

Randwick Local Planning Panel (Electronic) Meeting

Thursday 13 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 on
Thursday, 13 June 2024 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D45/24

Subject: 1203 Anzac Parade, Matraville (DA/545/2022)

Executive Summary

Proposal:	Alteration and additions to Malabar Memorial Hall including internal reconfiguration, changes to facade and to provide a new universal access and stairs from Anzac Parade to an entry foyer of Malabar Memorial Hall and Malabar Community Library. The proposed development also includes a new accessibility toilet and signage to Malabar Community Library
Ward:	South Ward
Applicant:	Randwick City Council
Owner:	Randwick City Council
Cost of works:	\$1,674,665.00
Reason for referral:	Conflict of Interest

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.6 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment have been assumed.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 545/2022 for alteration and additions to Malabar Memorial Hall and Malabar Community Library, at No. 1203 Anzac Parade, Matraville, subject to the development consent conditions attached to the assessment report.

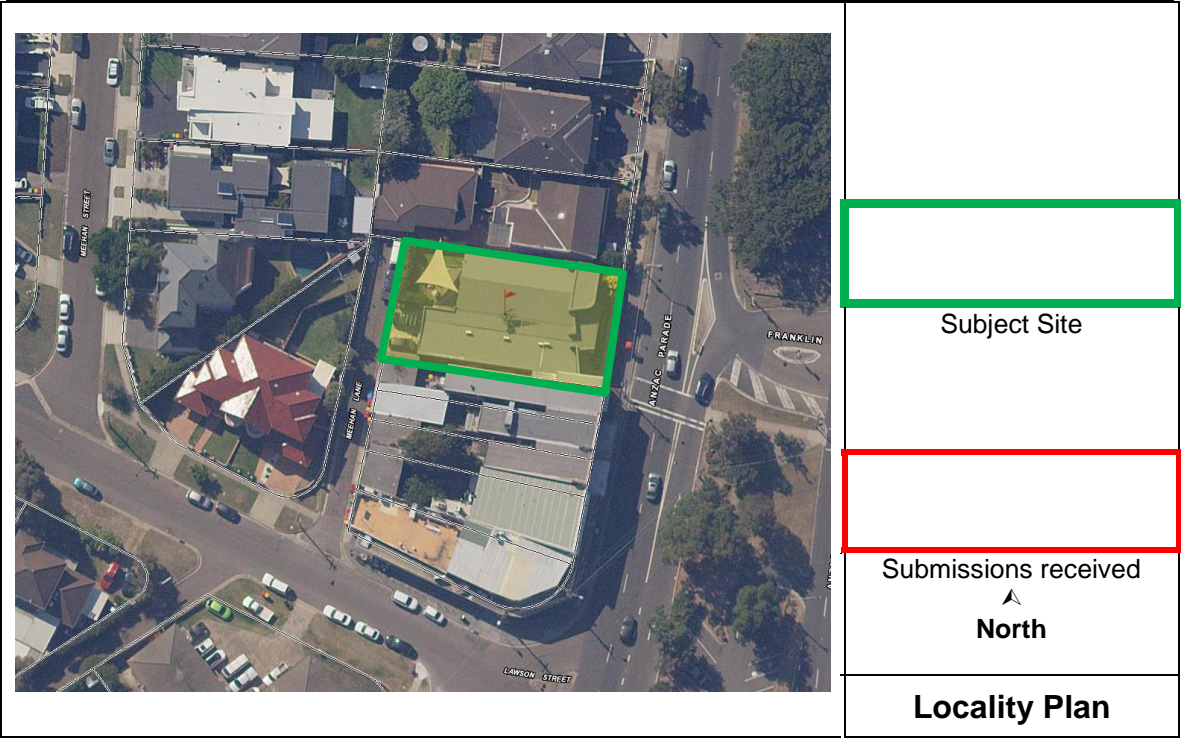
Attachment/s:



1. RLPP Dev Consent Conditions (general) - DA/545/2022 - 1203 Anzac Parade, MATRAVILLE NSW 2036 - DEV - Randwick City Council

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the applicant and landowner is Randwick City Council.

The proposal seeks development consent for alterations and additions to an existing community facility used as a community hall and library, known as Malabar Memorial Hall and Library.

The key issues associated with the proposal relate to:

- Floor Space Ratio
- Parking

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

- A plan indicating the size and design of the proposed signage must be provided to and approved by Council's Manager of Development Assessment before a construction certificate can be issued.

2. Site Description and Locality

The subject site is known as 1203 Anzac Parade, Matraville and is legally described as Lot 4316 in DP 752015. The site is 734m², is rectangular in shape and has a 19.81m frontage to Anzac Parade to the east. The site contains a single storey community facility known as the Malabar Memorial Hall and Library. The northern half of the site is utilised as a community hall while the southern half of the site is utilised as a public library. Three (3) off-street car parking spaces are provided at the rear of the site accessed via Meehan Lane. Located to the south of the subject site is a neighbourhood centre comprising of two (2) storey commercial buildings. To the north the subject site adjoins a single storey residential dwelling. The site is zoned R2 Low Density Residential under the Randwick LEP 2012. The site slopes in a north-easterly direction, descending approximately 2.18m over a distance of approximately 42m.



Figure 2: Subject site as viewed from Anzac Parade and Franklin Street intersection.



Figure 3: Subject site as viewed from Meehan Lane.

3. Relevant history

Previous Approvals issued on site

- BA/203/1956 – Public Hall for Church.
- BA/1168/1975/Z – Branch Library.
- BA/300/1977/A – Alterations for Library.
- LA/314/2003 – Matraville District Memorial Hall.
- CDC/245/2004 – Replace AC corrugated roofing and metal roofing with kliplock roofing.
- LA/93/2005 – Place of Public Entertainment.

4. Proposal

The proposal seeks development consent for alterations and additions to an existing community facility used as a community hall and library.

The following works are sought:

Anzac Parade Frontage:

- Demolition of existing pedestrian ramp to accommodate the addition of stairs and universally accessible lift.
- Demolition of existing terrace and addition of a new external terrace with seating areas.
- Demolition of existing entry foyer and construction of a new entry foyer and kitchen to community hall.
- Addition of a built-in after hours book return cabinet adjacent to new lift.
- New signage for the library.

Existing Community Hall and Library:

- Internal alterations and additions to accommodate new bathroom and storage facilities.
- Minor internal alterations to doors and internal spaces to comply with current BCA provisions.
- Brick-up of existing doors and window openings and addition of new windows facing Meehan Lane.

Associated Site Works:

- Construction of a new protective wall adjacent to existing northern boundary brick wall.
- Addition of a roof over new terrace.

Overall, the proposed alterations and additions sought generally retain the existing scale of the building. The changes sought primarily relate to internal changes and improving pedestrian access between the Malabar Community Hall and Library and Anzac Parade.

As noted in the submitted Statement of Environmental Effects, the proposed development does not seek any alterations to the use or operation of the existing premises. Notwithstanding, the Malabar Memorial Hall is available for hire during 8am to 9pm, Monday to Sunday. The hours of operation for Malabar Library is 9am to 5:30pm, Monday to Sunday.

The proposed kitchen will be used by hirers of Malabar Community Hall for minor food preparation/reheating and to make coffee/tea.

It should be noted that on 3 June 2024, the applicant has confirmed in an email that the signage as shown on drawing No. DA.08 is to be included as part of the proposed development for consideration.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council's Community Engagement Strategy. The application was notified for a fourteen (14) day period between 10 November 2022 and 24 November 2022. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. Crown Lands Management Act 2016

The site is identified as being Crown Land of New South Wales (Crown Reserve 500208) with Randwick City Council being Crown Land Manager of the site. As such, the site is subject to the legislative requirements of the *Crown Lands Management Act 2016*.

Division 2.4, Clause 2.12, of the Act states that dedicated or reserved Crown land may only be used for the following purposes:

- (a) *the purposes for which it is dedicated or reserved,*
- (b) *any purpose incidental or ancillary to a purpose for which it is dedicated or reserved,*
- (c) *any other purposes authorised by or under this Act or another Act.*

Council's Property Team has noted that the land is dedicated to Council for the purposes of a public hall. As such, the land must be managed by Council as community classified land. Therefore, the continued use of the site for community purposes (public hall and library) is consistent with Division 2.4, Clause 2.12 of the Act.

Additionally, Clause 2.23, subclause (2) of the Act states that *the Minister is taken to have given written consent on behalf of the Crown (as the owner of dedicated or reserved Crown Land) for its Crown land manager or the holder of a lease or licence over the land to make a development application relating to any of the following kinds of development:*

- (a) *without limiting paragraph (g), the repair, maintenance, restoration or renovation of an existing building on the land if it will not do any of the following-*
 - (i) *alter the footprint of the building by adding or removing more than one square metre (or any other area that may be prescribed by the regulations),*
 - (ii) *alter the existing building height by adding or removing one or more storeys,*
 - (iii) *involve excavation of the land,*

The building footprint is taken to refer to the external walls of the building. In this regard, the proposed alterations and additions do not alter the existing floor area of the building by more than 1m². Further, the proposal does not result in any excavation of the land nor involves the addition or removal of any storeys. Therefore, Council, being the Crown land manager for the site, is able to make an application for the proposed development without the need for Minister's consent.

Finally, Clause 3.21 of the Act states the following:

- (1) *A council manager is authorised to classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the [Local Government Act 1993](#), subject to this Division.*
- (2) *Accordingly, a council manager is also authorised to manage its dedicated or reserved Crown land as if it were community land or operational land, but only as permitted or required by this Division.*

Council's Property Team has noted that the land is managed by Council under the *Crown Lands Management Act 2016* and must be managed as "community" classified land under the *Local Government Act 1993*. The land is categorised as General Community Use and must be managed in accordance with the core objectives.

The core objectives for the management of community land are outlined within Section 36I of the *Local Government Act 1993*, which states that *the core objectives for management of community land categorised as general community use are to promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public—*

- (a) *in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and*
- (b) *in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).*

The proposed development does not change the existing use of the site as a community hall and public library. The proposal seeks to improve access to an existing public recreation space that provides for spaces that are able to be rented out by members of the community and provide opportunities for members of the community to read, study and borrow books. Therefore, the existing and continued use of the site as a public hall and library will continue to meet the cultural, social and intellectual needs of the community. Subsequently, the proposal aligns with Clause 3.21 of the Crown Lands Management Act 2016.

6.2. SEPP (Resilience and Hazards) 2021

The available history of the site indicates that the site has been used as a community facility for a significant period of time. An inspection of the site has not revealed any land uses that suggest contamination of land has occurred. No significant risk is posed and therefore under Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered suitable for the proposed use as a community facility.

6.3. SEPP (Industry and Employment) 2021

Chapter 3 of the Industry and Employment SEPP seeks to ensure that signage, including advertising, is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

The signage falls within the definition of ‘advertisement’, which is defined by the SEPP as follows:

Advertisement means signage to which Section 3.3 applies and includes any advertising structure for the advertisement.

Advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Pursuant to section 3.11, the consent authority must not grant consent to an application to display an advertisement unless the advertisement is consistent with the objectives of Chapter 3 and has been assessed as acceptable in relation to the assessment criteria in Schedule 5.

An assessment against the relevant objects and criteria is provided in the tables below.

Industry & Employment SEPP – Chapter 3	Compliance
(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.	<p>The proposed signage is compatible with the desired amenity and visual character of the locality. The site is located directly adjacent to a neighbourhood centre, which is characterised by commercial uses and signage.</p> <p>The proposed signage will be situated flush along the front elevation of the building and indicate to the public domain that the building is utilised as the Malabar Memorial Hall and Library.</p>
Industry & Employment SEPP – Schedule 5	Comment
Character of the area	

Industry & Employment SEPP – Schedule 5	Comment
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	<p>The proposal is compatible with the existing character of the area. While the subject site is located within the R2 Low Density residential zone, it is also located adjacent to a neighbourhood centre, which is characterised by commercial uses and signage.</p> <p>It should also be noted that the existing building also contains signage along the front elevation which states “MALABAR LIBRARY”. Therefore, the proposed new signage will remain consistent with the existing and desired future character of the area.</p>
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; however it is not considered the subject design would be in contrast with the immediate locality.
Special areas	
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 subject site is not located within, nor located in proximity to, any environmentally sensitive areas, heritage areas, conservation areas or open space areas</p> <p>While the site is located within a residential land use zone, the signage does not detract from the amenity or visual quality of the surrounding R2 low density residential zoned land, demonstrated by the fact that the existing building also provides signage along the front elevation.</p>
Views and vistas	
Does the proposal obscure or compromise important views?	The proposed signage will not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does not dominate the skyline or reduce the quality of vistas. The proposed signage will be situated flush along the front elevation.
Does the proposal respect the viewing rights of other advertisers?	The proposal does not affect the viewing rights of other advertisers.
Streetscape, setting or landscape	
Are the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The signage is compatible with the scale and proportions of the surrounding streetscape, setting, and landscape.

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Industry & Employment SEPP – Schedule 5		Comment
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?		The proposal does not have an adverse impact on the visual interest of the streetscape. The signage simply states the purpose of the building being “MALABAR MEMORIAL HALL + LIBRARY.”
Does the proposal reduce clutter by rationalising and simplifying existing advertising?		The proposed signage will be clear and legible from the public domain. The signage simply identifies the name and purpose of the building, reducing visual clutter.
Does the proposal screen unsightliness?		The proposal does not create any undue unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?		The proposed signage does not protrude above buildings.
Does the proposal require ongoing vegetation management?		The proposal does not require ongoing vegetation management.
Site and building		
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 proposed signage is minor in size and integrates with the proposed form of the building.
Does the proposal respect important features of the site or building, or both?		The proposed signage is situated flush along the front elevation of the building and integrates with the proposed form of the building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?		The proposed signage shows an imaginative approach to signage with the proposed lettering running from bottom to top as opposed to the usual left to right. This approach minimises the dominance of the sign along the front elevation, limiting visual clutter.
Associated devices and logos with advertisements and advertising structures		
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?		No advertising signage is proposed. The proposed signage simply relates to identifying the purpose of the building.
Illumination		
Would illumination result in unacceptable glare?		N/A – No illumination is proposed.
Would illumination affect safety for pedestrians, vehicles or aircraft?		N/A – No illumination is proposed.
Would illumination detract from the amenity of any residence or other form of accommodation?		N/A – No illumination is proposed.
Can the intensity of the illumination be adjusted, if necessary?		N/A – No illumination is proposed.

Industry & Employment SEPP – Schedule 5		Comment
Is the illumination subject to a curfew?		N/A – No illumination is proposed.
Safety		
Would the proposal reduce the safety for any public road?		The proposal will not affect the safety of Anzac Parade noting that the proposed signage will be flush along the front elevation of the building and will not be illuminated.
Would the proposal reduce the safety for pedestrians or bicyclists?		For the reasons above, the proposal 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?		As the signage will be situated flush along the elevation of the building, the proposal does not obscure sightlines from public areas.

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6.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 Low Density Residential under Randwick Local Environmental Plan 2012 and the current use (community facility) is permissible with consent.

The proposal is consistent with the specific objectives of the zone in that the proposed alterations and additions to the community facility will retain a land use on the site that provides facilities or services to meet the day to day needs of residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.5:1 (367m ²)	0.527:1 (386.52m ²)	No – Clause 4.6 variation submitted with application (refer to section 7 of this report.
Cl 4.3: Building height (max)	9.5m	7m	Yes

6.5. Randwick Comprehensive Planning Proposal to update Randwick Local Environmental Plan 2012 (LEP)

During the assessment process, the Randwick Comprehensive Planning Proposal was gazetted with amendments made to the Randwick LEP on 1 September 2023 (Amendment No.9). As the application was formally lodged prior to the gazettal of Randwick LEP 2012 (Amendment No. 9), the application has been assessed under the Randwick LEP provisions that applied at the time of lodgement.

Nevertheless, the proposal is not impacted by any changes to zoning, height or FSR controls that are now enforced.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.5:1 (367m ²)	0.527:1 (386.52m ²)	19.52m ²	5.3%

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

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

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

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

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

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

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

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

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

1. *The written request must focus on the aspect or element of the development that contravenes the development standard, not the development as a whole (i.e. The written*

request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole); and

2. *The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31] Judge Pain confirmed that the term 'sufficient' did not suggest a low bar, rather on the contrary, the written report must address sufficient environmental planning grounds to satisfy the consent authority.*
3. *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

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

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

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

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

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

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

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

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

7.1. Exception to the Floor Space Ratio (FSR) development standard (Cl 4.4)

The applicant's written justification for the departure from the FSR standard has been submitted under separate cover in Appendix 1.

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

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

Are the objectives of the standard achieved notwithstanding non-compliance with the standard?

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the existing community hall and library are consistent with the existing and desired character of the locality. The proposed 1m² increase to the existing gross floor area enables compliant universal access to the two public buildings which is currently not provided. The proposal will also create a 27m² increase in accessible outdoor public space available on the site by the provision of a new terrace accessible from the new entry foyer and from Anzac Parade.

The applicant's written justification also notes that the development is an improvement to the existing neighbourhood character and will result in an enhanced streetscape for a community asset. Further, the proposed alterations and additions have been designed to respond cohesively to the existing community building and the immediate streetscape. Elements such as the building form and scale have been used to respond thoughtfully to the character of this area.

