streetscape value.	Complies
	(vi) On any building listed as a Heritage Item or situated in a Heritage Conservation Area outdoor advertising (projecting and flush) must not be located above awning level.	Consistent with the existing situation, proposed signage is not located above awning level.	Complies
	(vii) Upper level signs are best located at major focal points of a building only, to advertise arcades, plazas, etc...and to provide as corporate identity for developments which contain a range of businesses.	None proposed.	N/A
	(viii) Outdoor advertising on or attached to buildings must align and relate to the architectural design lines on	Consent is sought for the size and location of signage only. A condition is included requiring signage details to be provided	Complies subject to conditions.

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DCP Clause	Control	Proposal	Compliance
	a building façade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings.	to and approved by Council prior to issue of a construction certificate.	
	(ix) Limit under awning to one per shop or for larger premises one per 6 metres of shop frontage.	Only one (1) under awning sign is proposed.	Complies
	(x) Under awning signs must be at least 2.6 metres above footpath level.	Capable of complying, subject to condition.	Complies to conditions.
	(xi) Pole or pylon signs must not exceed the height of adjoining or adjacent buildings, or 6 metres, whichever is the lower.	None proposed.	N/A

## 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 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.
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 'Matters for Consideration'	Comments
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	Not applicable.
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

That the application for internal alterations of ground floor level, modification of shopfront facade and use of food and drink premise at No. 252 Coogee Bay Road, Coogee 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 E1 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 local centre.

## Appendix 1: Referrals

### 1. Heritage Planner

Council's Heritage Planner has reviewed the original proposal and provides the following comments:

#### **Internal Alterations**

1. *The proposed alteration to the timber floor and ceiling is not supported from a heritage perspective.*

*Reason – to comply with Randwick LEP 2012 Objectives, Clause 5.10(1)(a)-(b) and Randwick DCP 2023 Objective, Part B2 Heritage section 2.5 and 2.6, to minimise any adverse impact on the original fabric and to ensure that original detailing and character of the place is retained and kept in good repair.*

*Despite modifications the street facades of 250 and 252 Coogee Bay Road exhibit building materials and details dating from their original construction in 1909 (SHI by CityPlan Heritage).*

*The Heritage Impact Statement by Touring the Past also identifies that –*

*There is a painted press metal ceiling with a pair of ceiling roses and a cornice to the front room of the ground floor, which is likely original (probably Wunderlich). Pressed metal was an inexpensive and mass-produced popular alternative to decorative plaster in the early 20<sup>th</sup> century, promoted as attractive, durable, and fireproof. There are timber floorboards in the front ground-floor room, which could be original but have been patched in part. The original plaster finish to the side brick walls has been removed (crudely).*

*The following amendments and recommendations are applicable -*

#### Timber Floor

*It is recommended to remove surface rot and treat timber with fungicide. Replace rotten boards where rot extends beyond 40% of the board, otherwise undertake a splice repair. Where boards are severely damaged, replace whole component with similar timber. Prepare and seal floorboards using traditional materials. Undertake other repairs as needed, including the filling of gaps, repair of splits or the re-fixing of loose boards. Finish using traditional oil or wax finishes to match existing.*

#### Ceiling

*Existing ceiling, its detailing, decorative plaster, ceiling roses and cornice are to be retained and where required intumescent paint is proposed to be applied to achieve required fire resistance level. Remove all flaking or peeling paint. Patch repair all cracking using compatible plaster. Prepare and paint to match existing. Remove all peeling and degraded paint. Pin and patch repair cracked cornice using compatible lime plaster. Prepare and paint to match existing.*

*The ceiling is part of the original fabric and significant character element of the heritage building and it is recommended to be retained unconcealed. Removal of pendant lightings are supported.*

#### Brick walls

*Replace missing, weathered, or damaged areas of mortar joints in existing masonry. The new mortar joints must match existing in the composition of the mortar mix, colour, and joint technique. Undertake mortar analysis to ascertain the correct mix and compatible with the brick wall. Do not cut, widen, or alter the thickness of joints. Repair all missing or damaged masonry, and patch holes in existing masonry. The new insets, or infill elements, must match the existing masonry, composition of the mortar mix, colour, and joint technique.*

*Removal of non-original internal wall finish is supported.*

#### New display/takeaway area, counter/bar joinery

*Removal of joinery counter, bar and other non-original furniture is supported.*

Internal changes/additions to the internal walls and ceiling including ceiling-mount TV monitors, AC diffuser and lighting

Board and batten/internal panelling is to be used as a protective layer behind the proposed new wall finishes (i.e. kitchen tile) to protect the original brick wall and minimise the impact on the fabric. Light weight and expose air-conditioning ducting and light wire lighting or similar reversible interventions to reduce the impact to the original fabric.

### **External Alterations**

2. Alteration and modification of the shop front for installation of a frameless glass stacking door is supported from a heritage perspective.

Reason – shop front appears to be non-original and have been altered significantly.

3. Provision for accessible entry/entry ramp is supported from a heritage perspective (applicant is to prepare and submit amended plans if changes are proposed to the existing entry ramp).

Reason – All buildings, including heritage places, are subject to the requirements of the Federal Disability Discrimination Act 1992 (DDA) and complementary state based legislation such as the NSW Anti-Discrimination Act 1977.

4. New logo graphic/signage to existing fascia to the awning and its underside is supported.

Reason – the new signage is replacing the existing signage.

Please note that shopfront windows must be clear of all obstructions to enable viewing into the shop from the public domain. The number of signs permitted must not exceed two per elevation that is visible from a public place.

5. Addition/external mechanical ventilation system must not be visible from the public domain.

### **Recommendation**

Further information or amended plans as recommended above are required to support the development proposal. Where changes/amended plans are satisfactory, the following conditions should be included in any consent:

1. 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.
2. The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
3. 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.
4. The original fabric including brickwork/stone/tiles must not be rendered, painted or coated.
5. Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.

Amended plans were submitted by the Applicant on 1 May 2024 to address the abovementioned heritage concerns. Council's Heritage Planner reviewed the amended plans and confirmed they are supported from a heritage perspective, subject to conditions (refer email dated 6 May 2024).

## **2. Development Engineer**

Noting the deletion of footpath dining from the Application, Council's Development Engineer has advised there are no conditions or requirements in relation to the amended Application.

## **3. Environmental Health Officer**

Council's Environmental Health Officer has reviewed the proposal and raises no concern, subject to conditions:

**Proposed Development:**

*Internal alterations of ground floor level, modification of shopfront facade and use of takeaway food and drink premise with associated outdoor dining (Heritage Item).*

**Comments:**

Background:

*The proposal related to internal alterations of existing licensed food & drink premises to become a new sashimi takeaway. The scope of works extent only up to existing FOH (Front of House) areas at Ground level, including modification of Shopfront façade and signage.*

*No new work is proposed to other areas including existing toilets, cool room, storage, backyard, office, BOH kitchen, kitchen exhaust system, grease trap arrestor, and building structures which the applicant propose to reuse existing.*

*Food preparation area consists of custom glass display case with stainless benchtop, and placement of under bench fridge equipment.*

*The proposed business does not require major cooking or serving hot food, which does not require additional kitchen exhaust for the proposed work.*

*The food preparation area shall be designed and constructed according to relevant Australian Standards including AS4674.2004.*

Operational hours

*Outdoor dining DA/98/2012 - The hours of operation of the outdoor dining area are restricted to 7.00am to 10.00pm Monday to Sunday and public holidays.*

*The Number of patrons catered for at any one time is not to exceed 10 externally for the outdoor dining area.*

Maximum capacity

*The maximum number of patron/staff as proposed below:*

- Lower Ground Level – 0
- Ground Level – 10 (outdoor pre-existing)
- First Level – 0
- Total: 10 patrons
- Permanent full-time employees: 5
- Part time employees: 5
- Total: Up to 10 staff

Waste collection

*The business proposes daily collections of waste to be happening after 7am.*

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**Responsible officer:** Julia Warren, Senior Environmental Planning Officer

**File Reference:** DA/134/2024

## Development Consent Conditions (Commercial)



D43/24

<b>Folder /DA No:</b>	DA/134/2024
<b>Property:</b>	252 Coogee Bay Road, COOGEE NSW 2034
<b>Proposal:</b>	Internal alterations of ground floor level, modification of shopfront facade and use of takeaway food and drink premise.
<b>Recommendation:</b>	Approval

### 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>
P102, Rev. I, Demolition Plan	Liteco Studio	01/05/2024	01/05/2024
P103, Rev. I, Layout Plan – Proposed	Liteco Studio	01/05/2024	01/05/2024
P103.1, Rev. F, Layout Plan – FOH Kitchen	Liteco Studio	27/02/2024	05/03/2024
P105, Rev. I, Reflected Ceiling Plan	Liteco Studio	01/05/2024	01/05/2024
P108, Rev. I, Flooring Plan	Liteco Studio	01/05/2024	01/05/2024
E101, Rev. G, Shopfront Elevation – Proposed	Liteco Studio	05/03/2024	05/03/2024
E102, Rev. I, Elevations and Sections	Liteco Studio	01/05/2024	01/05/2024
E103, Rev. I, Elevations and Sections	Liteco Studio	01/05/2024	01/05/2024
E104, Rev. F, Elevations and Sections	Liteco Studio	27/02/2024	05/03/2024
A501, Rev. F, Waste Storage Location	Liteco Studio	27/02/2024	05/03/2024
S005.1, Rev. F, Legend – Finishes	Liteco Studio	27/02/2024	05/03/2024
S005.2, Rev. I, Legend – Finishes	Liteco Studio	01/05/2024	01/05/2024
S005.3, Rev. F, Legend – Finishes	Liteco Studio	27/02/2024	05/03/2024

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. **Signage Details**

Details of the fascia and under-awning signage shall be submitted to and approved by Council's Manager Development Assessment prior to the issue of Construction

- |    | Condition   |
|----|---|
|    | <p>Certificate. The signage shall be designed to comply with AS 4282—1997 <i>Australian Standard - Control of the obtrusive effects of outdoor lighting</i>. The underside of the awning sign must be at least 2.6m above the footpath level.</p> <p>Condition Reason: To ensure signage is appropriate and compatible with surrounding development.</p>  |
| 3. | <p><b>Footway Dining</b></p> <p>No approval is granted for outdoor/footway dining. Separate approval shall be sought.</p> <p>Condition Reason: To ensure all parties are aware of the approved scope of works.</p>  |
| 4. | <p><b>Heritage Conditions</b></p> <p>The following heritage conditions must be complied with at all times:</p> <ul style="list-style-type: none"> <li>a) The 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.</li> <li>b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.</li> <li>c) 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.</li> <li>d) The original fabric including brickwork/stone/tiles must not be rendered, painted or coated.</li> <li>e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.</li> </ul> <p>Condition Reason: To ensure the conservation of heritage.</p> |

**BUILDING WORK****BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

- |    | Condition  |
|----|--|
| 5. | <p><b>Consent Requirements</b></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>   |
| 6. | <p><b>External Colours, Materials &amp; Finishes</b></p> <p>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.</p> <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> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p> |
| 7. | <p><b>Section 7.12 Development Contributions</b></p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$244,915 the following applicable</p>  |

Condition

monetary levy must be paid to Council: \$2,449.15.

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:

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

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](http://www.randwick.nsw.gov.au).

Condition Reason: To ensure relevant contributions are paid.

8. **Security Deposits**

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 *Environmental Planning and Assessment Act 1979*:

- \$5000.00 - Damage / Civil Works Security Deposit

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.

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.

Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.

9. **Sydney Water**

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

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

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Condition

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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™ 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.

10. **Building Code of Australia**

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.

Condition Reason: Prescribed condition under section 69 of the *Environmental Planning and Assessment Regulation 2021*.

11. **Design, Construction & Fit-out of Food Premises**

In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

The premises is to be designed and constructed in accordance with the *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. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.

The design and construction of the food premises must comply with the following requirements (as applicable):

- (a) Floors of kitchens and food preparation areas and the like are to be constructed of materials which are impervious, non-slip and nonabrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.
- (b) Walls of kitchens and preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel,

Condition	
	laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas.
	Glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.
	Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.
(c)	Ceilings of kitchens, food preparation areas and storerooms are to be of rigid smooth-faced, non-absorbent material (i.e. fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material) painted with a light-coloured washable paint. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas.
(d)	All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
(e)	Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.
(f)	Fly screens and doors with self-closing devices, (where applicable), are to be provided to all external door and window openings and an electronic insect control device must also be provided within food premises.
(g)	A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.
(h)	Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.
(i)	Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
(j)	All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
(k)	Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).