The minor increase in the gross floor area of 1m² does not in any way result in increased bulk and scale as the new entry foyer and new adjoining terrace area provide a substantial enhancement of the existing aesthetics of the memorial hall and associated library.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed alterations and additions relate to improving access to an existing community facility. The new lift and stairs have been positioned to have minimal impact on the overall architectural merits of the building and the proposal ensures that the front elevation is well articulated and modulated to respond to the environment and energy requirements.

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

The development is not within a conservation area or near a heritage item so the objective detailed in Clause 1(c) is not relevant to this development.

However, it is noted that the applicant's written justification outlines that the reinstatement of the original 1957 front façade to the hall with a new foyer enhances the character of the building.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the development does not result in visual bulk as the proposed alterations and additions have been designed to complement the character of the area and the streetscape that prevails in this precinct. There is no loss of privacy, overshadowing or loss of views noting the proposed development is well within the maximum building height afforded to the site.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case as the objectives of the standard have been addressed.

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

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

- *The exceedance of the FSR control requirement under Randwick LEP 2012 is supportable in that the variation is considered to be of a minor nature, and the proposed alterations and*

additions to the community facility have been designed to respond cohesively to the existing neighbourhood and streetscape.

- *The proposed alterations and additions represent a design that is the right fit for the neighbourhood and consistent with the streetscape of this precinct.*
- *The minor breach in the FSR control does not result in an increase to the bulk and scale of the building. The minor increase to the FSR enables compliant universal access to the two public buildings which promotes the economic use of development of the site.*
- *No unacceptable environmental impacts will flow from the proposed development during construction of the alterations and additions and when the development has been completed.*
- *The proposal will not contribute to any adverse environmental impacts in terms of solar access, overshadowing visual and acoustic privacy or bulk and scale.*
- *An approval of this development with a minor variation to the FSR control would be unlikely to set a precedent of other similar developments in this immediate locality.*

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The minor variation sought to the FSR standard enables compliant universal access, ensuring all members of the local community are able to easily access and utilise the public library and community hall.

It should be noted that the existing buildings on the site provide for a gross floor area of 385.52m², representing an FSR of 0.52:1. Thus, the subject site has an existing variation to FSR of 18.52m² or 5.04%. The proposed development only increases the existing gross floor area of the building by 1m².

The minor increase to FSR does not result in any adverse impacts to the streetscape or surrounding properties, noting the existing building envelope has largely been retained. The additional gross floor area sought is attributed to the proposed minor extension to the external wall of the community hall entry foyer (refer to Figure 4 below). The additional 1m² of gross floor area sought in this location does not have any impact to adjoining properties or the streetscape given the existing built form on the site.

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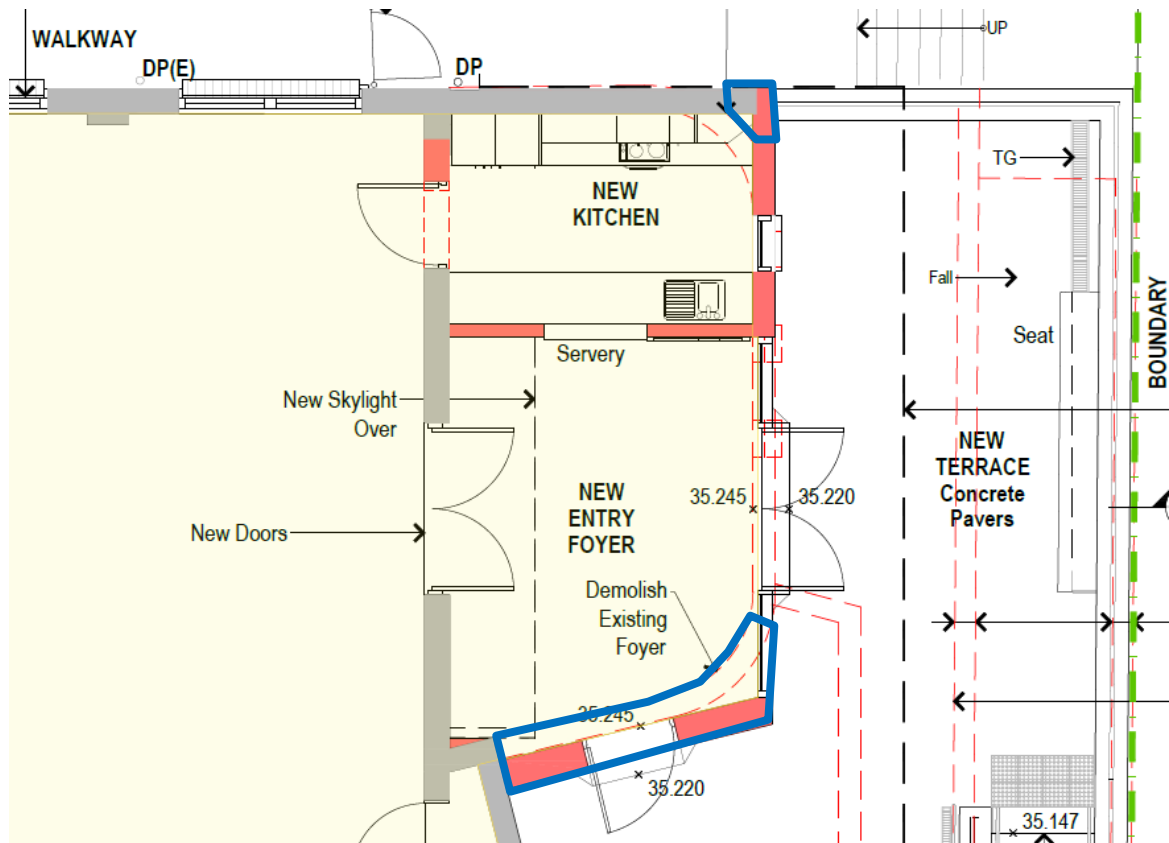


Figure 4: Extract of ground floor plan prepared by Phillips Marler. Areas outlined in blue indicate extent of entry foyer extension sought.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R2 Low Density Residential zone is provided below:

Assessment against objectives of floor space ratio standard

As demonstrated in the applicant's written request and subsequent comments above, the development is consistent with the objectives of the FSR standard.

Assessment against objectives of the R2 Low Density Residential zone

The objectives of R2 zone are:

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

Assessing officer's comment: The proposal is consistent with the specific objectives of the zone in that the proposed alterations and additions to the community facility will retain a land use on the site that provides facilities or services to meet the day to day needs of residents.

The development is consistent with the objectives of the floor space ratio standard and the R2 Low Density Residential zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

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

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

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

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance. The proposed variation sought will ensure compliant universal access is provided to the existing community facilities, allowing all members of the local community to easily access and utilise the public library and community hall.

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed in Appendix 3.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	During the assessment process, the Randwick Comprehensive Planning Proposal was gazetted with amendments made to the Randwick LEP on 1 September 2023 (Amendment No.9). As the application was formally lodged prior to the gazettal of Randwick LEP 2012 (Amendment No. 9), the application has been assessed

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Section 4.15 'Matters for Consideration'	Comments
	under the Randwick LEP provisions that applied at the time of lodgement.
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 relates to alterations and additions to an existing community facility, continuing to provide for a use which services the local community.</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.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Floor Space Ratio

The subject has a maximum permissible Floor Space Ratio (FSR) of 0.5:1 (367m²) in accordance with Clause 4.4 of the RLEP 2012.

The existing buildings on the site provide for a gross floor area of 385.52m², representing an FSR of 0.527:1. Thus, the subject site has an existing variation to FSR of 18.52m² or 5.04%. The proposed development only increases the existing gross floor area of the building by 1m², resulting in a gross floor area of 386.52m². Therefore, the proposed development seeks a 19.52m² or 5.3% variation to the FSR standard.

The applicant's written justification for the departure from the Floor Space Ratio (FSR) outlines that an exception should be granted to the FSR development standard as the proposed development is consistent with the objectives of the control.

Reference should be made to section 7.1 of this assessment report for further comments regarding the proposed variation to FSR standards. As previously outlined in this report, it is considered that the requirements of Clause 4.6(4) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

Parking

There is no specific parking rate for community facilities in Part B7 of Council's DCP which instead specifies that a transport assessment study is required. Currently, three (3) on-site car parking spaces are provided with the rear setback area, accessed via Meehan Lane. The proposed development does not seek any changes to the existing parking arrangement.

A transport assessment study has not been submitted with the application. However, it should be noted that the proposed alterations and additions sought generally relate to internal changes and improving pedestrian access between the Malabar Community Hall and Library and Anzac Parade in response to current BCA requirements. Therefore, as the proposed works sought do not result in a further intensification of the site, a transport assessment study is not considered necessary in this circumstance.

Moreover, part 3.7, control vi of the Randwick DCP requires all vehicles to enter and exit the site in a forward direction for any development other than a dwelling house or semi-detached dwelling. The existing parking arrangement does not allow for vehicles to enter and exit the site in a forward direction. No change to this arrangement is proposed.

Vehicle access to the site is provided off Meehan Lane, a short, no-through road that acts as rear lane access for the adjoining commercial properties to the south of the site and adjoining residential property to the north of the site. The continued use of the on-site car parking spaces will not have any impact to pedestrian or vehicle traffic.

No objections to the current parking arrangement were raised by Council's engineer.

10. Conclusion

That the application for alteration and additions to Malabar Memorial Hall and Malabar Community Library be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 low density residential zone in that the proposed alterations and additions to the community facility will retain a land use on the site that provides facilities or services to meet the day to day needs of residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape.
- The proposed development will make a positive contribution to the local community.

Appendix 1: Clause 4.6 prepared by the applicant

Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville

REVISED CLAUSE 4.6: EXCEPTIONS TO DEVELOPMENT STANDARDS – FLOOR SPACE RATIO - CLAUSE 4.4 RANDWICK LOCAL ENVIRONMENTAL PLAN 2012

DEVELOPMENT APPLICATION NUMBER: DA/545/2022 – Application for alterations and additions to an existing community facility used as a community hall and library known as 'Malabar Memorial Hall and Library'.

ADDRESS: 1203 Anzac Parade, Matraville

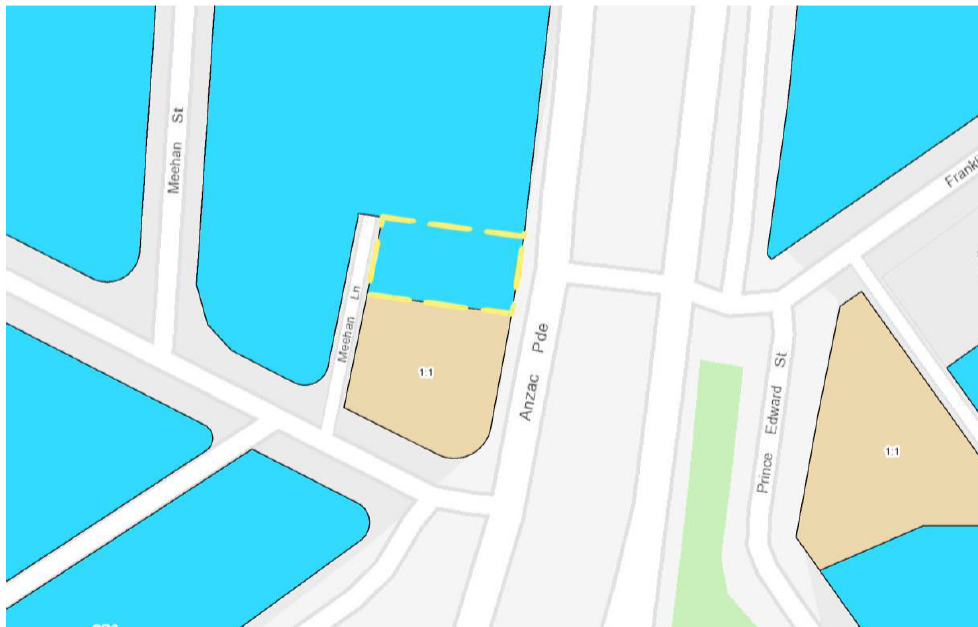
1. Introduction

This Clause 4.6 Application has been prepared on behalf of the applicant (Randwick City Council) in support of a Development Application for alterations and additions to an existing community facility used as a community hall and library.

The request seeks to vary the Floor Space Ratio Development Standard (**FSR**) under Clause 4.4 (1) and (2) of RLEP2012 pursuant to Clause 4.6: Exceptions to Development Standards under RLEP2012.

Clause 4.4 (1) and (2) specifies that maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Floor Space Ratio



Source: NSW Planning Portal 2021

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

4.4 Floor space ratio

(1) The objectives of this clause are as follows—

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

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the maximum floor space ratio for a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential is not to exceed—

- (a) if the lot is more than 300 square metres but not more than 450 square metres—0.75:1, or
- (b) if the lot is more than 450 square metres but not more than 600 square metres—0.65:1, or
- (c) if the lot is more than 600 square metres—0.6:1.

(2B) Despite subclause (2), there is no maximum floor space ratio for a dwelling house or semi-detached dwelling on a lot that has an area of 300 square metres or less.

The site is subject to a **maximum Floor Space Ratio (FSR) of 0.5:1** under Randwick LEP2012.

Existing GFA: 385.52sqm

Proposed GFA: 386.52sqm (1sqm greater than existing)

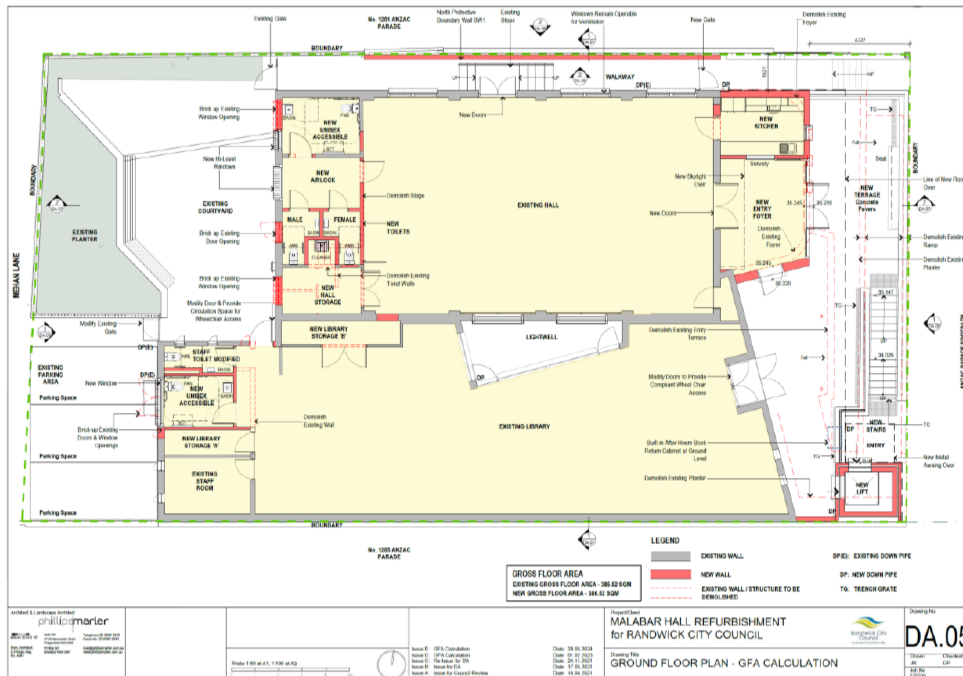
The total additional floor space is 1.00sqm, which represents a variation of 5.30%. It is important to note that the existing gross floor area already exceeds the development standard of 0.5:1 and the increase in floor area over the existing gross floor area is 1.0sqm.

The expanded gross floor area of 1.00sqm is considered to be a minimal exceedance over and above the existing floor area and the FSR, when it takes into consideration the existing breach and the additional 1.00sqm, is still considered to be acceptable as the development remains compatible in respect of bulk, scale and height with the immediate precinct in both the existing and future character of the area.

It's also important to appreciate that the new proposal, which involves alterations and additions to the existing community facilities, enables compliant universal access to the two public buildings which is currently not provided. The proposal also provides a 27sqm increase in accessible outdoor public space available on the site by provision of the new 27sqm terrace accessible from the new entry foyer and from Anzac Parade.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

2. Variation to the FSR requirement



Drawing DA – 05
Source: Phillips Marler

GROSS FLOOR AREA
EXISTING GROSS FLOOR AREA - 385.52 SQM
NEW GROSS FLOOR AREA - 386.52 SQM

Comment: The above calculations and supporting diagram confirm there is a minor breach to the FSR by way of a 5.30% variation. This percentage variation includes both the breach of the existing GFA and the additional floor space as a result of the proposed alterations and additions.

Clause 4.6: Exceptions to Development Standards contends that strict compliance with the FSR control, as prescribed within Clause 4.4 (1) and (2) of Randwick Local Environmental Plan 2012, is unreasonable and unnecessary in the circumstances of the case and that exceedance of the FSR standard by way of a minor variation can be supported by Council in considering the merits of the proposal.

The FSR control is a development standard to which exceptions can be granted pursuant to Clause 4.6 of the LEP. The relevant Objectives and Provisions of Clause 4.6 are as follows:

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

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

3. Compliance with Clause 4.6(4) Exceptions to Development Standards

3.1 The applicant's written request has adequately addressed the matters required to be demonstrated by Subclause (3)(a). Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Subclause (3)(a) of Clause 4.6 prescribes that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
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In the matter of *Initial Action Pty. Ltd. v. Woollahra Municipal Council* [2018] NSWLEC118 the position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in **one or more** of the following ways:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose is not relevant to the development.
- The underlying objective or purpose would be thwarted if compliance with the standard was required.
- The development standard has been virtually abandoned or destroyed by Council's decisions in granting development consents that depart from the standard.
- The zoning of the land is unreasonable or inappropriate.
- Some other way.

3.1.1 The objectives of the development standard are achieved notwithstanding non-compliance with the standard

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

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

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the maximum floor space ratio for a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential is not to exceed—

- (a) if the lot is more than 300 square metres but not more than 450 square metres—0.75:1, or
- (b) if the lot is more than 450 square metres but not more than 600 square metres—0.65:1, or
- (c) if the lot is more than 600 square metres—0.6:1.

(2B) Despite subclause (2), there is no maximum floor space ratio for a dwelling house or semi-detached dwelling on a lot that has an area of 300 square metres or less.

General Comment: The site is subject to a maximum Floor Space Ratio (FSR) of 0.5:1 under Randwick LEP 2012. The site has an area of 734sqm and has an allowable Gross Floor Area (GFA) of 367sqm. As previously noted in this document, the existing GFA is 385.52sqm while the proposed is 386.52sqm, which represents an increase over the existing GFA of 1.00sqm. The total exceedance of the gross allowable floor area is 19.52sqm, which results in a minor breach of 5.30%.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

Comment on the relevant objectives is set out bellowing noting that Objectives 2A and 2B are not applicable as the land use falls within the definition of a community facility whereas Clauses 2A and 2B relate to a dwelling house or semi-detached dwelling.

Objective:

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

Comment: The proposed alterations and additions to the existing Malabar Memorial Hall and Library are consistent with the existing and desired character of this locality. The hall and library have been there for many years and provide a valuable service to the community. It is important for Council to understand that the FSR variation is minor, being 5.989%. Compliance with objective (a) is justified in terms of the following:

- The proposed alterations and additions enable a compliant universal access to the two public buildings which is currently not provided. The proposal also will create a 27sqm increase in accessible outdoor public space available on the site by provision of a new 27sqm terrace accessible from the new entry foyer and from Anzac Parade.
- The development is an improvement to the existing neighbourhood fit and will result in an enhanced streetscape for a community asset.
- The proposal will be a high-quality finish and the overall proposal will have a positive impact on the streetscape, neighbouring properties, and surrounding area.
- The proposed alterations and additions have been designed to respond cohesively to the existing community building and the immediate streetscape. Elements such as the building form and scale have been used to respond thoughtfully to the character of this area.
- The minor increase in the gross floor area of 1.00sqm does not in any way result in increased bulk and scale as the new entry foyer and new adjoining terrace area provide a substantial enhancement of the existing aesthetics of the memorial hall and associated library.

(b) to ensure that buildings are well articulated and respond to the environmental and energy needs;

Comment: The proposed alterations and additions relate to an existing community facility and the proposed works in respect to the elevation to Anzac Parade results in a well-articulated and high-quality building which has been designed to improve accessibility to both the existing library and hall. The new lift and new stairs have been positioned to have minimal impact on the overall architectural merits of the building and the proposal ensures that the front elevation is well articulated and modulated to respond to the environment and energy requirements.

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

Comment: The site is not identified as an item of local or State heritage significance and is not located within a heritage conservation area as depicted in the RLEP2012 maps. However, by reinstating the original 1957 front façade to the hall with a new foyer, the character of the building is enhanced but not to the degree that it would warrant a local heritage listing.

Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville

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Current façade: Source google maps 2022



Anzac Parade Perspective. Source: Phillips Marler 2021

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

Comment: The proposed development does not in any way adversely impact upon the amenity of adjoining and neighbouring land noting that on one side the land is zoned B1 Local Business. The development does not result in visual bulk as the proposed alterations and additions have been designed to complement the character of the area and the streetscape that prevails in this precinct. There is no loss of privacy, overshadowing or loss of views. The proposal results in a maximum building height of 7m to allow for the skylight on the front elevation. The maximum building height under this zoning is 9.5m and therefore the proposal is well within the maximum building height.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

Additional Matters to be addressed under Clause 4.6 Requirements

3.1.2 The underlying objective or purpose is not relevant to the development

The underlying objective or purpose of the development standard is not relevant to the development application and this is demonstrated in the matters raised above.

3.1.3 The underlying objective or purpose would be thwarted if compliance with the standard was required

The underlying objective or purpose of the standard would not be defeated or thwarted if compliance with the standard were required.

3.1.4 The development standard has been virtually abandoned or destroyed by Council's decisions in granting development consents that depart from the standard

Comment: This proposal relates to an existing community facility comprising a memorial hall and library. It is quite unique in that the existing gross floor area of 385.25sqm exceeds the development standard of FSR. This proposal represents an increase over the existing building of 1.00sqm. It is submitted that Council needs to appreciate that the bulk, scale and height are basically unchanged except for some substantial improvements to the front elevation which are in principle to aid with accessibility requirements. The variation is considered minor being 5.30% increase over and above the prescribed standard. There is no breach in height as the building is well below the 9.5m height requirement. The development adjoins a shop top housing development which is built to boundary and at greater height than the proposed alterations and additions to the existing community facility. Having regard to the building being a community facility, it is submitted that Council must assess this application on its merits as opposed to demonstrating that Council has virtually abandoned or destroyed by Council's consents that relate to departure from the standard.

3.1.5 The zoning of the land is unreasonable or inappropriate

Not applicable. The zoning of the land is R2 Low Density Residential which allows community facilities as a permissible land use. Accordingly, the proposal fits within the parameters of the legal framework for Randwick Local Environment Plan 2012.

3.1.6 Some other way

Not applicable. The above represents that these five ways are not exhaustive of the ways in which an applicant must demonstrate that compliance with a development standard is unreasonable or unnecessary. In this instance, it is sufficient to establish only one way, which is compliance with the objectives of the development standard. In this regard, this report demonstrates that the development standard is unreasonable and unnecessary. Refer to Section 3 of the report titled, "Compliance with Clause 4.6(4) Exceptions to Development Standards. Section 3.1.1".

3.2 The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)(b), that there are sufficient environmental planning grounds to justify contravening the development standard

Subclause (3)(a) of Clause 4.6 prescribes that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that there are sufficient environmental planning grounds to justify contravening the development standard.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
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Also, in the matter of *Initial Action Pty. Ltd. v. Woollahra Municipal Council* [2018] NSWLEC118 the position that there are sufficient environmental planning grounds to justify contravening the development standards identifies that in *Four2Five Pty Ltd. v. Ashfield Council* [2015] NSWLEC90 it is necessary to determine:

- 'Environmental planning grounds' by their nature, being grounds that relate to the subject matter, scope and purpose of the *Environmental Planning and Assessment Act* 1979 including Section 1.3 of the EPA Act;
- Must be 'sufficient'
 - Firstly, the environmental planning grounds advanced in the written request must be sufficient to 'justify contravening the development standard'. The focus of Clause 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.
 - Secondly, the written request must 'demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard' so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i).

3.2.1 Sufficient environmental planning grounds to justify contravening the development standard.

In preparing this report, consideration has been given to the relevant Objectives of the *Environmental Planning and Assessment Act* 1979 (NSW) (**the Act**) – under Section 1.3 of the Act. The relevant sections that are applicable to this proposal are set out below:

1.3 Objects of Act

The Objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment.
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
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In respect to the objectives referred to above, the following is submitted that this report adequately demonstrates that there are sufficient environmental planning grounds to justify the variation in the Development Standard under the provisions of Clause 4.6 of Randwick LEP 2012.

- The exceedance of the FSR control requirement under Randwick LEP 2012 is supportable in that the variation is considered to be of a minor nature, and the proposed alterations and additions to the community facility have been designed to respond cohesively to the existing neighbourhood and streetscape.
- The proposed alterations and additions represent a design that is the right fit for the neighbourhood and consistent with the streetscape of this precinct.
- The minor breach in the FSR control does not result in an increase to the bulk and scale of the building. The minor increase to the FSR enables compliant universal access to the two public buildings which promotes the economic use and development of the site.
- No unacceptable environmental impacts will flow from the proposed development during construction of the alterations and additions and when the development has been completed.
- The proposal will not contribute to any adverse environmental impacts in terms of solar access, overshadowing, visual and acoustic privacy or bulk and scale.
- An approval of this development with a minor variation to the FSR control would be unlikely to set a precedent of other similar developments in this immediate locality.

In considering the above, there are sufficient environmental planning grounds to justify the minor contravention to the development standard.

3.3 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

The following requires that the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of Clause 4.4 Floor Space Ratio Control under Randwick LEP 2012 and the R2 Low Density Residential zone.

3.3.1 The Objectives of Clause 4.4 Floor Space Ratio

Refer to Section 3.1.1 of Clause 4.6: Exceptions to Development Standards for detailed assessment.

3.3.2 The Objectives of R2 Low Density Residential zone under Randwick LEP 2012

1 Objectives of zone

- To provide for the housing needs of the community within a low-density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

**Revised Clause 4.6 - Exceptions to Development Standards – Floor Space Ratio
1203 Anzac Parade, Matraville**

- 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.

Comment: as highlighted in this report, the land comprises a memorial hall and library which have been in existence for many decades. A community facility is a permissible use within the Low-Density Residential zoning. This development meets the relevant objectives of the zone as it provides for other land uses that offer facilities or services to meet the day-to-day needs of the residents. In this regard, the hall and library fit well within this objective as they provide a service by way of a library and a hall which permits community use under a controlled plan of management. The development has been designed to complement elements of the exiting streetscape and built form that prevails in this precinct along Anzac Parade and contributes in a positive manner to the desired future character of the area.

It is submitted that the proposal meets the relevant of the R2 Low Density Residential Zone.

It is further submitted that adequate justification has been provided to allow a variation to the FSR Development Standard under Randwick LEP 2012. It is considered that strict compliance with the FSR Development standard is considered both unreasonable and unnecessary in the circumstances of the case and that exceedance of the FSR standard by way of a minor variation should be supported by Council having considered the merits of the proposal as set out in this report.

Appendix 2: Referrals

1. External referrals

None required.

2. Internal referral comments:

2.1. Development Engineer

An application has been received for alterations and additions to the existing Library at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Phillipsmarler Architects;*
- Statement of Environmental Effects by Tomasy Planning;*
- Detail & Level Survey by Denny Linker & Co.*

Undergrounding of power lines to site

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

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

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

Tree Management & Landscape Comments

The 5m tall Conifer in the front setback of this site, adjacent the access steps/stairs and northeast corner of the existing Library is exempt from the DCP due both to its small size and proximity within 2m of the building, so no objections are raised to its removal to accommodate the works in this same area as shown, with the same also applying to the even smaller trimmed hedges.

2.2. Health, Building and Regulatory Services

The proposed development relates to alterations and additions to an existing community facility used as a community hall and library, known as Malabar Memorial Hall and Library. The development involves alterations and additions to the existing building, with proposed internal works and substantial alterations to the front elevation of the building.

The primary purpose of the new works proposed for the Anzac Parade frontage is to provide compliant universal access to the hall and library. Currently the only access from Anzac Parade footpath, which is 2.4 metres below the floor level of the existing building, is via a single non-compliant ramp. Works to the Anzac Parade frontage will include:

- A new universally accessible enclosed lift*
- New stairs*
- External terrace with assembly and seating area*
- New entry foyer to hall.*
- A new kitchen is also proposed within the building.*

Comments:

Noise concerns

The proposed development includes for an enclosed lift to be installed next to an old multiuse two storey building that include commercial and residential. Lifts generally do not cause noise impacts however, when they are installed to adjoining wall of an old building there is the possibility for low humming noise to be observed in the adjoining building (or noise from a bell or lift alarm) to cause impacts.

No acoustic reference has been made to noise impacts from the lift in the supporting document.

In this regard it is recommended that an acoustic assessment is undertaken prior to cc to confirm the noise from the lift and all other sources of potential noise have been adequately assessed and confirm that the new alterations and additions will not impact the neighbouring properties.

Food Safety Concerns

The internal design proposes for a new kitchen however it is unclear if this kitchen is intended to be used for commercial events at the library (such as renting the space/kitchen for events, functions etc.) or if it is to be used by staff. This should be clarified by the planner.

If the kitchen is to be used for commercial purposes for functions the Food safety conditions should be included in this referral. If the kitchen is solely for the purpose of staff (kitchenette) the design does not need to comply with Food Act requirements and the conditions are not applicable.

2.3. Health, Building and Regulatory Services

Comments:

Classification – Class 9b – Assembly building

Rise in storeys – 1

Type C construction

A BCA Assessment Report, prepared by BCA Logic dated 13 July 2020, has been submitted with the Application with a performance solution required for the reduced ceiling heights within a Class 9b assembly building.

The executive summary of the Report also specifies various BCA Compliance matters.

Annexure C of the report refers to the BCA Compliance Specification.

There is an fire safety schedule for the existing building

Recommend approval.

2.4. Internal Property Team

Comments:

The property (whole site) is Crown Land (Reserve 500208) Lot 4316 DP 752015. Vol 5831 Fol 104 dedicated for the purpose of public hall on 17 January 1947.

The land is managed by Council under the Crown Lands Management Act 2016 and must be managed as “community” classified land under the Local Government Act 1993, (requiring a Plan of Management). The land is categorised as General Community Use and must be managed in accordance with the core objectives.

I also refer to Division 2.6 General Clause 2.23 Minister taken to give consent for certain development applications over dedicated or reserved Crown Land.

If the works alter the footprint of the building by adding or removing more than one square metre (2) (a) (i) then Minister’s consent must be obtained for owners consent.

Appendix 3: DCP Compliance Table**2.1 Part B General Controls**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
B4 Landscaping and Diversity			
3.1 Existing Vegetation and Natural Features	<ul style="list-style-type: none"> i) Maximise the retention and protection of existing vegetation including trees, shrubs and groundcover vegetation. ii) Retain and incorporate existing natural features, such as cliffs and rock outcrops into the landscape design where possible. iii) Retain and stockpile topsoil for reuse in the landscaped area. 	<p>The proposed development requires the removal of a 5m tall tree (<i>Conifer</i>) within the front setback of the site. Due to the small size of the tree and proximity to the existing building, Council's landscape officer raises no objections to the removal of this tree.</p> <p>The existing landscaping located within the rear setback will be retained.</p>	Yes.
3.2 Selection and Location of Plant Species	<ul style="list-style-type: none"> i) Native species must comprise at least 50% of the plant schedule, incorporating a mix of locally indigenous trees, shrubs and groundcovers appropriate to the area and surrounds. ii) Link, extend and enhance existing fauna and flora habitats through appropriate selection and location of plant species, where relevant. iii) Where suitable, incorporate food growing areas as part of the landscape design. iv) Select and locate plants to improve the environmental performance and living amenity. 	No new landscaping is sought.	N/A.
B6 Recycling and Waste Management			
4. On-Going Operation	<ul style="list-style-type: none"> 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 	<p>No change to existing waste storage arrangement is proposed.</p> <p>Waste will continue to be stored within the rear setback area and collected by Council via Meehan Lane.</p>	Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>front alignment of a building and the street where possible.</p> <p>v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.</p> <p>vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.</p> <p>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).</p> <p>viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.</p>		
B7 Transport, Traffic, Parking, Access			
Table 1 Vehicle Parking Rates	Community Facilities: Vehicle: Transport Assessment Study is required.	<p>There is no specific parking rate for community facilities in Part B7 of Council's DCP which instead specifies that a transport assessment study is required.</p> <p>However, it should be noted that the proposed development generally relates to internal changes and improving pedestrian access between the Malabar Community Hall and Library and Anzac Parade in response to current BCA requirements.</p> <p>No change to the existing on-site parking arrangement is proposed.</p>	Yes.
3.7 Parking Layout, Configuration	i) An off-street car space must be a minimum of 2.4m by 5.4m long	No change is proposed to existing on-site carparking spaces. All three (3) existing on-site carparking	Yes. Reference should be made to part 8.1 Discussion