Condition Reason: To address food safety requirements.

12. **Liquid Trade Waste**

Liquid trade waste materials are to be disposed of to the sewer (via a suitable

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grease trap) and details of compliance are to be submitted to the Certifying Authority.

Condition Reason: To address food safety requirements.

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**BEFORE BUILDING WORK COMMENCES**


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Condition

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13. **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 *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.

Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.

14. **Construction Noise & Vibration Management Plan**

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.

Condition

(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.

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

15. **Construction Site Management Plan**

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.

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

16. **Construction Site Management Plan**

A *Sediment and Erosion Control Plan* must be developed and implemented

**Condition**

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.

Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

**17. Public Liability**

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.

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****18. 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.

**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"> <li>Monday to Friday - 7.00am to 5.00pm</li> <li>Saturday - 8.00am to 5.00pm</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 3.00pm</li> <li>(maximum)</li> </ul>

Condition	
	<ul style="list-style-type: none"> <li>Saturday - No work permitted</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> <li>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

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

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

20. **Noise & Vibration**

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.

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

21. **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:

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

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Condition

- *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.

22. **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 any public place must be repaired immediately, to the satisfaction of Council.
- 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.
- 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.
- 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.
- 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.

23. **Excavations and Support of Adjoining Land**

Tin 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.

Condition Reason: Prescribed condition under section 74 of the Environmental

Condition
Planning and Assessment Regulation 2021.
24. <b>Building Encroachments</b> There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.
Condition Reason: To ensure no encroachment onto public land and to protect Council land.

#### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
25. <b>Occupation Certificate Requirements</b> 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> .  Condition reason: Statutory requirement. To ensure the site is authorised for occupation.
26. <b>Fire Safety Certificate</b> 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> .  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.  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.
27. <b>Structural Certification</b> 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.  Condition Reason: To ensure the structural adequacy of the building and works.
28. <b>Sydney Water Certification</b> 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 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> > <i>Building and developing</i> > <i>Developing your Land</i> > <i>Water Servicing Coordinator</i> or telephone 13 20 92.  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 building, driveway or landscape design.  The Section 73 Certificate must be submitted to the Principal Certifier and the

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- |     | Condition  |
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|     | Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.   |
|     | Condition Reason: To ensure the development satisfies Sydney Water requirements.   |
| 29. | <p><b>Food Premises - Inspection</b></p> <p>The premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.</p> <p>Condition Reason: To address food safety requirements.</p>  |
| 30. | <p><b>No Mechanical Ventilation – Approved Equipment List</b></p> <p>Prior to the issue of an Occupation Certificate, the food business must submit and seek written approval from Council's Health, Building Regulatory Services Unit, a list detailing each item of cooking and food heating equipment to be used within the premises together with the corresponding units of energy for each piece of equipment in accordance with AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings Section 3.3.1. The approved list, henceforth referred to as the Approved Equipment List, shall be subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(a) The Approved Equipment List must be kept on the premises and be made available to any authorised officer of Council upon request.</li> <li>(b) The use of any cooking or heating appliance not present on the Approved Equipment List is prohibited.</li> <li>(c) Amendments to the Approved Equipment List can be made subject to a written request to and approval from Council's Health, Building Regulatory Services Unit.</li> </ul> <p>Condition Reason: To address food safety requirements.</p> |

#### OCCUPATION AND ONGOING USE

- |     | Condition  |
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| 31. | <p><b>Operational Hours</b></p> <p>The hours of operation of the premises are restricted to 7:00am to 10:00pm, Monday to Sunday (inclusive).</p> <p>Condition Reason: To ensure that the approved use is operated within the approved hours of operation, to ensure safety and security and protect the amenity of surrounding areas.</p>  |
| 32. | <p><b>Fire Safety Statement</b></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 &amp; Rescue NSW.</p> |

Condition
<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>
<p>33. <b>Delivery Vehicles</b>  Deliveries associated with the site that involve the movement of vehicles, must only occur between the hours of 7.00am and 10.00pm.</p> <p>Condition Reason: To ensure appropriate amenity is maintained.</p>
<p>34. <b>Waste collection</b>  Waste collection associated with the site that involve the movement of vehicles, must only occur between the hours of 7.00am and 10.00pm.</p> <p>Condition Reason: To ensure appropriate amenity is maintained.</p>
<p>35. <b>Food Storage</b>  All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.</p> <p>Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.</p> <p>Condition Reason: To address food safety requirements.</p>
<p>36. <b>Food Safety Requirements</b>  The food premises must be registered with Council's Health, Building &amp; Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.</p> <p>A Food Safety Supervisor must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the Food Act 2003, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.</p> <p>A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance. A digital probe type thermometer must also be readily available to check the temperature of food items.</p> <p>All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60 degrees and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more than 5 degrees and keep this food cold at or below that temperature.</p> <p>Food safety practices and the operation of the food premises must be in accordance with the Food Act 2003, Food Regulation 2015, Food Standards Code and Food Safety Standards at all times, including the requirements and provisions relating to:</p> <ul style="list-style-type: none"> <li>• Food handling – skills, knowledge and controls.</li> <li>• Health and hygiene requirements.</li> <li>• Requirements for food handlers and businesses.</li> </ul>

	Condition
	<ul style="list-style-type: none"> <li>Cleaning, sanitising and maintenance.</li> <li>Design and construction of food premises, fixtures, fitting and equipment.</li> </ul> <p>The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.</p> <p>Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.</p> <p>The food premises must be kept in a clean and sanitary condition, at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation &amp; exhaust systems &amp; ducting, storage areas, toilet facilities, basins and sinks.</p> <p>Condition Reason: To address food safety requirements.</p>
37.	<p><b>Environmental Amenity</b></p> <p>There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the <i>Protection of the Environment Operations Act 1997</i> and <i>Regulations</i>.</p> <p>The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and <i>Regulations</i>.</p> <p>In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (<math>L_{A90}</math>), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an <math>L_{Aeq}</math>, 15 min and adjusted in accordance with the NSW Office of Environment &amp; Heritage/Environment Protection Authority Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).</p> <p>Condition Reason: To ensure appropriate amenity is maintained.</p>
38.	<p><b>Waste Management</b></p> <p>Adequate provisions are to be made within the confines of the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations.</p> <p>The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.</p> <p>A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.</p> <p>Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.</p> <p>Trade/commercial waste materials must not be disposed via 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>Condition Reason: To ensure appropriate waste management.</p>