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
and Dimensions	<p>and comply with AS 2890.1.</p> <p>ii) Small car spaces as provided for in the Australian Standard are not permitted for dwelling houses, terraces, semi detached dwellings or attached dwellings.</p> <p>iii) Motor cycle parking spaces must be a minimum 2.5m by 1.2m and clearly marked.</p> <p>iv) Motor cycle spaces are to be designed and located so they are not vulnerable to being struck by manoeuvring vehicles.</p> <p>v) Motor cycle spaces must be located on flat and even surfaces as they rely on side-stands to park.</p> <p>vi) In all development except dwelling houses, semi-detached dwellings, all vehicles must enter and exit in a forward direction.</p> <p>vii) Unless otherwise stated, development is to comply with the relevant Australian Standard and the RMS Guidelines for car parking layout, dimensions, aisle widths, grades, access requirements for different uses & users, driveway widths, service and delivery needs.</p>	<p>spaces are 2.4m by 5.4m long.</p> <p>Not relevant to the proposed development.</p> <p>None required or proposed.</p> <p>The existing parking arrangement does not allow for vehicles to enter or exit the site in a forward direction. No change to the existing carparking arrangement is proposed.</p>	<p>of key issues of this report.</p> <p>N/A.</p> <p>N/A.</p> <p>Reference should be made to part 8.1 Discussion of key issues of this report.</p>
Table 3 Bicycle Provision Rates	<p>Community Facilities: 1 per 10 car parking spaces</p> <p>Accessible showers 1 in 10 spaces</p>	<p>No change to the existing parking arrangement is proposed. The proposed alterations and additions seek to retain the existing three (3) on-site car parking spaces</p>	N/A.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	Changing facilities with one secure locker per bike space.	accessed via Meehan Lane. As the proposed development does not intensify the use of the site, no further parking provisions are considered necessary.	
B8 Water Management			
3 Stormwater Management	This section sets out objectives and controls relating to the management, collection and discharge of stormwater into the stormwater system.	The proposed alterations and additions sought are proposed to connect to the existing stormwater drainage system. Council's Engineer has reviewed the stormwater drainage plan and raises no objection subject to conditions of consent.	Yes, subject to conditions of consent.
B9 Management Plan			
	A Management Plan may be required as a condition of consent for land uses that in the opinion of Council may potentially have unacceptable amenity impacts if poorly managed.	The proposed development relates to alterations and additions to an existing library and community hall managed by Council. The changes sought primarily relate to internal changes and improving pedestrian access between the Malabar Community Hall and Libaray and Anzac Parade. As the proposed development does not seek any alterations to the use or operation of the existing premises, a Management Plan is not considered necessary.	N/A

2.2 Part F2 – Outdoor Advertising and Signage

DCP Clause	Control	Proposal	Compliance
2 General Design and siting	(i) Signage should recognise the legitimate needs for directional advice, business identification and promotion.	The signage simply states the purpose of the building being "MALABAR MEMORIAL HALL + LIBRARY."	Yes
	(ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development.	The proposal is compatible with the existing character of the area. While the subject site is located within the R2 Low Density residential zone, it is also located adjacent to a neighbourhood centre, which is characterised by commercial uses and signage. It should also be noted that the existing building also contains signage along the front elevation	Yes

DCP Clause	Control	Proposal	Compliance
		which states "MALABAR LIBRARY". Therefore, the proposed new signage will remain consistent with the existing and desired future character of the area.	
	(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 proposed signage does not obscure or dominate any decorative features or details of the building.	Yes
	(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 proposed signage is limited to a small portion of the front elevation. No large expanses of painted or cladded walls are proposed.	Yes
	v) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	N/A	N/A
	(vi) Signage shall be displayed in English but may include a translation in another language.	Complies.	Yes
	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.	N/A	N/A
	viii) Outdoor advertising attached to vehicles or trailers which are parked for advertising purposes will not be permitted.	N/A	N/A
	(ix) Signage must not be flashing or animated. Note: Flashing or animated signs include mechanical moving signs, moving LED signs, video/television screens, projected laser advertising and other flashing, intermittently illuminated or sequenced lighting signs.	N/A – No illumination is proposed.	N/A
3 Signage Based on land	i) Signage must not be illuminated and signage	The proposed signage relates to identifying the purpose of the	Yes

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DCP Clause	Control	Proposal	Compliance
use zones - Residential zones	must relate to the use of the building or land.	building. No illumination is proposed.	
	ii) Minimise signage along boundaries common with residential properties.	No signage is proposed along boundaries which adjoin residential properties.	Yes
	iii) Business identification signs (including those for a home business) must not be more than 1.5sqm in area	The proposed signage is made up of individual lettering that spell out the name of the building. The proposed signage does not exceed an area of more than 1.5sqm.	Yes
	iv) Proposals for signage on buildings operating as existing uses or business premises will be assessed against the controls relating to business zones.	Noted. Refer to controls below.	Yes
	Business zones		
	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 proposed signage is minor in size and integrates with the proposed form of the building.	Yes
	ii) Signage must not dominate or obscure a building or its architectural features. Advertising should highlight and reinforce architectural details.	The proposed signage does not obscure or dominate any decorative features or details of the building.	Yes
	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).	N/A – No roof signs proposed.	N/A.
	iv) Avoid fin signs, projecting wall signs and above awning signs (sitting on the awning).	N/A – No fin, projecting wall or above awning signs are proposed.	N/A.
	v) The visual amenity and value of streetscapes should be protected through careful consideration of proposals for flush wall signage.	The proposed signage will consist of individual lettering situated flush along the front elevation. The proposed design does not result in any adverse visual impacts to the streetscape.	
	vi) On any building listed as a Heritage Item or situated in a Heritage	N/A – The subject site does not contain a heritage item nor is	N/A.

DCP Clause	Control	Proposal	Compliance
	Conservation Area outdoor advertising (projecting and flush) must not be located above awning level.	located within a heritage conservation area.	
	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.	No upper level signs are proposed.	N/A.
	viii) Outdoor advertising on or attached to buildings must align and relate to the architectural design lines on a building façade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings.	The proposal is not relate to advertisement signage. Nevertheless, the proposed signage integrates with the design and form of the front elevation.	Yes.
	ix) Limit under awning to one per shop or for larger premises one per 6 metres of shop frontage.	Not proposed.	N/A.
	x) Under awning signs must be at least 2.6 metres above footpath level.	Not proposed.	N/A.
	xi) Pole or pylon signs must not exceed the height of adjoining or adjacent buildings, or 6 metres, whichever is the lower.	Not proposed.	N/A.

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Responsible officer: GAT & Associates, Town Planners

File Reference: DA/545/2022

Development Consent Conditions

Folder / DA No:	DA/545/2022
Property:	1203 Anzac Parade, MATRAVILLE NSW 2036
Proposal:	Alteration and additions to Malabar Memorial Hall including internal reconfiguration, changes to facade and to provide a new universal access and stairs from Anzac Parade to an entry foyer of Malabar Memorial Hall and Malabar Community Library. The proposed development also includes a new accessibility toilet to Malabar Community Library.
Recommendation:	Approval

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
DA.04, Issue C	Phillips Marler	24.11.2021	31.10.2022
DA.05, Issue D	Phillips Marler	24.05.2024	27.05.2024
DA.06, Issue B	Phillips Marler	17.05.2021	31.10.2022
DA.07, Issue B	Phillips Marler	17.05.2021	31.10.2022
DA.08, Issue D	Phillips Marler	24.05.2024	27.05.2024
DA.09, Issue B	Phillips Marler	17.05.2021	31.10.2022
DA.10, Issue D	Phillips Marler	24.05.2024	27.05.2024
DA1.01, Revision 1	Northrop	28.04.2021	31.10.2024

Report/Document	Prepared By	Dated	Received by Council
BCA Access Assessment Report	BCA Logic	13.07.2020	31.10.2022
Waste Management Plan	Northrop	21.06.2021	31.10.2022

- 1A. The details of the signage on the Anzac Parade façade shall be provided to and approved by Council's Manager Development Assessment prior to the issue of a construction certificate.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

3. 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.

Long Service Levy Payments

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

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

Sydney Water Requirements

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

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

The [Tap in™](#) service provides 24/7 access to a range of services, including:

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

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

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

Stormwater Drainage

6. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.

Acoustic requirements

7. Noise from the development must not cause an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and must not exceed the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017 (NPfI).
8. Noise from commercial plant and use of the premises, 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 in use (assessed with doors and windows closed).
9. A report prepared by a qualified Acoustic Consultant, must be submitted to and approved by Council, prior to the issue of a Construction Certificate, which provides details of compliance with the abovementioned noise criteria. Any recommendations and requirements included in the acoustic report or as may be specified by Council are to be included in the Construction Certificate accordingly.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

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

Building Code of Australia & Relevant Standards

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

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

Food Premises

11. The design and construction of food premises must comply with the following requirements (as applicable) and details are to be included in the construction certificate:

- The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non-slip and non-abrasive. 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.
- 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.
- 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 or other facilities 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.
- 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.
- 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.
- A mechanical ventilation exhaust system hood is to be installed where cooking or heating processes are carried out in kitchens or food preparation areas, if required to meet the relevant requirements of the National Construction Code (Building Code of Australia) and referenced Australian Standards. Details of compliance are to be included in the construction certificate application.
- Wash hand basins must be provided in convenient positions, with hot and cold water, together with a sufficient supply of soap and clean towels. Such hot and cold water shall be supplied to the wash hand basins through an approved mixing device.
- Ceramic tiles being provided to a height of 450mm above bench tops, wash hand basins and similar fittings.

Wash hand basins required

12. A wash hand basin (and soap and towel dispenser) must be provided within the kitchen. The basin is to be provided with hot and cold water via a suitable mixing device.
13. Adequate provisions are to be made within the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council.

The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.

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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

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

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

Building Certification and Associated Requirements

14. 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.

Dilapidation Reports

15. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises;
 - demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);
 - excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and
 - as may be required by the Principal Certifier for the development.

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

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

Construction Site Management Plan

16. A *Construction Site Management Plan* must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

- location and construction of protective site fencing and hoardings
- location of site storage areas, sheds, plant & equipment
- location of building materials and stock-piles
- tree protective measures
- dust control measures
- details of sediment and erosion control measures
- site access location and construction
- methods of disposal of demolition materials
- location and size of waste containers/bulk bins
- provisions for temporary stormwater drainage
- construction noise and vibration management
- construction traffic management details
- provisions for temporary sanitary facilities
- measures to be implemented to ensure public health and safety

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

A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.

Sediment Control Plan

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

Demolition Work Plan

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

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

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

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

Construction Noise & Vibration Management Plan

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

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

Public Liability

20. 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.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

21. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal building contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifier*,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

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

	<ul style="list-style-type: none"> • Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> • Monday to Saturday - No time limits (subject to work not being audible in any residential dwelling or commercial/industrial tenancy or building) • Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Noise & Vibration

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

Demolition Work

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

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

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

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

Temporary Site Fencing

25. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works, in accordance with the SafeWork guidelines and the following requirements:
- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
 - Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
 - All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.
 - Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
 - Site access gates must open inwards and not onto Council land.

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.*

Overhead Hoardings

26. An overhead ('B' class) type hoarding is required to 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.

Public Safety & Site Management

27. 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.

- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.
- j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- k) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Site Access

28. A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover. Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.

Removal of Asbestos Materials

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

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

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

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

Dust Control

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

Dust control measures and practices may include:

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

Excavations & Support of Adjoining Land

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

Complaints Register

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

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

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

Survey Requirements

33. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:

- prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,
- prior to construction (pouring of concrete) of new floor levels,
- prior to issuing an Occupation Certificate, and
- as otherwise may be required by the Principal Certifier.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.

Building Encroachments

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

Tree Management

35. Approval is granted for removal of the Conifer in the front setback of this site, adjacent the access steps/stairs and northeast corner of the existing Library, as it is already exempt from the DCP due both to its small size and proximity within 2m of the building and will also be in direct conflict with the new works shown for this same area.

Road / Asset Opening Permit

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

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

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

New Ausgrid Power Feed Connection from Ausgrid Power Pole

37. Should the existing Private Pole be removed during construction works the power feed to the site shall be replaced with an underground (UGOH) connection from the Ausgrid Power Pole located (No New Private Pole is to be provided). These works are to be to Ausgrid requirements.

Note: A New Private Power Pole at the front of the site is not permitted. The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Post-construction Dilapidation Reports

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

The dilapidation report shall detail whether:

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

The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.

Occupation Certificate

39. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Fire Safety Certificate

40. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted

to Council with the *Occupation Certificate*, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

Structural Certification

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

Sydney Water Certification

42. A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > *Building and developing* > *Developing your Land* > *Water Servicing Coordinator* or telephone 13 20 92.

Please make early contact with the Water Servicing Co-ordinator, 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 Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

Street and/or Sub-Address Numbering

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

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

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

Waste Management

44. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.

Trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.

The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with an authorised waste services contractor accordingly.

45. 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.

Noise Control Requirements & Certification

46. The use and operation of the development (including all plant and equipment) shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and *Regulations*.
47. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority Noise Policy for Industry 2017 and conditions of this development consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

Food Safety

48. Upon completion of the work, 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 from Council, prior to the issuing of an occupation certificate.

Council's Infrastructure, Vehicular Crossings, Street Verge

49. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
50. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
 - a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

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- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

OPERATIONAL CONDITIONS

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

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

Fire Safety Statement

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

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

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

Plant & Equipment

52. Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.
53. Noise from the development must not cause an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and must not exceed the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017 (NPfI).
54. Noise from commercial plant and use of the premises, 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 in use (assessed with doors and windows closed).

Food business registration/notification

55. The food premises must be registered with Council's Health, Building & Regulatory Services department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencement of any food business operations.

Development Application Report No. D46/24

Subject: Road Reserve adjacent to 212 & 230 Arden Street, Coogee
(DA/659/2023)


Executive Summary

Proposal:	Use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.
Ward:	East Ward
Applicant:	Jolt Charge Pty Ltd
Owner:	Randwick City Council
Cost of works:	\$51,150.00
Reason for referral:	The proposed development is located on land owned by Randwick City Council.

Recommendation

That the RLPP grants consent under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/659/2023 for use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage, at the road reserve adjacent to 212 & 230 Arden Street, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  1. RLPP Dev Consent Conditions (commercial) - DA/659/2023 - Road Reserve adjacent to 212-230 Arden Street, COOGEE NSW 2034 - DEV - Randwick City Council

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N.B. 11 submissions were received in support outside the immediate locality on the map above.

Subject Site
Submissions received
North
Locality Plan

1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the landowner is Randwick City Council.

The proposal seeks development consent for use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.

Specifically, the proposal is seeking to use the existing Ausgrid kiosk substation to facilitate an electric vehicle charging station (EVCS). The EVCS consists of the following elements:

- Designation of x1 on-street parking space for exclusive use for an electric vehicle only with line markings and new parking signage.
- Addition of a new charger podium with a retractable cable system with a 50kW DC charger for an electric vehicle, connected to the existing Ausgrid substation via underground cabling.
- Encasing the Ausgrid kiosk substation with a protective panelling and x2 digital advertising signage panels.
- Third-party digital advertising signage to the x2 signage panels to the encased Ausgrid kiosk substation.

The key issues associated with the proposal relate to alignment with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023* and type of technology being provided, pedestrian and driver safety, and visual amenity. Through further details and amended plans provided by the Applicant,

Council is satisfied that the applicant has adequately addressed these concerns and provided an EVCS that would provide public benefit.

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

- Confirmation of electric vehicle charging station technology including retractable cabling, 50kW capacity with dual ports, and details on the charging plug.
- The encasing being covered in a public artwork to the satisfaction of Council's Arts and Culture Team.
Consideration of the potential conflict with the approved redevelopment of the Coogee Bay Hotel (as per DA/437/2021).
- Signage and linemarkings for a dedicated space subject to approval the Randwick Local Traffic Committee.
- Conditions relating to the digital advertising and illumination.

2. Site Description and Locality

The proposed site for the EVCS is within the Council Road Reserve, to the western side of Arden Street between Coogee Bay Road to the north and Carr Street to the south.

The proposed location for the EVCS is adjoining the eastern side of 212-230 Arden Street, Coogee, comprising of the Coogee Bay Hotel and 4 storey residential flat building adjoining the proposed EVCS. The existing kiosk substation for encasing and advertising is located between the eastern driveway to the Coogee Bay Hotel and the northern driveway of 230 Arden Street.

The site is within the Coogee Beach Local Centre, zoned E1 'Local Centre'. The surrounding area is characterised by residential and commercial development including shop top development, mixed use development and residential flat buildings. The site is within direct walking distance to Coogee Beach and the main shopping strip in the local centre on Coogee Bay Road. The area is regularly serviced by local bus services that travel to Bondi Junction, Randwick Junction, Maroubra Town Centre and Beach, and the Westfield Eastgardens.

Whilst the site is not listed as a Heritage Item or within a Heritage Conservation Area, it is located in the vicinity of the Local Heritage Item 'Coogee Bay Hotel' (Item I48 within Part 1, Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012).



Figure 1 & 2: Existing and proposed perspectives from the northern side of proposed structures (*Source: Jolt*)



Figure 3 & 4: Existing and proposed perspectives from the north-eastern side of proposed structures
(Source: Jolt)



Figure 5: North oblique view of the subject neighbourhood (May 2023) (Source: Nearmap)

3. Relevant history

The following is a table outlining a brief history of Jolt Charge applications lodged with Council:

App No.	Address	Decision	Description
PL/47/2020	667P-829P Anzac Parade MAROUBRA NSW 2035	Advice Provided (15/12/2020)	Pre-lodgement meeting for operation of an Ausgrid electricity substation within the Maroubra Junction Car Park to be used as an electric vehicle charging station with an enclosure to the substation and integrated ancillary electronic advertising signage.
DA/69/2021	88 Beach Street COOGEE NSW 2034	Withdrawn (17/02/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station.
DA/30/2021	76-82 Anzac Parade KENSINGTON NSW 2033	Withdrawn (20/04/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station.
DA/31/2021	110 Anzac Parade KENSINGTON NSW 2033	Approved (Council Delegation - 17/11/2021)	Advertising signage to Ausgrid kiosk electric vehicle charging station.