Condition	
39.	<p><b>Sanitary Facilities</b></p> <p>Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be available for customers and staff and be maintained in a clean and sanitary condition at all times.</p> <p>Condition Reason: To ensure sanitary facilities are appropriate.</p>
40.	<p><b>Regulatory Requirements</b></p> <p>The primary purpose of the premises is for the provision of food and the premises must not to be used principally, for the sale, supply and consumption of alcohol.</p> <p>The written approval of Council and a relevant Liquor Licence under the (Liquor Act 2007) must be obtained beforehand for any proposed sale, supply and consumption of alcohol on the premises.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the Liquor Act 2007.</p>
41.	<p><b>Offensive noise</b></p> <p>Noise from the development must not cause an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i>.</p> <p>If "offensive noise" complaints are substantiated by an authorised officer under the <i>Protection of the Environment Operations Act, 1997</i> an acoustic report must be submitted and approved by the Planning Manager of Randwick City Council. The submitted acoustic report must be prepared by a suitably qualified acoustic consultant and include appropriate noise mitigation measure that will be required to allow the premises to cease causing "offensive noise" during their permitted use.</p> <p>Note: A Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member.</p> <p>Condition Reason: To ensure appropriate amenity is maintained.</p>

**DEMOLITION WORK  
BEFORE DEMOLITION WORK COMMENCES**

Condition	
42.	<p><b>Demolition Work</b></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"> <li>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.</li> <li>The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> <li>The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>Details of hazardous materials in the building (including materials containing asbestos)</li> <li>Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> </ul> </li> </ol>

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Condition
<ul style="list-style-type: none"> <li>Measures to be implemented to minimise any airborne dust and asbestos</li> <li>Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>Other measures to be implemented to ensure public health and safety</li> <li>Date the demolition works will commence/finish.</li> </ul> <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 10m<sup>2</sup> of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; 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
<p>43. <b>Demolition Work and Removal of Asbestos Materials</b></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"> <li>A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li> <li>Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations</li> <li>A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li> <li>Council is to be given at least two days written notice of demolition works involving materials containing asbestos,</li> <li>Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,</li> <li>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,</li> <li>Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.</li> </ul>

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Condition

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

Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.

D43/24



## Development Application Report No. D44/24

**Subject:** 19 Solander Street, Matraville (DA/395/2023) - DEFERRED  
ITEM

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### Executive Summary

**Proposal:** Strata subdivision of existing attached dual occupancy  
**Ward:** South Ward  
**Applicant:** Ms A Massain  
**Owner:** Ms T B C Lam and Ms T H Ngo  
**Cost of works:** Nil  
**Reason for referral:** Partial non-compliance with CI 4.1D of RLEP 2012

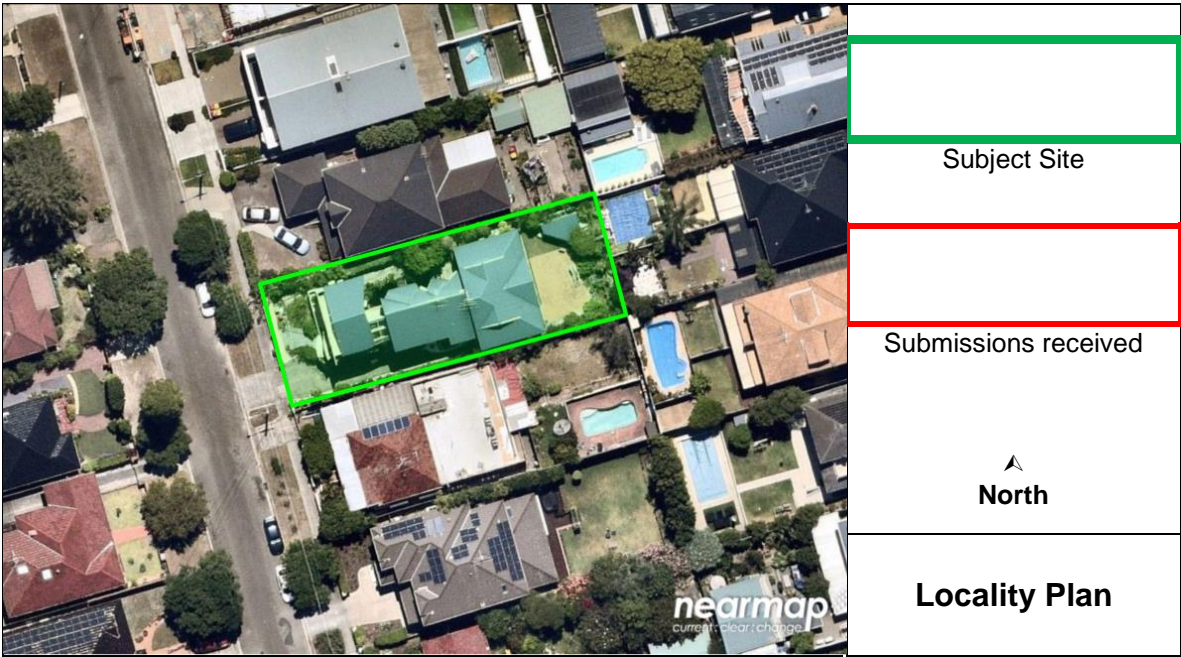
### Recommendation

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. 395/2023 for Strata subdivision of the existing dual occupancy at No. 19 and 19A Solander Street, Matraville, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  Supplementary Report - RLPP Dev Consent Conditions - DA/395/2023 - 19 Solander Street, Matraville

D44/24



1. Executive Summary

The subject Development Application (DA) was considered at the electronic Randwick Local Planning Panel (RLPP) meeting on 29 April 2024. At the meeting, the Panel deferred the application under the following resolution:

- A. *That the RLPP defers the application for the submission of a proposed strata subdivision plan prepared by a registered Surveyor as required by Randwick Council’s Development Application Guide. The plan is to be accompanied by an amended Clause 4.6 Written Request where the proposed strata subdivision breaches any development standards under Clause 4.1D of the Randwick LEP 2012. This should be submitted within 21 days and the current panel will determine the application electronically together with an addendum report by Council Officer’s addressing the additional information amendments.*

The Applicant provided a Strata Plan, prepared by a registered Surveyor, and a revised Clause 4.6 Written Request, which satisfies the above resolution.