DA/32/2021	57-63 St Pauls Street RANDWICK NSW 2031	Withdrawn (12/04/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station (Heritage Item).
DA/85/2021	2R Baden Street COOGEE NSW 2034	Refused (RLPP - 11/11/2021)	Installation of advertising signage associated with an electric vehicle charging station.
DA/84/2022	550 Bunnerong Road MATRAVILLE NSW 2036	Approved (Council Delegation - 30/03/2023)	Ancillary Advertising to Ausgrid Kiosk Electric Vehicle Charging Station
DA/85/2022	153-163 Beauchamp Road MATRAVILLE NSW 2036	Approved (Council Delegation - 14/04/2023)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station.
DA/31/2021/A	(Carpark) 110 Anzac Parade, KENSINGTON NSW 2033	Approved – (Council Delegation - 23/06/2023)	S4.55(1A) Modification to modify conditions of consent.

DA/69/2021

Development Application No. DA/69/2021 was withdrawn on 17/02/2021 as it was lodged against the incorrect address. The Development Application was relodged as DA/85/2021.

DA/30/2021 & DA/32/2021

Development Application No's DA/32/2021 & DA/30/2021 were withdrawn on 20/04/2021 and 12/04/2021 respectively at Council's recommendation as advertising is prohibited within the Residential Zones of which they were proposed (being R3 and R2 respectively).

DA/31/2021

Development Application No. DA/31/2021 for advertising signage to Ausgrid kiosk electric vehicle charging station was approved under Council delegation on 17/11/2021. It is noted that under Clause 41(2)(b) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), the construction of the EVCS was carried out without consent by or on behalf of an electricity supply authority or public authority. As such, the new EVCS was separately notified and assessed under Part 5 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and determined by Ausgrid on 25 June 2021.

The approved works included and were limited to the installation of casing over the existing Ausgrid kiosk, containing equipment for the EVCS, digital signage panels and a protective outer surface. The changes to the road markings to denote the parking space for charging of EVs were dealt with separately under the *Roads Act 1993* through Council.

The proposed development application was only for the advertising signage displayed on two digital screens to the Ausgrid kiosk.

It is noted that the application was determined under Council delegation as the proposal only sought consent for advertising signage on Council land, of which is an exemption under Schedule 1 of the Local Planning Panels Direction.



Figure 6: Photo of the Jolt Charger approved as per DA/31/2021 (Source: Randwick City Council)

DA/31/2021/A

Modification Application No. DA/31/2021 for modification to amend conditions of consent was approved under Council delegation on 23/06/2023. The consent deleted conditions 7 & 8 regarding licensing and was replaced with an Annual Fee condition, as per below:

Licensing

- ~~7. Prior to the installation of the advertising panels, the advertiser shall enter into a contract with Council relating to the advertising panels to be displayed on the vehicle charging station. The agreement shall contain conditions relating to the payment of an annual fee. The fee is to be paid in advance and shall be set as a percentage of the advertiser's charge out rate for the advertising panels. At the beginning of the agreement and at the end of each calendar year, the advertiser shall notify Council of its intended charge out figure to enable Council invoicing to be prepared accordingly.~~
- ~~8. Prior to the installation of the advertising panels the applicant shall meet all costs associated for Council to have the subject licence agreement created.~~

Annual Fee

7. "The applicant is responsible for the payment of an annual fee for each approved parking bay associated with the operation of the EV charging, as set out in Council's annual Pricing Policy Fees & Charges."

DA/85/2021

Development Application No. DA/85/2021 for the installation of advertising signage associated with an electric vehicle charging station was refused by the RLPP on 11/11/2021. The proposal was determined by the RLPP as 16 unique submissions by way of objection were received.

The reasons for refusal by the RLPP have been reproduced below:

1. The proposal is not suited to the site, which is adjoining Dunningham Reserve and the coastal foreshore area;
2. The proposal is inconsistent with the following objectives in clause 3(1) of SEPP 64 (Advertising and Signage),
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) is of high-quality design and finish,

3. *The proposal is unsatisfactory when considered against the assessment criteria in Schedule 1 of SEPP 64 (Advertising and Signage), in particular:*
 - *The proposal is not compatible with the existing or desired future character of the area and locality in which it is proposed to be located, noting the visual impact of the proposed signage on Dunningham Reserve.*
 - *The proposal would detract from the amenity and visual quality of the nearby heritage items, adjoining open space areas, the coastal foreshore and waterways, and nearby residential areas.*
 - *The scale of the proposed advertising panels is not appropriate for the streetscape, setting and landscape of Dunningham Reserve.*
4. *The proposal is inconsistent with clause 14 of the Coastal Management SEPP.*
5. *The impacts of the proposed advertising outweighs the benefits, given the sensitive location and noting that there are other EV charging stations in close proximity to the site. Furthermore, it has not been demonstrated that it is necessary to provide advertising to facilitate the operation of the EV charging station.*
6. *Granting consent for such a proposal in a location adjoining a significant park and coastal foreshore area would set an undesirable precedent and would not be in the public interest.*

DA/84/2022 & DA/85/2022

Development Application No's DA/84/2022 & DA/85/2022 for Ancillary advertising to Ausgrid kiosk electric vehicle charging station were approved under Council delegation on 30/03/2023 and 14/04/2023 respectively. Similarly, to DA/31/2021, it is noted that under Clause 41(2)(b) of ISEPP, the construction of the EVCS was carried out without consent by or on behalf of an electricity supply authority or public authority. As such, the new EVCS was separately notified and assessed under Part 5 of the *EP&A Act* and determined by Ausgrid on 10 January 2022 for both proposals.

The approved works included the installation of casing over the existing Ausgrid kiosk, containing equipment for the EVCS, digital signage panels and a protective outer surface. The changes to the road markings to denote the parking space for charging of EVs were dealt with separately under the *Roads Act 1993* through Council.

The proposed development application was only for the advertising signage of two digital screens to the Ausgrid kiosk.

It is noted that the application was determined under Council delegation as the proposal only sought consent for advertising signage on Council land, of which is an exemption under Schedule 1 of the Local Planning Panels Direction.



Figure 7: Photo of the Jolt Charger approved as per DA/84/2022 (Source: Randwick City Council)



Figure 8: Photo of the Jolt Charger approved as per DA/85/2022 (Source: Randwick City Council)

Additional Information Request

On 8 January 2024, Council sent a formal additional information request to the applicant outlining issues with the alignment of the proposal with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, as well as other impacts on the locality of which had not been demonstrated. Council did not support the proposed development and based on the requirements of the strategy and therefore recommended that the applicant withdraw the DA.

On 07 February 2024, Council stakeholders met with the applicant to discuss the key issues associated with the proposed development. It was confirmed in the meeting that Council would provide the applicant an opportunity to address all of Council's concerns.

On 13 February 2024, Council issued a formal Additional Information Request outlining issues including alignment with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, safety, visual amenity, plan amendments, pedestrian access, impact on businesses, a turnover study, and the proximity of other signage.

On 27 March 2024, the applicant provided a formal response to the Additional Information Request, comprising of amended plans, a turnover study and further justification and clarification regarding the proposed EVCS technology.

4. Proposal

The proposal seeks development consent for the use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.

Specifically, the proposal is seeking to use the existing Ausgrid kiosk substation to facilitate an electric vehicle charging station (EVCS). The EVCS consists of the following elements:

- Designation of an on-street parking space for exclusive use for an electric vehicle only with line markings and new parking signage.
- Addition of a new charger podium with a retractable cable system and a double 50kW DC charger for an electric vehicle, connected to the existing Ausgrid substation via underground cabling.
- Encasing the Ausgrid kiosk substation with a protective panelling and 2 digital advertising signage panels.
- Third-party digital advertising signage to the signage panels affixed to the encased Ausgrid kiosk substation.

Dedicated Parking Space

The proposal seeks to designate one on-street parking space for the exclusive use of electric vehicle charging. The parking space will be limited to parking for 1-hour timed parking restrictions, in alignment with the current 1-hour timed parking restrictions. The proposal includes the parking space having line markings drawn on the road and new parking signage installed to indicate EV charging only. A turnover study has been provided by the applicant that confirms that the location is appropriate for the type of EV charging proposed and will not result in any adverse parking impacts to local business or the surrounding area. Council's Traffic Engineer has confirmed that the findings of the report are satisfactory. See comments in Appendix 1.

Podium and Charger

The proposal includes a double 50kW chargers to the podium adjoining the single dedicated on street parking space. Under the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, a 50kW DC charger is considered a 'Level 3 - Fast (public) charger', adding 250-300km of range per hour for between 20-60 minutes of charging.

The cabling for the 50kW DC charger will be tethered to the podium via a retractable cable management system. A tethered charger is required for the faster DC charger (rather than the untethered slower AC charger). The retractable cable management system will ensure tension on the cable is maintained while charging. The retractable cable management system ensures that there is no trailing cable when either in use or when the plugs have not been correctly returned to the unit.

The proposed charging podium is separated from the kiosk substation by over 13m, as the road reserve adjoining the eastern side of the kiosk substation is a 'no stopping' area. Underground cables will connect electricity from the kiosk substation to the charging podium.

Jolt Charging offers all customers up to 7kWh of free charging per day, which the applicant notes is enough to cover the average daily commute and save EV drivers more than \$1,200 per year. The service is managed by an application on the user's phone, which send a message should the vehicle not be moved following charging and fees may be charged should this occur.

Ausgrid Kiosk Substation Encasing

The proposal seeks to encase the Ausgrid substation with a protective panelling and third-party digital advertising signage panels, orientated towards the north and south respectively. As part of the DA assessment process, the applicant has provided an amended design to the Ausgrid kiosk substation encasing called the 'Skinny GRILL', which results in the following changes:

- 20% reduction in overall volume of the unit;
- 30% reduction in width. Skinny GRILL encasing width is approximately 112mm from the existing substation, reduced from 301mm; and
- Overall reduction in length, width and height of the encasing.

Kiosk	Length	Width	Height
Existing Substation	2700mm	1480mm	1740mm
Amended Proposal	3286mm	1703mm	2203mm

Jolt Charge Pty Ltd has entered into a partnership with Ausgrid to install and operate EVCS on existing Ausgrid kiosk substations across Sydney. The advertising signage forms part of the Jolt Charge business model to subsidise the free charging via third party advertising.

The height of the enclosure is a key design consideration and is the minimum feasible height to fit critical EV charger componentry like the meter box, which is installed between the substation and the encasing roof.

The proposal was also amended from a black encasing to encase the Ausgrid kiosk substation in a bespoke indigenous artwork to mitigate Council's concerns regarding the visual impact of the structures. JOLT intends to commission a local indigenous artist to create artwork that responds to the locality, reducing the visual impact of the structure and providing a sense of vibrancy in the location. A graffiti proof vinyl wrapping displaying the successful indigenous artwork will be installed over the top of the encasing and maintained for the duration of operations.

Advertising

The advertising panels to the Ausgrid substation form part of the business model by Jolt Charging to subsidise the offer of up to 7kw free charging. The proposed signage will operate 24 hours a day, seven days a week.

The advertising signage panels is limited to 14.5% of the encasing structure in the form of a maximum of two panels at any one time. The content of this advertising will be third party and is a digital display, subject to change. The content of advertising will be managed remotely. The advertising will be compliant with the Outdoor Media Association guidelines for digital signage. The advertising panels to the north and south facing substation encasing, which will face the higher pedestrianised orientations of the existing substation.

The charging service is a free service to registered Jolt users which allows for 7kw of charging. Full charging of a vehicle takes 90-120 minutes, depending on the vehicle, with the use of a retractable cable. The proposed 1-hour parking limit will therefore act as a top-up service, rather than a full charging service, in keeping with the use within the commercial area. The service is managed by an app on the user's phone, which messages the user, should the vehicle not be moved following charging and fees may be charged should this occur.

The advertising to the Ausgrid kiosk substation will at times be used for the display of emergency messaging and public information on behalf of Ausgrid and other state authorities.

No advertising is proposed on the charging podium adjacent to the car parking space.

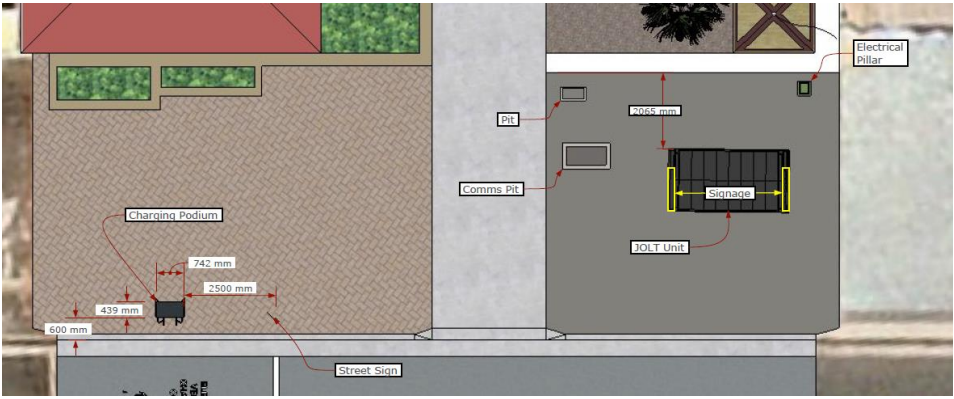


Figure 9: Proposed layout plan (Source: Jolt)

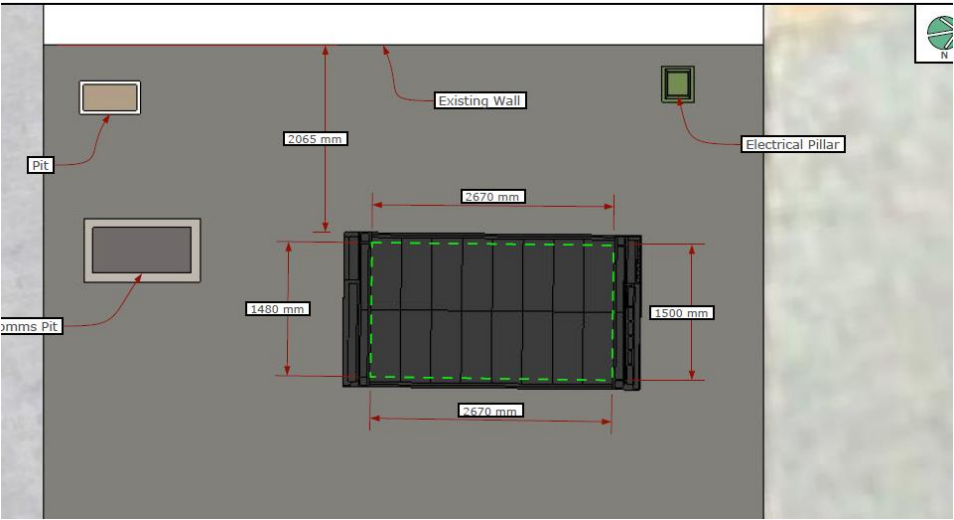


Figure 10: Proposed substation plan and dimensions (Source: Jolt)

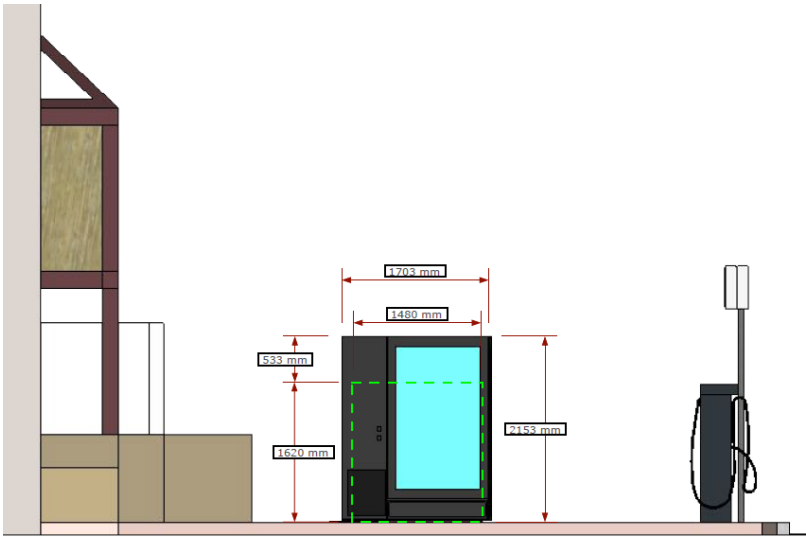


Figure 11: Proposed southern elevation (Source: Jolt)

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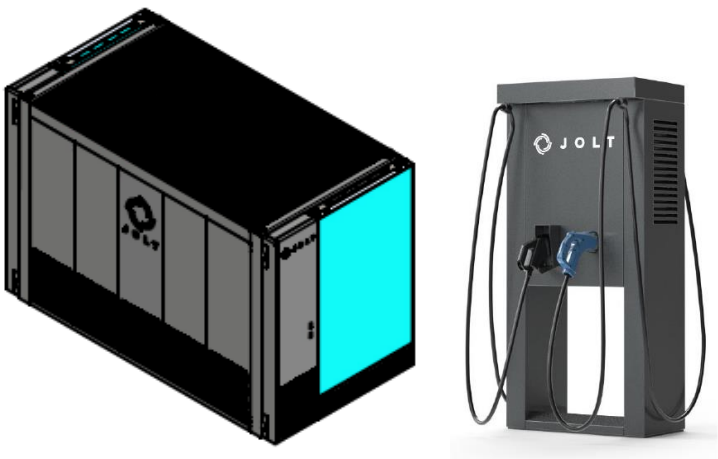


Figure 12 & 13: Sample 3D rendered of the proposed substation and podium (not to scale) (Source: Jolt)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council’s Community Engagement Strategy. As a result of the notification process, 11 submissions were received in support for the subject development.

The submissions raised considerations with regards to the application as follows, which have been paraphrased and summarised below:

- Unit 301, 20-22 Mary Street, Surry Hills NSW 2010
- Unit 313, 6 Bay Street, Botany NSW 2019
- 8 Alfred Street, Bronte NSW 2024
- Unit 3, 21 Mears Avenue, Randwick NSW 2031
- 1-3 Meymott Street, Randwick NSW 2031
- Unit 8, 26 Boronia Street, Kensington NSW 2033
- Unit 7, 94 Mount Street, Coogee NSW 2034
- 14 Little Street, Maroubra NSW 2035
- 29 Maroubra Road, Maroubra NSW 2035
- 18 Burunda Street, Como NSW 2226
- 1x residential address unknown

Issue	Comment
Fulfil the commitments for the EV transition of all levels of government. A commitment to a greener and more sustainable future. Need a reliable network of charging infrastructure to support the transition.	Agreed, the proposed EVCS will contribute to Council’s <i>Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023</i> . See detailed assessment in the Key Issues section of the Report.
Enable charging of EV vehicles who cannot at home. Assist renters with EVs to charge their vehicles.	Agreed.
The daily free charging is a great community benefit, especially when the cost of living is on the rise. Create sustainable transport options more accessible and affordable for everyone in our community.	Whilst Council does not actively promote free charging, Council understands that the free charging is a financial benefit to the community.
More charging stations mean a better opportunity to find a charger unoccupied and newer charging stations support better charging speed, so less time spent charging.	Agreed, the proposal will increase availability of EVCS in the LGA.

Issue	Comment
The chargers being well located is an important consideration for ongoing uptake of EVs.	Agreed, the EVCS is located within the Coogee Bay Local Centre.
There are opportunities for our Council to support this, particularly with no cost to the community.	Agreed, the proposed development will not result in any cost to Council.

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policies

6.1.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 'Vegetation in non-rural areas'

The aims of Chapter 2 are:

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

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.

6.1.2. SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has not been submitted with this application, as it does not meet the requirements of the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

6.1.3. SEPP (Industry and Employment) 2021

Chapter 3 Advertising and signage

Chapter 3 of SEPP (Industry and Employment) 2021 requires the consent authority to ensure that advertisement and signage is compatible with the desired amenity and visual character of urban/natural setting by regulating the impact of outdoor advertising.

The proposed development seeks consent for 2 digital advertising panels to the northern and southern sides of the encased Ausgrid substation. Each advertising panel is 980mm x 1.65m, being a total area of 1.62m². The advertising contents are for third-party advertising.

An assessment of the advertising has been included below that considers the relevant sections of Chapter 3 of the SEPP. The relevant sections of the Chapter have been addressed below.

Clause 3.1 - Objectives Compliance Table

Clause 3.1 outlines the aims of Chapter 3, which have been reproduced below:

- (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 site is located within Coogee Bay Local Centre on the western side on Arden Street bound by Coogee Bay Road to the north and Carr Street to the south. The locality is characterised by a range of commercial and residential uses. The proposed signage is considered compatible with the desired amenity and visual character of the immediate locality.

The advertising signage is permitted within the E1 Local Centre zone, which forms part of the business model from Jolt Charging to offer 7kw of free charging. The digital panels are compatible with the scale and proportions of the Ausgrid kiosk substation. The digital panels do not dominate or obscure any views and are integrated into the casing of the EV charging station. The signage can be programmed to provide effective communication in line with regulations relating to luminance and dwell times.

A condition of consent limiting the duration of the consent to 15 years is included in the recommended development consent.

The proposal satisfies the objectives of the Policy.

Clause 3.8 - Prohibited Advertisements

In accordance with Clause 3.8(1), the display of advertisement is prohibited within the following zones or descriptions:

environmentally sensitive area
heritage area (excluding railway stations)
natural or other conservation area
open space
waterway
residential (but not including a mixed residential and business zone, or similar zones)
scenic protection area
national park
nature reserve

The subject advertising is located within the E1 Local Centre Zone. A search of Council's internal mapping systems and survey information submitted with the application indicates that the existing kiosk substation is not characterised by the abovementioned affectations or descriptions.

Clause 3.11 - Matters for consideration

Clause 3.11 of the SEPP outlines the matters of consideration specifically relating to advertising development, which states the following:

(1) A consent authority (other than in a case to which subsection (2) applies) must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—

- (a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
- (c) satisfies any other relevant requirements of this Chapter.*

The subject advertising has been assessed as per Clause 3.11 of the SEPP, addressing each of these components. See Clause 3.1 assessment above regarding the objectives of the chapter. An assessment against the Schedule 5 criteria is included below in Appendix 3, as well as other matters of consideration within the subject chapter.

Clause 3.12 - Duration of Consents

In accordance with Clause 3.12 (1), the duration of the consent is limited to 15 years or a lesser period, if specified by Council. However, Council may specify a period less than 15 years if it already has a policy in place for display of advertisements for a lesser period, or the area in which the advertisement is to be displayed is undergoing change in accordance with the LEP or if it is required

by another provision of the Industry and Employment SEPP Policy. Council does not have a policy guiding advertising within the LGA. As such, suitable conditions of consent limiting the duration of the consent to 15 years is included in the development consent.

Final Comments

Overall, Council is satisfied that the proposed advertising signage is consistent with the requirements of the SEPP and is therefore recommended for approval, subject to conditions relating to luminance, dwell times and a 15-year duration.

6.1.4. SEPP (Resilience and Hazards) 2021

Chapter 2 'Coastal management'

Chapter 2 of SEPP (Resilience and Hazards) 2021 applies to development within the category of Coastal Management. Clause 2.11 relating to development within the coastal use area is applicable to the subject development.

See Key Issues for a detailed assessment regarding the visual amenity and scenic qualities of the coastal use area.

Chapter 4 'Remediation of land'

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

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

6.1.5. SEPP (Transport and Infrastructure) 2021

Division 5 - Electricity transmission or distribution

Clause 2.48 'Determination of development applications—other development' of the Transport and Infrastructure SEPP states the following:

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
 - (c) installation of a swimming pool any part of which is—*
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*

(2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

Comment: The proposed works are to an Ausgrid substation kiosk within the road reserve. As such, the proposal was referred to Ausgrid for comment. See below Ausgrid referral in Appendix 1 which notes that Ausgrid does not object to the proposed development. As such, Clause 2.48 of the Transport and Infrastructure SEPP has been satisfied.

Division 17 - Roads and traffic

Clause 2.124A 'Development permitted with consent—generally' under Subdivision 3 'Electric vehicle charging units' of the Transport and Infrastructure SEPP states the following:

(1) Development for the purposes of installing an EV charging unit may be carried out with consent if—

- (a) the unit does not obstruct the following—
 - (i) vehicular, cyclist or pedestrian access to or from, or entry into, a building,
 - (ii) cyclist or pedestrian movement along a cycleway or footpath, and
- (b) the unit does not obstruct access to, or interfere with, a structure, device, fixture or equipment used for firefighting or fire protection, including a fire hydrant.

(2) (Repealed)

Comment: Council is satisfied that the proposed EV charging unit does not obstruct access into a building, movement along the footpath or to fire equipment. As such, Clause 2.124A of the Transport and Infrastructure SEPP has been satisfied and the proposed development is permitted with consent from Council.

6.2. Randwick Local Environmental Plan 2012 (RLEP)

The site is zoned E1 'Local Centre' under the Randwick Local Environmental Plan 2012. See below Figure 14 showing the zoning map of the locality and the subject site:

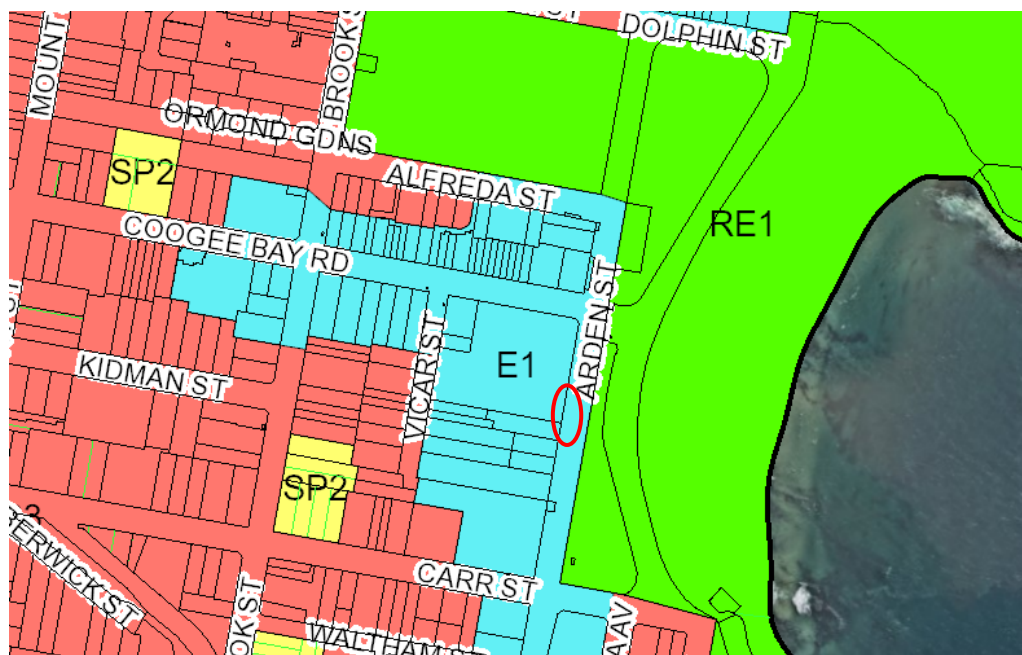


Figure 14: The Zoning Map and the subject site circled in red (Source: Randwick City Council)

The proposal comprises of two separate elements, being the EVCS and advertising.

Firstly, the applicant is seeking consent for an 'advertising-enabled EV charging unit', which has the following definition (as per the *SEPP (Transport and Infrastructure) 2021*):

advertising-enabled EV charging unit means an EV charging unit that includes a screen or other display capable of displaying advertisements.

The permissibility of such a use is granted with Council consent, subject to Clause 2.124A 'Development permitted with consent—generally' of the *SEPP (Transport and Infrastructure) 2021*. Council is satisfied the proposed development meets the requirements set out in the SEPP and is therefore permitted in the zone with consent. See details in the report section above.

Secondly, the advertising component is defined in the RLEP as an 'advertising structure' with the following definition:

advertising structure has the same meaning as in the Act.

Note— The term is defined as a structure used or to be used principally for the display of an advertisement.

An 'advertising structure' is a type of 'signage' as defined in the RLEP. The 'advertising structure' component of the proposal is permitted with Council consent in the E1 'Local Centre' zone.

Council contends that as the proposed development is Zoned E1 as per Clause 2.2 of the RLEP, then the display of an advertisement in this location is not prohibited as prescribed under Clause 3.8 of SEPP (Industry and Employment) 2021. This includes a reference in the SEPP to a 'environmentally sensitive area', 'natural or other conservation area', 'open space' or 'nature reserve'.

Overall, the proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will support the commercial centre for business, retail, community and cultural activity, encourages economic growth, retains a sufficient level of accessibility and amenity including for pedestrians, and facilitates a safe public domain.

6.2.1. Clause 5.10 - Heritage conservation

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.

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.

See Appendix 1 below for the Heritage Referral comments (no objections raised).

6.2.2. Clause 6.7 - Foreshore Scenic Protection Area

Council notes that the whilst the proposed location of the EVCS is within the coastal use area as per the Resilience and Hazards SEPP 2021, the location of the EVCS is not identified as being located within the Foreshore Scenic Protection Area (FSPA), pursuant to the FSPA Map referred to in Clause 6.7(2) of the RLEP 2012.

The FSPA within the Coogee Basin area does not include the section of Arden Road between Dolphin Street to the north and Carr Street to the south. The FSPA does include the properties to the western side of Arden Street to the eastern side of Vicar Street, however not the road reserve area itself. Council notes that road reserve can be included in the FSPA, including sections of Carr

Street, Kurrawa Avenue, Bream Street and Beach Street respectively. This is demonstrated in Figure 15 below.

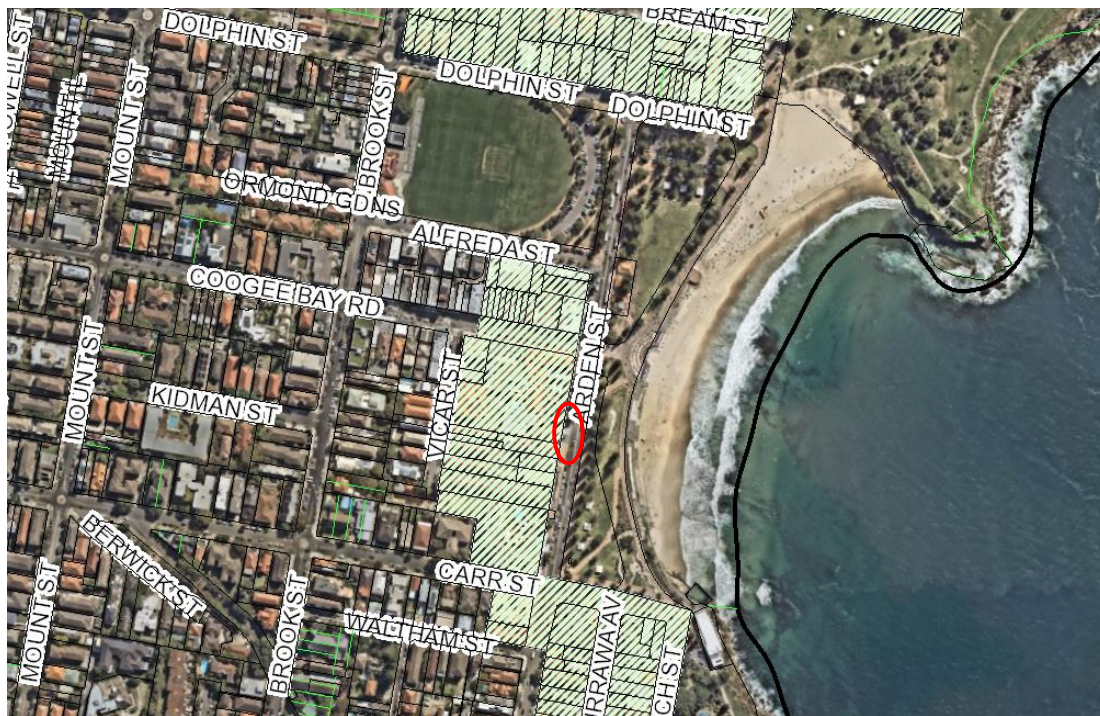


Figure 15: The Foreshore Scenic Protection Area and the subject site in red (Source: Randwick City Council)

Council contends that as the proposed development is not included in the FSPA as per Clause 6.7 of the RLEP, then the display of an advertisement in this location is not prohibited as prescribed under Clause 3.8 of SEPP (Industry and Employment) 2021. This includes a reference in the SEPP to a 'scenic protection area'.

6.2.3. Clause 6.22 - Development in local centres

The proposed development is subject to Clause 6.22 of the RLEP, as the proposal is located within the E1 Zone. Council has considered the following matters in relation to this subject clause:

- Impact of the development on the amenity of surrounding residential areas:

Council is satisfied that the proposed development will not impede on the amenity of the adjoining R3 Zone. Sufficient clearance has been maintained on the footpath for pedestrian access. The size of the development is minimal, subject to conditions to the finish of the substation and the requirements for the digital advertising.

- Impact of the development on the desired future character of the local centre:

Council is satisfied that the proposed development will not impede on the desired future character of the local centre. Sufficient clearance has been maintained on the footpath for pedestrian access. The size of the development is minimal, subject to conditions to the finish of the substation and the requirements for the digital advertising.

- Consistent of the development with the hierarchy of centres:

Council is satisfied that the proposed development is consistent of the development with the hierarchy of centres. The proposed structures are in keeping with development within

the E1 zone, do not adversely impact upon the amenity and streetscape, are in scale to surrounding development and sympathetic to the scale of the local centre.

6.2.4. Schedule 2 Exempt development

Council notes that the proposed advertising signage does not comply with any of the signage provision outlined within the schedule. As such, development consent is required for the proposed advertising signage.

7. Development Control Plans and Policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 and the Key Issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2.
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	<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>

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Section 'Matters Consideration'	4.15 for	Comments
social and economic impacts in the locality		
Section 4.15(1)(c) – The suitability of the site for the development		The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation		The matters raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest		The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023

As part of the proposed development, Council has considered the proposed development in relation to the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023 (Public EV Strategy)*.

The *Public EV Strategy* was formulated from the Regional Environmental Program (REP), which consists of the three Sydney Eastern Suburbs Councils of Woollahra Council, Waverley Council and Randwick City Council.