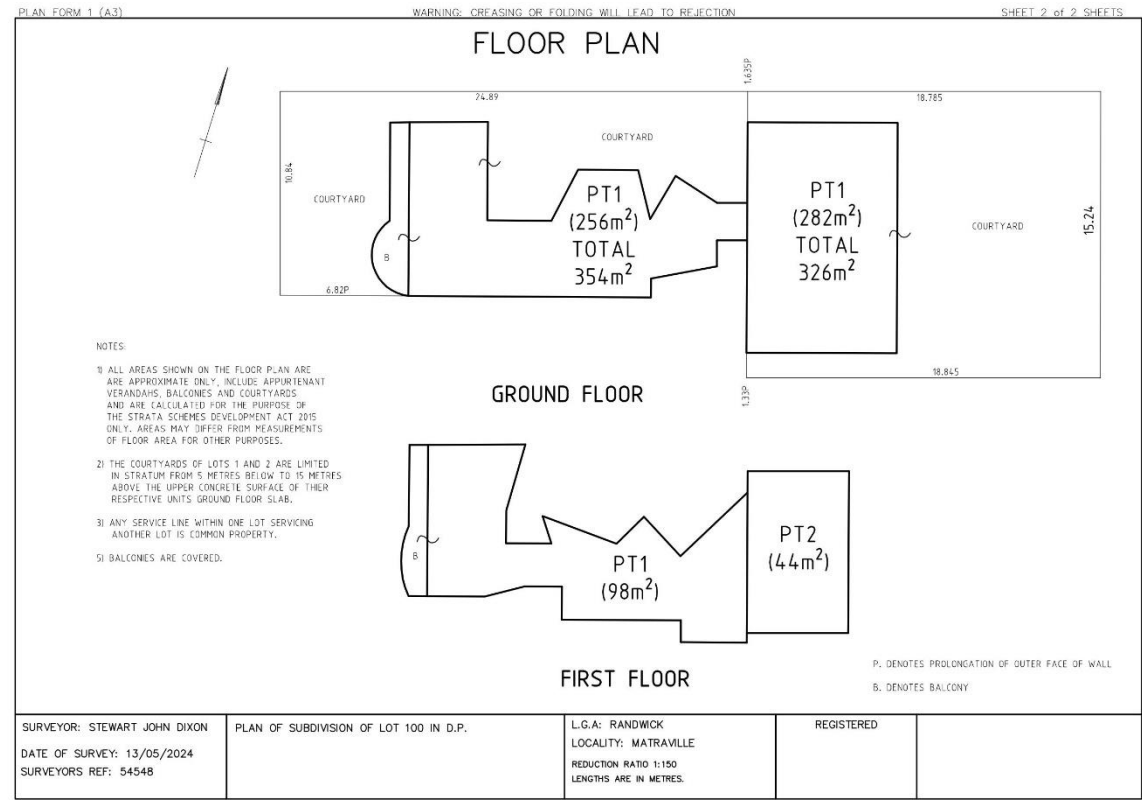
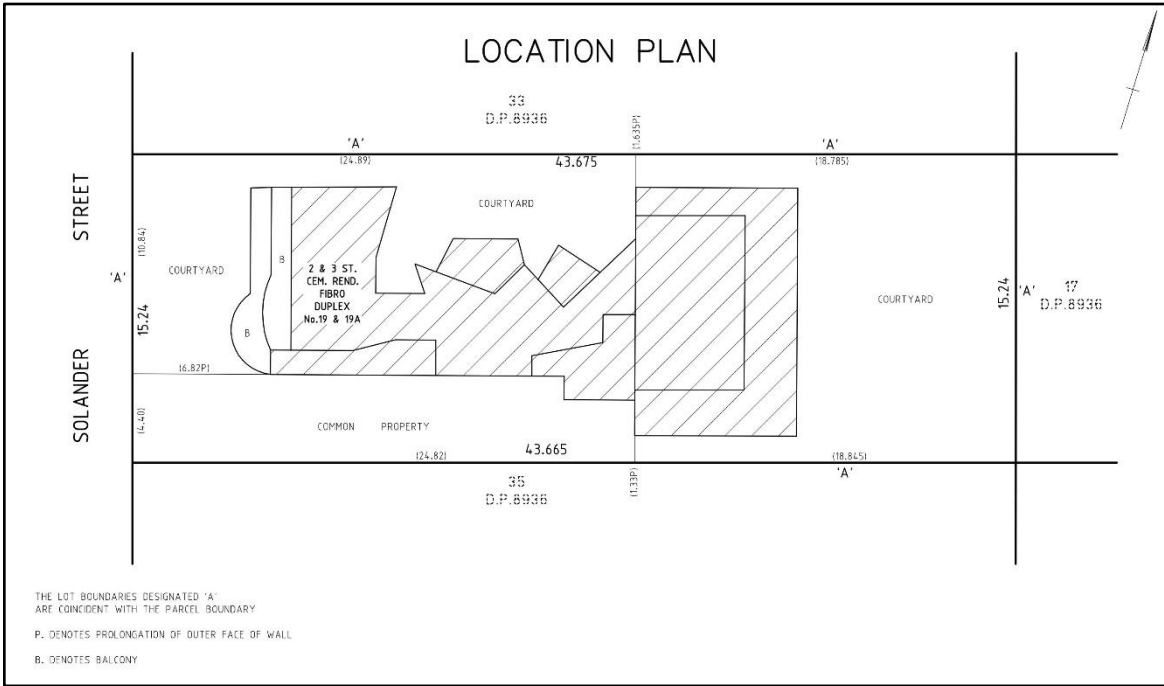
2. Response to Deferral Resolution

The Applicant submitted additional information on 20 May 2024. The following comments are provided in response to the Panel’s resolution and reasons for deferral:

**Resolution:** *That the RLPP defers the application for the submission of a proposed strata subdivision plan prepared by a registered Surveyor as required by Randwick Council’s Development Application Guide. The plan is to be accompanied by an amended Clause 4.6 Written Request where the proposed strata subdivision breaches any development standards under Clause 4.1D of the Randwick LEP 2012. This should be submitted within 21 days and the current panel will determine the application electronically together with an addendum report by Council Officer’s addressing the additional information amendments.*

**Reason:** *The Panel generally supports the application, however has noted inconsistencies in the documentation submitted for assessment in the Clause 4.6 and the proposed plan set. Consistency is required before determination can be made by the Panel.*

Assessment Officer comments:  
A Strata Plan, prepared by a qualified surveyor, have been provided (refer to Figures 1 and 2). This Strata Plan shows the existing driveway as common property and this has been reflected in the provided Clause 4.6 Written Request.