From 1 September 2023, the *Public EV Strategy* was placed on public exhibition for a four-week period, ending on 27 September 2023. On 28 November 2023, the Council met and endorsed the Public EV Strategy without any amendments.

Whilst the subject proposal was lodged on 13 September 2023, predating the endorsement of the *Public EV Strategy*, Council has included a consideration of the *Public EV Strategy* as a matter for considerations under the public interest and alignment with the future strategy for public EV chargers through the 3 Council areas.

The *Public EV Strategy* notes that “*whilst vehicle refuelling is a private undertaking, Council has a key role in enabling market facilitation of kerbside/on-street charging around local and neighbourhood centres and high-density residential areas where there is a lack of private investment and limited space for larger EV charging hubs.*”

The Strategy identifies that “*In 2025, the total number of charging ports required is around 450 comprising of 230 in Randwick, 120 in Waverley and 100 in Woollahra LGAs. By 2030, a total of 1,600 charging ports are required.*”

The Applicant has demonstrated that there is a need for fast 50kw DC EVCS within the LGA to meet this demand. Below is a reproduction of the justification by the Applicant with regard to the *Public EV Strategy*:

“The Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023 (the Strategy) was endorsed by Council on 28 November 2024. We note that the JOLT development applications were lodged before the strategy was adopted by Council. As such, the Strategy forms no legal basis for town planning assessment of the applications. Notwithstanding this, JOLT maintains that the proposed two fast charging locations wholly satisfy public charging objectives outlined in the strategy.

Council’s strategy acknowledges that access to charging stations is a significant impediment to EV adoptions and acknowledges NSW Government research that estimates

42% of Randwick residents require access to on-street EV charging. While general considerations establish that most EV charging tends to take place at home or work, the significant portion of renters or homeowners without off-street parking, particularly in Randwick and Coogee, require public EV charging stations as their primary charging method. The proposed Randwick and Coogee charging locations are characterized primarily by high density apartment dwellings complemented by a mixture of commercial, retail and tourist activity generators. The proposed charging stations will provide much needed charging infrastructure to apartment owners or renters without access to at-home charging stations and visitors to the area.

The Strategy estimates that Randwick LGA will require approximately 230 charge ports in Randwick LGA by the end of 2025, with 1 in 3 public charging stations to be a fast DC charger. Currently, there are 10 fast DC chargers (and charging ports) installed in Randwick LGA, which means the number of fast DC charging stations will need to at least triple in order to meet the Strategy's forecast of 76 fast charging ports by the end of 2025.

The Strategy identifies both Randwick and Coogee as key centres that will require a combination of slow and fast charging options. The proposed JOLT charging stations achieve objective 6 of the Strategy, which identifies the number of fast charging stations in Randwick and Coogee to be operational by 2025. The number of current and target fast charging stations in Randwick and Coogee are outlined in Table 1.

Table 1 - Existing and Target Fast Charging Ports in Randwick and Coogee			
Location	Centre Type	Existing fast charging ports	Target to be operation by 2025
Randwick	Regional	2	4
Coogee	Local	0	2

With regards to charging speed, JOLT has doubled the proposed charging speed from 25kW to 50kW chargers with simultaneous dual charge capability (meaning each charger has the ability to charge two cars simultaneously). We note Council's comments "it is Council's preference for a 50kW dual DC charger in carparks and chargers on streets with 75kW and greater charging capacity" and wish to highlight that this is not consistent with the Council's endorsed strategy, which identifies much slower AC charger as ideal for on-street charging.

The proposed 50kW speed is more than double the speed for on-street charging types in Council's Strategy, which identifies slow 7-22kW AC charging as the ideal type for on-street charger. Council's Strategy states "the ideal charging network matches the types of chargers with the use case of the drivers" and "fast chargers in locations where motorists stop for shorter periods of time". Both of the Randwick and Coogee proposals are located in built up mixed use areas where high turnover of vehicles is important to ensure efficient and equitable access to charging and that drivers have appropriate time to engage with local businesses while they charge. In this instance JOLT is proposing 50kW chargers with one dedicated 1P charging bay, which is appropriate.

It is important to note that the power outputs of charging stations are limited by the AC and DC charging rates of the car. AC chargers rely on the vehicle's onboard charger to transfer energy to the battery. This is the limiting factor for AC charging speed for all current vehicles on the market. JOLT's 50kW DC charging solutions are not limited by any on board converter and charge EVs at their native voltage.

As highlighted in Table 2, JOLT's chargers are between 5-7 times more efficient than on-street AC charging stations that are referenced in Council's Strategy. This results in the servicing of a higher volume of electric vehicles resulting in more efficient utilisation of on-street car parking spaces.

Table 2 - Charging Speed Comparison				
Make & Model	Vehicle Max AC Charging Rate	22kW AC km added in 1 hour	JOLT 50kW DC km added in 1 hour	Charging speed comparison
Tesla Model Y	11kW	60km	300km	5x faster
BYD Atto 3	7kW	42km	300km	7x faster
Tesla Model 3	11kW	60km	300km	5x faster
Polestar Model 3	11kW	60km	300km	5x faster
MG ZS EV	11kW	60km	300km	5x faster

In response to the above and to determine if the proposed development is aligned to the *Public EV Strategy*, the relevant elements in the *Public EV Strategy* have been reproduced below and comments provided regarding the proposed development:

Guiding Principles

The *Public EV Strategy* includes six guiding principles to guide the 3-Councils’ role and actions in the sector. See the guiding principles below with comments regarding the proposed development:

- **Equity** - *Electric chargers are accessible for all residents, particularly those living in apartments or townhouses. The installation of charging should be based on the principle of full cost recovery so that residents without EVs aren’t subsidising those with EVs.*

Planner’s Comment: The proposed EVCS is located within close proximity to residential flat buildings within the locality (see in more detail below). There is no additional burden on other residents to cover any costs of the EVCS and the subsequent charging. The EVCS infrastructure is being paid for by the applicant, Jolt Charge, in collaboration with Ausgrid. The cost for charging an EV is at the cost of the customer.

- **Accessibility** - *Electric vehicle chargers are safe, reliable, easy to use and readily available. Charging/parking restrictions are enforced, and good charging etiquette is encouraged.*

Planner’s Comment: Council is satisfied that the EVCSs are accessible and safe. The proposed development has been reviewed and supported by Council’s Technical Services, Integrated Transport and Property team (subject to conditions, see Appendix 1 for the comments). Parking restrictions for EV use only will be required through signage changes and line-markings. See safety section as a matter raised below in the Key Issues.

- **Urban form** - *On-street chargers should complement the street environment and ensure streets are highly accessible/ prioritised for pedestrians and cyclists.*

Planner’s Comment: Council is satisfied that whilst the encasing of the Ausgrid kiosk substation will result in a larger envelope, the treatment of the casing finish will be more appropriate and visually complementary to the streetscape (subject to conditions, see visual amenity consideration as a matter raised below in the Key Issues). In addition, Council is satisfied that reasonable levels of pedestrian access have been maintained on the footpath.

- **Strategic** - *Strategic and data led decisions are made around the installation and management of charging locations and types.*

Planner’s Comment: Council is satisfied that the proposed EVCS is located within an important local centre, in accordance with the place-based approach to locations within the *Public EV Strategy*. Council is also satisfied that the proposed 50kW charger is capable of providing two (2) charge ports that can simultaneously charge two (2) vehicles at a maximum speed of 25kW per vehicle.

- **Mode shift** - *Mode shift is prioritised over private vehicle transport. The provision of charging stations must not encourage traveling by car for non-essential trips.*

Planner's Comment: Whilst Council does not generally support the provision of free charging (as it encourages additional travelling for charging), Council is satisfied that the free charging only accounts for 7kw of charging per customer. In addition, the proposed EVCS is located within a busy local centre within the LGA that people drive to for their retail, shopping and dining needs. As such, Council is satisfied that the location is appropriate and will be used for appropriate charging needs that do not lead to non-essential trips.

- **Economic development** - The provision of electric vehicle chargers encourages visitors and tourists to local popular destinations, including world renowned beaches and parks.

Planner's Comment: Council notes that the addition of the proposed EVCS will contribute to encourages visitors and tourists to the commercial centre of the greater Randwick area.

Overall, Council is satisfied that the proposed development generally complies with the guiding principles of the *Public EV Strategy*, contributing to the reasons for the support of the proposed development.

Charging Capacity

The *Public EV Strategy* includes a section regarding the 'ideal future charging network', made up of four components, as demonstrated in Table 1 below:





	Description	Type	Parking Time	Use Case Example	Responsibility
Home & Workplace 	Chargers in home garages/driveways and in workplace carparks	Slow 7 – 22 kW AC	5+ hours	Local residents with off-street parking or employees who drive to work	Homeowner and businesses
On-Street 	Chargers on kerbside and street carparks	Slow 7 – 22 kW AC	2+ hours	Local residents without off-street parking	Council or private installers
Destination 	Chargers in destinations with carparks, e.g. shopping centres	Slow to Medium 7 – 22 kW AC or 25 – 50 kW DC	1 to 4 hours	Shoppers or gym members charging whilst parked	Council or private installers
Hubs 	Chargers on highways and service stations	Fast 50 – 350 kW DC	10 – 30 mins	Motorists recharging to get to a destination	Council, State/Federal Government, private installers

Table 1: Table of the different components of the 'ideal future charging network' (Source: Randwick City Council)

Council is satisfied that the proposed 50kW charger will provide two charge ports that can simultaneously charge two vehicles at a maximum speed of 25kW per vehicle. Where only one port is in use, the vehicle will charge at the maximum speed (being 50kW).

The proposal is only seeking consent for one 50kW charger that will service a single, dedicated on-street parking space, of which is sufficient in terms of fast charging. It is noted that due to the location of the existing substation, surrounding driveway and nearby parking road restrictions, the provision in the future of a second dedicated electric vehicle space for simultaneous charging is not possible. That being said, it is recommended that a condition of consent be included confirming that the

charging podium is to provide double charging ports (as per proposed by the applicant). This is in order to futureproof the development into the future, should Council wish to provide an additional on-street parking space for an EVCS, dependant on future demand.

As outlined in the Supporting Documentation of the *Public EV Strategy*, there are several different plugs with different compatibilities to Australian EV models and charging rates. The Applicant has failed to provide details of the type of charging plug that will be installed to the charging podium. A condition of consent has been recommended that details of the type of plug are to be provided and approved by Council prior to the issue of a Construction Certificate. This is to ensure that the type of plug is the most compatible with Australian EVs and has the preferred charging rate.

Therefore, Council is satisfied that the charging capacity of the proposed development meets that as required in the *Public EV Strategy*.

Charging Network and Location

Council is satisfied that the proposed development is located within an area in demand for on-street chargers, in particular for residential flat buildings within the locality. The *Public EV Strategy* outlines a place-based approach to selecting suitable locations with different types of charging stations installed in regional centres, local centres, and neighbourhood centres. The type of charging is designed to match the average duration of stay and surrounding urban form. This means that fast to ultra-fast charging should be the focus for regional centres, medium to fast charging at key destinations where people stay for up to 4 hours and slower charging near high density areas to facilitate long-stay and overnight charging.

Figure 16 is a map from the *Public EV Strategy* that summarise these suggested locations for various types of chargers, as well as targets for 2025:

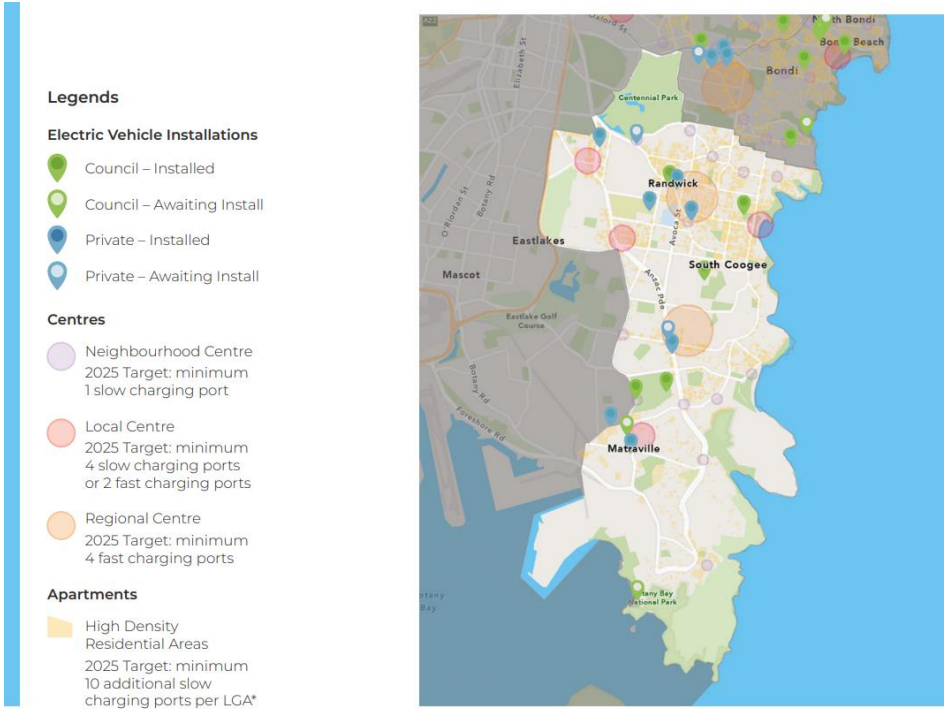


Figure 16: Map of public EVCS by 2025 (Source: Randwick City Council)

For the Coogee Bay Local Centre, the *Public EV Strategy* has a 2025 target of a minimum of 4 slow charging ports or 2 fast charging ports.

Table 2 is a list of all of the chargers are classified as public chargers that are accessible to the public within the Coogee Bay area:

Network Operator	Site Name	Charger Type	Number of Charging Ports	Power Rating Charger	Power Available (kW)
Tesla	Crowne Plaza	AC	2	22	44
Eastern Suburbs Public Electric Charging Network	Coogee Oval – Brook St Vehicle Station	AC	2	22	44

Table 2: Details of EV chargers within the Coogee Bay area (Source: Randwick City Council)

The *Public EV Strategy* defines a 'Level 3 - Fast Public charger' as a 50kW DC charger and a 'Level 2 – Three Phase Public charger' as a 11–22 kW AC slow charger.

Table 1 demonstrates that there are currently 4 slow chargers within the Coogee Bay area, being the two AC chargers in the Crowne Plaza and two AC chargers on the Brook Street side of Coogee Oval (N.B. whilst the Brook Street chargers are not within the E1 zone of the Coogee Bay Local Centre, they are within immediate walking distance to the local centre). Therefore, whilst the existing chargers meet the 2025 demand set out in the *Public EV Strategy*, this is a minimum and the additional of one fast DC charger is considered appropriate within the area and of benefit to the locality.

Furthermore, as a guide, Figure 17 below is from the *NSW EV Kerbside Charging Grants Map*, an analysis of LGAs by the *Department of Climate Change, Energy, the Environment and Water* by population density and residential dwelling type, identifying where the greatest need for on-street kerbside chargers is.

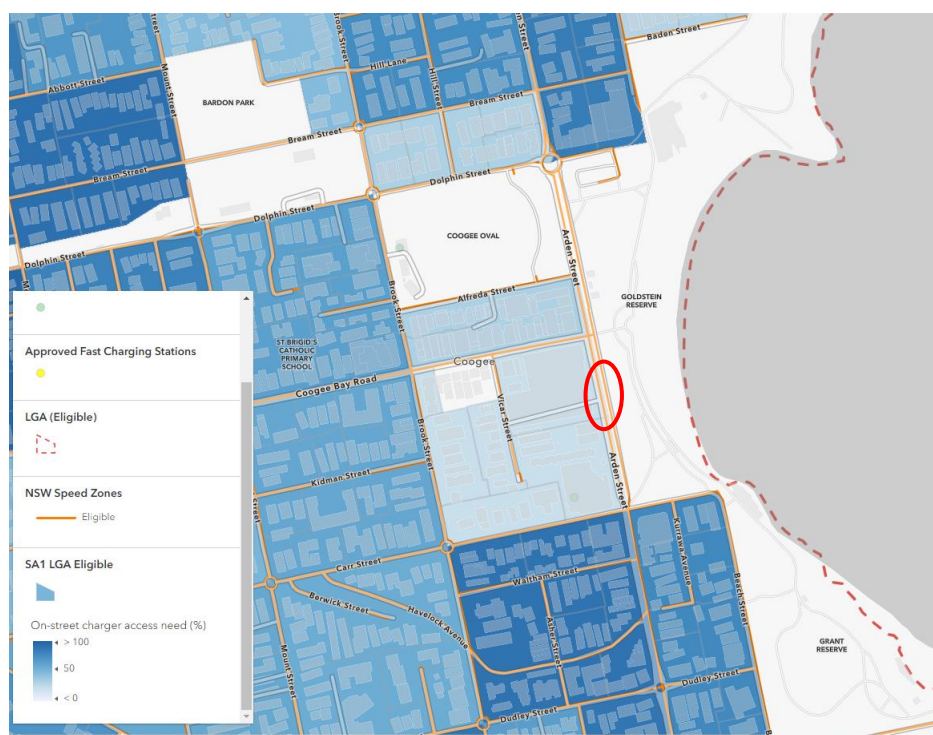


Figure 17: Photo of the Jolt Charger approved as per DA/85/2022 (Source: Department of Climate Change, Energy, the Environment and Water)

Figure 17 demonstrates that as per the *Department of Climate Change, Energy, the Environment and Water*, there is a 21% demand for on-street EVCS technology for residents in the area. Council also confirms that the immediate locality comprises of a few older residential flat buildings, where retrofitting of EVCS within the existing building and respective strata schemes can be difficult. Whilst 21% is low, Council also envisions that the EVCS will be used by commuters to the local centre and those visiting Coogee Beach and it is therefore considered an appropriate location.