3. Amended Conditions

The additional information have resulted in the Conditions of Consent (Condition 1) being revised. A revised draft development consent has been prepared by the Assessment Officer which are attached to the supplementary development application report.

#### 4. Conclusion

That the application for Strata subdivision of existing attached dual occupancy 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 relevant objectives of the R2 zone.
- The scale and design of the dwellings would not be altered under the proposal.
- The development would not change the visual quality of the public domain/streetscape.
- It is demonstrated that non-compliance with CI 4.1D is acceptable in this instance.

D44/24

## Appendix A – Revised Clause 4.6 Written Request



LIAISON – LAND USE APPRAISALS – EXEMPT AND COMPLYING DEVELOPMENT CHECKS – STATEMENTS OF ENVIRONMENTAL EFFECTS – ENVIRONMENTAL IMPACT STATEMENTS – PLANNING PROPOSALS – LAND & ENVIRONMENT COURT REPRESENTATION

### Clause 4.6 Request for Contravention of the Development Standard under Clause 4.1D (2)(a) of the Randwick Local Environmental Plan 2012

April 2024

## Solutions Zane Land Use Planning Services

## RANDWICK LOCAL ENVIRONMENTAL PLAN 2012 (RLEP)

### CLAUSE 4.6

### REQUEST FOR CONTRAVENTION OF DEVELOPMENT STANDARD

**APPLICANT:** Solutions Zane  
**ADDRESS:** 19 & 19A Solander Street, Matraville. Lot 34 DP 8936  
**PROPOSAL:** Strata Title Subdivision of Existing Dual Occupancy  
**DEVELOPMENT STANDARD – Clause 4.1D (2) (a) of the Randwick Local Environmental Plan 2012 (RLEP)**

**INTRODUCTION**

This submission is a request for contravention of the above development standard in relation to the proposed Strata Title Subdivision of Existing Dual Occupancy, at Lot 34 DP 8936, No. 19 & 19A Solander Street, Matraville, on the basis that:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and;
2. There are sufficient environmental planning grounds to justify contravening the development standard and;
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 and as such is well founded.
4. Contravention of the standard in this instance will not raise any matters of State or Regional significance.
5. There is no public benefit in maintaining the standard on this occasion.
6. The proposal achieves the objectives of Clause 4.6 of the RLEP of providing an appropriate degree of flexibility in applying certain development standards to particular development and achieves better outcomes for and from development by allowing flexibility in particular circumstances.

**The development standard to which the request relates**

Clause 4.1D of the RLEP states:

- (1) *This clause applies to a dual occupancy (attached) on land in Zone R2 Low Density Residential for which development consent was granted before 6 July 2018.*
- (2) *Despite any other provision in this Plan, development consent may be granted for the subdivision of a dual occupancy to which this clause applies if the development meets the standards specified in the following provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008—*
  - (a) *for strata subdivision—clause 6.2, or*
  - (b) *for Torrens title subdivision—clause 6.4*

The existing dual occupancy (attached) was granted consent well before 6 July 2018 (C.C No. BRO2162 dated 6/8/02), with the proposed subdivision being a Strata Subdivision.

D44/24

### Solutions Zone Land Use Planning Services

#### Clause 6.2 of the SEPP(Exempt and Complying Development Codes) 2008 states:

- (a) that the subdivision must not contravene any condition of any development consent or complying development certificate applying to the development,
- (b) in the case of a dual occupancy or multi dwelling housing (terraces)—
- (i) each dwelling must have lawful frontage to a public road (other than a lane), and
- (ii) no dwelling must be located behind any other dwelling on the same lot (except in the case of a corner lot or a parallel road lot), and
- (iii) each resulting lot must have a minimum width (measured at the building line) of 6m,
- (c) in the case of a dual occupancy where no part of a dwelling is located above any part of another dwelling or multi dwelling housing (terraces), the strata area (being the area of the ground floor of all dwellings) is not less than 180m<sup>2</sup>.

#### The nature of the departure from the development standard

The proposed strata subdivision will result in the proposed Lot 2 not having a lawful frontage to Solander Street, rather, vehicular, and pedestrian access from Solander Street via a common property driveway area. In addition, the dwelling on Lot 2 is located behind the dwelling on Lot 1.

The above is demonstrated in the images below:

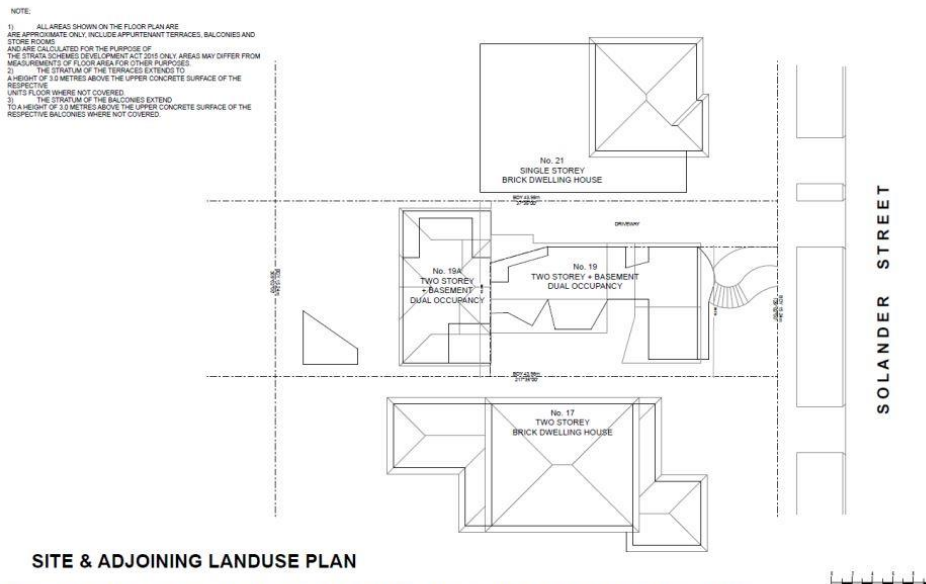


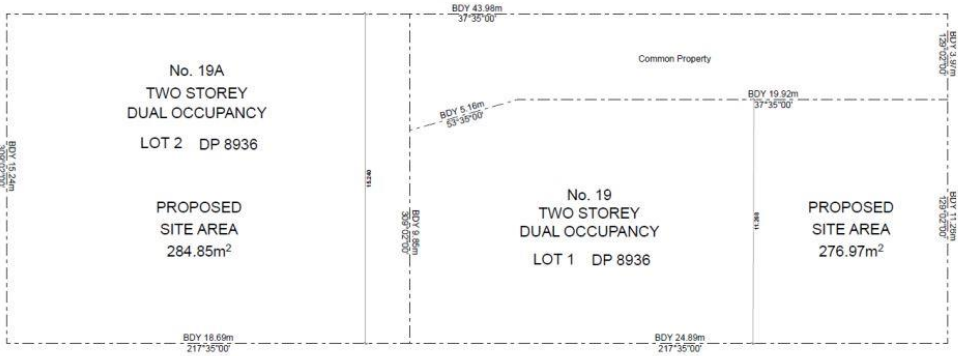
Figure 1: Site plan indicating the existing building footprints (Source: Subdivision Plans)

D44/24

Solutions Zane Land Use Planning Services

NOTE:  
1) ALL AREAS SHOWN ON THE FLOOR PLAN ARE APPROXIMATE ONLY. INCLUDE APPURTENANT TERRACES, BALCONIES AND STAIRWAYS AND ARE CALCULATED FOR THE PURPOSE OF THE STRATA SUBDIVISION ACT 2014. ONLY AREAS MAY DIFFER FROM MEASUREMENTS OF FLOOR AREA FOR OTHER PURPOSES.  
2) THE SYMMETRY OF THE TERRACES EXTENDS TO A HEIGHT OF 3.0 METRES ABOVE THE UPPER CONCRETE SURFACE OF THE RESPECTIVE UNITS FLOOR WHERE NOT COVERED.  
3) THE SYMMETRY OF THE BALCONIES EXTENDS TO A HEIGHT OF 3.0 METRES ABOVE THE UPPER CONCRETE SURFACE OF THE RESPECTIVE BALCONIES WHERE NOT COVERED.

COMPLIANCE TABLE		
Clause	Site Requirements	Proposed
6.2(a)	Site Area: 654.2m <sup>2</sup>	Complies
6.2(b)(i)	The subdivision must not contravene any condition of any development consent.	Complies
6.2(b)(ii)	Each dwelling must have lawful frontage to a public road (other than a lane).	Complies
6.2(b)(iii)	No dwelling must be located behind any other dwelling on the same lot (except in the case of a corner lot or a parallel road lot).	Complies
6.2(b)(iv)	Each resulting lot must have a minimum width (measured at the building line) of 6m.	Lot 1 - 15.24m Lot 2 - 11.26m
6.2(c)	In the case of a dual occupancy the strata area is not less than 150m <sup>2</sup>	Lot 1 - 276.97m <sup>2</sup> Lot 2 - 284.85m <sup>2</sup>



DRAFT STRATA PLAN  
Figure 2: Draft Strata plan showing the subdivision (Source: Subdivision Plans)

**Why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.**

Compliance with the development standard is unreasonable and unnecessary in the circumstances for the following reasons:

- The existing dual occupancy on the subject site was granted consent and approved in approximately 2002 (C.C No. BRO2162 dated 6/8/02). The existing configuration was deemed appropriate based on the applicable planning controls at the time, ensuring an end development that was sympathetic to the surrounding context.
- The current planning controls in the RLEP, specifically Clause 4.1D (2) (a) refer to controls applicable under SEPP (Exempt and Complying Development Codes) 2008, for dual occupancies approved as complying development under the Code (i.e. side by side or one on top of the other). These provisions should not be used to retrospectively restrict the strata subdivision of a legitimate existing dual occupancy, approved under previous planning controls over 20 years ago.
- The proposed subdivision will not involve any material change to the appearance or use of the existing dual occupancy.
- The proposed subdivision meets the minimum lot size requirements stated in the clause 4.1A of the RLEP for Strata Plan Schemes in the R2 Zone and would otherwise be permissible and compliant, if not for the application of clause 4.1D.
- The proposed strata subdivision will not result in any adverse amenity impacts to the existing streetscape or adjoining properties.
- Council has a documented history of applying a flexible approach to the application of development standards as per the allowances under Clause 4.6, in appropriate circumstances.

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As such, there are insufficient planning grounds to justify contravening the development standard.

Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 established 5 ways in which a departure from a development standard can be justified and this was reiterated by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. The most invoked means of justifying a departure from a development standard is the achievement of the end objectives, despite the strict non-compliance.

Whilst there are no stated objectives of the standards in this instance, the strata subdivision of the existing dual occupancy, approved under previous planning controls, is such that the request for contravention is entirely justified and worthy of support on this occasion.

Given the justification provided in this request, the remaining ways by which a clause 4.6 Request may be justified, do not require elaboration. Notwithstanding, for the purposes of completeness, the remaining ways are articulated with relevant commentary:

- *The underlying objective or purpose of the standard is not relevant to the development*

#### Comment

There is no clear underlying objective or purpose of the standards. However, the provision within SEPP Exempt and Complying Development Codes) 2008, if not complied with, would simply require lodgment of a DA, which would be considered on its merits. It should not be arbitrarily used to reject the strata subdivision in this instance.

- *The underlying objective or purpose would be defeated or thwarted if compliance was required.*

#### Comment

In this instance, if compliance was required, any objective or purpose would be defeated or thwarted, as the proposed departure represents an opportunity to improve the internal amenity and land tenure, without adversely impacting on the amenity of surrounding residents or the public domain.

- *The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or*

#### Comment

Whilst the abovementioned standard has not been abandoned or destroyed by the Council's own actions, it is frequently varied by Council in justified circumstances, such as those evident on this occasion.

- *The zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.*

#### Comment

The zoning of the land on this occasion is not regarded as unreasonable or inappropriate. Moreover, non-compliance will not alter the acceptable relationship of the subdivision with other applicable standards and controls within the R2 - Low Density Residential zoning.

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As such, the request on this occasion satisfies more than one (one only required) means of justifying contravention of the standard and is manifestly worthy of support.

### The environmental grounds which justify contravening the development standard

Sufficient environmental planning grounds exist to justify departure from the development standard on this occasion in that:

- The departures from the development standard that relate only to the lawful frontage to Solander Street for the proposed Lot 2 and the location of the dwelling on lot 2 behind the dwelling on lot 1. Non-compliance will not alter the acceptable maximum building height, minimum setbacks, suitable landscaped and POS provisions, solar access and overshadowing or the visual and acoustic privacy impacts, generated by the existing dwelling.
- Having regard to the acceptable scale of the existing development, commensurate with those in the surrounding locality, the proposed subdivision of the existing dual occupancy will not result in any adverse amenity impacts on the streetscape or surrounding properties.

Having due regard to the *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, it is affirmed that the above environmental planning grounds which justify contravention of the standard in this instance, are not general propositions. They are unique circumstances of the proposed development in the context of the existing building on the subject site.

Finally, having regard to the environmental benefits associated with the development in its current form and the acceptable amenity impacts, notwithstanding the strict departures from the development standard, the proposed variation is justified and there are sufficient environmental grounds to support the departure.

### The Public Interest/Consistency with the Objectives of the Standard and the objectives for development within the zone

As detailed above there are no stated objectives of the standard.

The proposed strata subdivision of the existing dual occupancy is entirely consistent with the zone objectives which 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*

As such, the proposed subdivision is in the public interest.

### Significance for State and Regional Planning

The proposed development is consistent with State and Regional Planning Policies in that the proposed development, inclusive of the strict departures, will result in an orderly and economic use of the land, in accordance with the objects of the Environmental Planning and Assessment Act, 1979.

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**Solutions Zone Land Use Planning Services**

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Despite the non-compliance with the development standards, the strata subdivision is logical, of no adverse consequence and achieves general compliance with all other planning controls applicable to this type of development. The sustainable impact on the surrounding amenity has been documented in the SOEE which accompanies the application.

The proposed development in its current form will contribute to the desired future character of this established residential area, which is well located with respect to parks, community infrastructure and local shopping centres, with bus services available along Perry Street and Bunnerong Road connecting the subject site to Matraville, Maroubra and the Sydney CBD, located approximately 15km to the north. As such, the proposed development does not raise any matters of significance for State or Regional Planning.

**Consistency with Clause 4.6 of the RLEP**

The objectives of 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.*

The justification for the provision of an appropriate degree of flexibility in the present circumstances has been demonstrated here. The wider planning intentions for the locality will not be compromised by the departure in the circumstances.

Having regard to the contents of this submission, this variation is well founded and worthy of support.

Departure from the development standards on this occasion (whilst not required to) will achieve a better outcome for and from the proposed development by way of consistency with the understood objectives of the standards and those of the R2 Low Density Residential zone, will not raise any matter of significance for State or Regional Environmental Planning and no public benefit will be served by maintaining the standard in the circumstances.

The justification for the departure from the development standards are worthy of support.

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**Responsible officer:** Miguel Rivera, Coordinator Fast Track

**File Reference:** DA/395/2023

## Development Consent Conditions (Dwellings and Dual Occupancies)



<b>Folder /DA No:</b>	DA/395/2023
<b>Property:</b>	19 Solander Street, MATRAVILLE NSW 2036
<b>Proposal:</b>	Strata subdivision of existing attached dual occupancy.
<b>Recommendation:</b>	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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Location Plan Plan of Subdivision of Lot 100	Stewart John Dixon Surveyor ref: 54548	13 May 2024	20 May 2024
Floor Plan Plan of Subdivision of Lot 100	Stewart John Dixon Surveyor ref: 54548	13 May 2024	20 May 2024

#### 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.

#### Strata Plans

- All floors, external walls and ceilings depicted in the proposed strata plan must correspond to the building as constructed.
- 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 (reference DA/956/2001 & CC/529/2002).

4. Prior to endorsement of the strata plans, all facilities required under previous development approvals (such as parking spaces, terraces and courtyards) must be provided in accordance with the relevant requirements.
5. The applicant shall create suitable right of carriageway and easements as required, however generally all services lines (including stormwater) over any strata lot serving another strata lot are to be common property.

**Plan of Survey**

6. The applicant shall provide Council with a copy of the base plan of survey (e.g. Plan of Redefinition) for the property prior to issuing of a strata certificate.

**Sydney Water**

7. 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](http://sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifying Authority and the Council prior to issuing of a Strata Certificate.

NOTE: The Section 73 certificate issued upon the completion of the dwellings will not be acceptable to comply with this condition. A separate S73 compliance certificate that specifically refers to the subdivision of the site into two lots must be provided.

**Public Utilities**

8. 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.

Should compliance with this condition require works that are not exempt development, the necessary approvals must be obtained prior to any works being undertaken.

**Road / Asset Opening Permit**

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

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

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

**Restriction and Positive Covenant**

10. A certificate of title providing evidence of registration of the "restriction on the use of land" and "positive covenant" (required under condition of consent for DA/956/2001) shall be provided to Council or the accredited certifier prior to the issuing of a strata certificate.

If the restriction and positive covenant have **not** yet been registered, 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 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.

#### **Strata Certificate**

11. A formal application for a strata certificate is required to be submitted to and approved by the Council or accredited certifier and all relevant conditions of this development consent are required to be satisfied prior to the release of the strata subdivision plans.
12. Details of critical stage inspections carried out by the principal certifying authority, together with any other certification relied upon, must be provided to Council or the accredited certifier prior to the issuing of a strata certificate.

#### **Street and/or Sub-Address Numbering**

13. 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.

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 a subdivision 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.