Council notes that the proposed road reserve is not earmarked for infrastructure upgrades, bus or bike lanes and road reconfiguration. However, Council raised a concern with the applicant that the location of the existing Ausgrid kiosk substation is within an area identified for the location of the new driveway for the redevelopment of the Coogee Bay Hotel (as per Development Application No. DA/437/2021).

On 27 March 2024, the Applicant provided the following response regarding this concern:

"We understand that an application to redevelop the Coogee Bay Hotel is currently under consideration with the NSW Land and Environment Court and no determination has been made. JOLT's position is that a potential future development is not a relevant assessment consideration particularly when it is not yet determined.

Should the redevelopment proceed, JOLT will work with the site owner and Ausgrid to relocate the substation to a suitable alternative location. If relocation of the substation is not feasible, JOLT will work with Council to ensure EV charging infrastructure in this location remains operational. In any instance, the removal of the substation will trigger s4.55 modification application to Council for assessment.

The risk of footpath redevelopment, including the relocation or 'undergrounding' of electrical assets is a risk that applies to all kerbside EV charging infrastructure, including the installation of EV chargers on Ausgrid substations and power pole assets. JOLT is committed to operating and maintaining a 50kW DC charger in this location and where required, will work with Council to ensure an amended charger is appropriately designed, approved and installed. To ensure this we suggest Council impose the following condition of consent:

If the Ausgrid substation is relocated or removed, the applicant must submit a revised charger design for Council approval. This condition is to ensure the ongoing operation of the public EV charger."

On 03 May 2024, the Development Application No. DA/437/2021 for the demolition of buildings, works to the Coogee Bay Hotel, including refurbishment to provide for 18 hotel rooms, a new 3 storey building to the southern side of the beer garden with 13 new hotel rooms, construction of a 5/6 storey shop top housing comprising 58 dwellings, 11 retail premises, internal laneway from Coogee Bay Road, basement parking for 159 spaces, subdivision, landscaping and associated works, was approved by the Sydney Eastern City Planning Panel (subject to a deferred commencement).

Figure 18 below is an overlay of the current survey plan showing the existing location of the Ausgrid kiosk substation (in green) and the approved ground floor plan showing the new driveway location (in red).

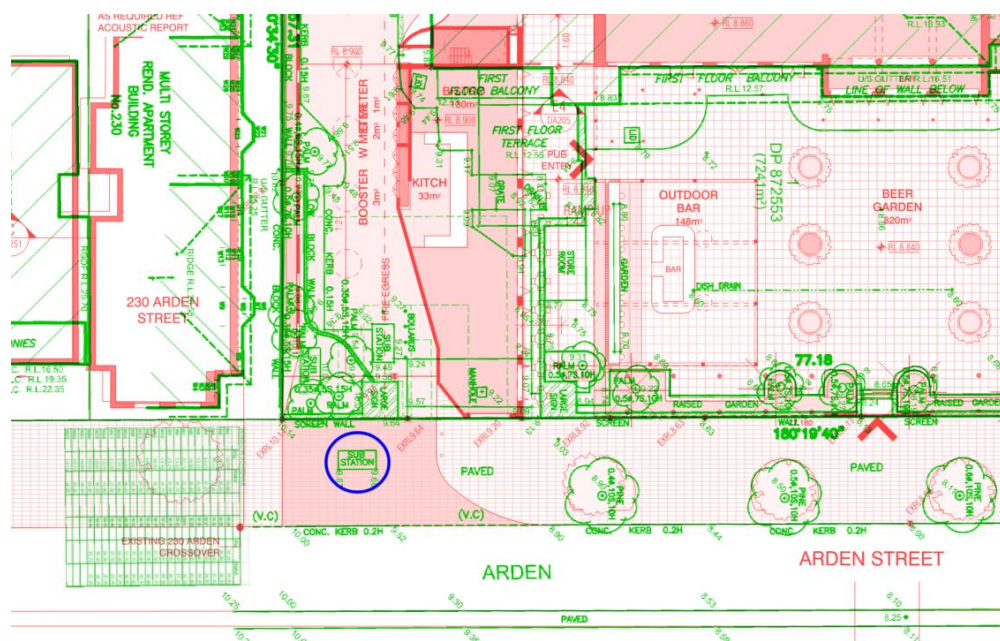


Figure 18: Overlay of the existing survey (in green) and approved ground floor plan (in red) as per DA/437/2021 (Source: Fender Katsalidis)

Council is concerned that should the Coogee Bay Hotel development proceed as now approved, then the Ausgrid kiosk substation will need to be either relocated or removed to make way for the new driveway. Whilst Council is supportive of the proposed development as is, a relocation or removal of the Ausgrid kiosk substation to another location on Arden Street may have adverse impacts upon the amenity and safety of the locality.

Whilst the relocation of the Ausgrid kiosk substation does not require development consent (as per the *Electricity Supply Act 1995*), the advertising component on the structure will require separate consent. Should the Ausgrid kiosk substation be relocated, the advertising component will require a new and detailed assessment and consideration by Council's relevant departments on the appropriateness of the new location, being something outside the scope of a Section 4.55 application or a revised plan as condition of consent.

Should the Ausgrid kiosk substation be removed, it is likely that Jolt Charge will not provide the public EVCS as it will require another method to connect electricity. It is unclear if the electricity required for the 50kW DC charger can be provided from an electricity post. In any instance, there is no electricity pole located on the western footpath area of Arden Street. Furthermore, as noted previously, the Jolt Charge partnership with Ausgrid to install and operate EVCS on existing Ausgrid kiosk substations relies upon the advertising signage as part of their business model. Should there be no kiosk substation and therefore advertising, it is unclear whether Jolt Charge would continue to provide access to their EVCS.

Therefore, in order to address these concerns, a condition of consent has been recommended, should there be any conflict with the approved under Development Application No. DA/437/2021 regarding approved works within the road reserve, where:

- Ausgrid replace/relocate the kiosk substation to another location within the locality, the advertising signage as approved under this consent will not be valid and will require a separate development consent.
- Ausgrid remove and not replace the kiosk substation to another location within the locality (i.e. decommission the kiosk substation), Jolt Charging and Ausgrid will be required to remove all associated structures and infrastructure in relation to the electric vehicle charging station and cover the cost of any associated repairs to the public domain.

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Nonetheless, based on the proposed development, Council is satisfied that the proposed ECVS is located within a busy local centre and within close proximity to some older residential flat buildings. This creates a demand for additional fast-charging EVCS in this location.

Therefore, Council is satisfied that the proposed technology and location align with the *Public EV Strategy*.

EV Strategy Actions

The *Public EV Strategy* includes a number of Actions in order to achieve the six objectives laid out in the Strategy for the 3-Councils. Below is a list of the relevant Actions from the Action Plan outlined in the *Public EV Strategy* with comments regarding the proposed development:

Action	Description	Stakeholder(s)	Timeframe	Comments
Direct Deployment				
Expand the Charging the East network	Continue to expand the Charging the East Network in the Eastern Suburbs. Select sites using special analysis and the Site Selection Criteria (provided in Supporting Documentation). Use a consistent consultation and rollout process for installations. Develop a website showing uptake, numbers of chargers and frequently asked questions.	Regional Environment Program	Current	The proposal is located within an appropriate site, as outlined above. See below assessment against the Site Selection Criteria.
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	0 – 12 months	The app and website technology for Jolt Charge include mapping systems showing the availability of their EVCSs.
Continue reporting	Report back to councils on Action Plan progress, EV uptake and EV charger usage on a quarterly basis. Review EV Strategy after 5 years	Governance	0 – 12 months	It is recommended that a condition be included on the consent requiring Jolt Charge to share quarterly data with Council regarding the use and uptake up the proposed EVCS. This is as per the request from the 3-Council's Sustainability Officer and Council's

				Traffic Engineer.
Land Access				
Develop a consistent approach to proposals from third-party charging providers (rental, licence fee, etc)	Council frequently receives unsolicited proposals from third-party charging providers. Some of these are backed by grant funding through the Federal and State government. There is a need to develop a transparent and consistent approach to dealing with these offers e.g. via an EOI process.	Third-party providers Governance team	0 – 12 months	No such process is currently in place. As such, the merits of each proposal will be assessed on a case-by-case basis.
Education and Advocacy				
Explore payment via a single app	Advocate for a single access and payment application across all charging stations.	Charge Station Operators NSW Treasury	0 – 12 months	No such technology has been developed.
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	2 – 4 years	Not an expectation under this proposal.
Planning Requirements				
Adopt new signage and parking arrangements	New signage and parking signage and restrictions have been issued by TfNSW and should be used except in specific circumstances (i.e. heritage areas).	Traffic and Transport Teams	Current	It is recommended that a condition be included on the consent requiring signage and road line-markings change to be approved by the Randwick Local Traffic Committee.
Require 100% renewable electricity	Require all new public EV charging stations to be powered by 100% renewable electricity	Regional Environment Program Charge Station Operators	Current	It is recommended that a condition be included on the consent requiring the electricity from the Ausgrid kiosk substation be powered by 100% renewable electricity.
Align DCP and planning approvals, NCC, performance standards	Align Council's DCP conditions for new developments to ensure they are consistent with any guidance from the NCC and NSW Government.	Planning teams	0-12 months	No such DCP has been developed at the lodgement of the subject DA.

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across councils				
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Site Selection Criteria for EV Charging Infrastructure on Public Land

Policy	Description	Selection Options
Mandatory Criteria		
Electrical Connection	Is electrical connection available to the site?	Yes, via the Ausgrid kiosk substation.
Footpath	Is there low impact on the footpath and pedestrian traffic.	Yes, sufficient footpath clearance maintained.
Accessibility	Is this site accessible to disabled residents?	Yes.
Vandalism Risk	Is the site have a low vandalism risk?	Yes, panelling to an existing Ausgrid kiosk substation will reduce potential for vandalism risk.
Lighting	Is adequate lighting available at the site?	Yes, via existing street lighting.
Nearby Chargers	Is there a gap in charging infrastructure available in surrounding area?	Yes, as outlined in the Strategy above.
Parking Availability	Is adequate parking available nearby relative to demand?	Yes, Council's Traffic Engineer is satisfied that the submitted turnover study sufficiently addressing the parking impact of the development.
Desirable Criteria		
Availability	Is the site accessible at all times?	Yes.
Parking Angle	What is the angle of car relative to kerb?	Parallel.
Spare Spaces	Are spare spaces available for future expansion?	Yes, an additional parking space could be designated for EV charging only.
Parking Fees	Is parking free at the site?	Yes.
Adjacent Land	What is 'Type' directly adjacent to the parking space?	Property with Off-street parking.
Land Owner	Who is the owner of the parking space land?	Randwick City Council.
Community Consultation	Is the feedback from the community likely to be positive or neutral?	Positive, see submissions.
Ranking Criteria		
Beaches & Parks	Proximity to popular beaches or parks. E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Shops & Cafes	Proximity to popular shops and cafes. E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Apartments/ Multi-unit dwellings	Proximity to apartments, multi-unit dwellings E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Score	Sum of ranking criteria	30/30

Overall, Council is satisfied that the proposed development complies with the Actions and Site Selection Criteria outlined in the Public EV Strategy.

Final Comments

In the absence of specific DCP controls relating to new EVCSs on public land, Council undertook a detailed assessment against the relevant sections of the Public EV Strategy. As demonstrated above, Council is satisfied that the proposed development complies with the different sections of

the *Public EV Strategy*, including guiding principles, charging capacity, charging network and location, strategy actions, and site selection criteria. Therefore, it is recommended that the proposed development be approved, subject to conditions relating to elements outlined in the *Public EV Strategy* relating to sharing quarterly data, signage requirements, requiring the electricity be powered by 100% renewable electricity.

Safety

Council Officers raised issues regarding safety, in particular of pedestrians, regarding the proposed development. This includes the potential trip hazard of the cabling and how this will be addressed within this high pedestrian area.

The Applicant has provided the following response and justification addressing this concern:

“JOLT acknowledges Council’s concerns regarding pedestrian safety, specifically trip hazard, and is pleased to provide further details of the proposed JOLT’s cable management system and how this presents a ‘best in class’ solution to manage risk of tripping.

It is important to understand that currently, a cable is essential and unavoidable for charging an electric vehicle. What is more important to recognise is that not all cables are the same and not all cables pose the same amount of risk to both the EV driver and pedestrians in terms of being a trip or tripping hazard.

There are two types of EV chargers in regard to cables. ‘Tethered’ where the cable is an integral part of the unit (fixed to the unit) and ‘untethered’ (where the EV driver brings their own cable). All fast DC charging stations require tethered cables. Slow AC chargers can be operated with or without tethered cables. Untethered EV charging units lead to trailing cables. A trailing cable is one that lays in the floor whilst the vehicle is charging. These types of cable (Figures 1) represent a serious trip hazard. In terms of posing a risk of tripping / a trip or tripping hazard, untethered EV charging points pose the highest risk as there is no possible means of cable management.

All of JOLT’s charging stations include a retractable cable management system to ensure tension on the cable is maintained while charging and while not in use. The retractable cable management system ensures that there is no trailing cable when either in use or when the plugs have been correctly returned to the unit. Conceivably, there may be a situation where a customer does not return a plug to the correct position following a charging session; however, this situation applies to all DC charging stations where tethered cables are a requirement.

JOLT has safely responsibly operated fast DC chargers in Randwick LGA since 2021 and has not been made aware of any instance where customers have not returned plugs to their correct position or tripping. The existing cable retraction system is considered safe and appropriate and when combined with the high utilization and turnover of customers the likelihood of tripping is very low.”

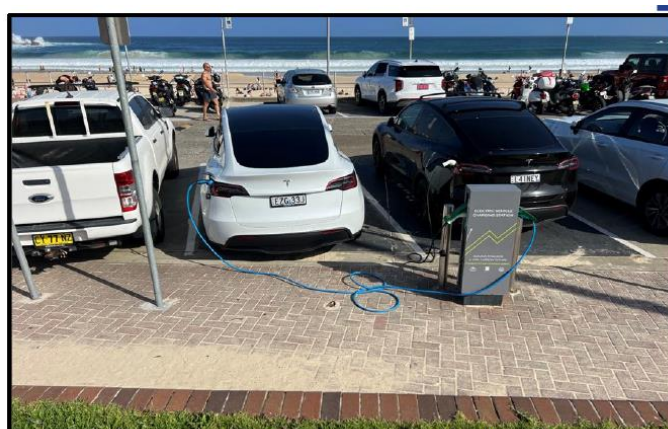


Figure 1. Example for AC charger and trailing cable



Figure 2. JOLT charging podium while in use. Highlighting cable retraction mechanism.



Figure 3. JOLT charging podium while not in use. Highlighting cable retraction mechanism and no trailing cables

Council is satisfied that the safety of pedestrians will be adequately protected as a result of the subject development. The proposed podium is located adjoining the proposed dedicated parking space, 500mm from the kerb. Council's Manager Technical Services has also reviewed the proposed development and was satisfied that the structure will not impact upon pedestrian safety.

When the charging cable is in use, sufficient area will be maintained on the footpath for pedestrian access. However, the cable is proposed as a black colour, which may be difficult to see by visually impaired people as well as other pedestrians in the busy streetscape. As such, in order to make sure that members of the public can clearly see the charging cable when in use, a condition of consent has been recommended that the colour of the cable be that of which is readily visible to the public, taking into consideration particular colour vision deficiencies.

When the charging cable is not in use, the Applicant asserts that the retractable cable system will ensure tension on the cable is maintained. However, the Applicant also notes that the cable will need to be placed in correct holding slot. If not properly stored away, the cable could be left along the footpath or roadway. This was raised as an issue by Council's Property Officer, who has received correspondence that a Jolt EVCS charging cable, when not in use, has been left with the cabling laid along the roadway. See Figure 19 below:



Figure 19: Photo of the Jolt EVCS on Beauchamp Road with the charging cable on the roadway (Source: Randwick City Council)

Council is concerned that as the EVCS is located in a busy commercial centre, that a trailing cable on the footpath and/or roadway is a potential trip hazard or could cause disruption to cars on the roadway. In order to address such concerns, a condition of consent has been recommended that the EVCS include a retractable cable management system that when the cable is not in use, it will retract back into the Ausgrid kiosk substation encasing or ancillary charging podium. Further details of such a technology will be required to be provided to and approved by Council prior to the issue of a Construction Certificate.

In terms of driver safety, Council's Traffic Engineer did not raise any concerns regarding safety, subject to conditions recommended for restrictions around the digital signage.

Overall, Council is satisfied that the safety of the public will be maintained, subject to the recommended conditions regarding the charging cable to the EVCS.

Visual Amenity

Council Officers raised issues regarding the visual amenity of the proposed development, with particular consideration of the impact that the development would have on the streetscape. The following issues relating to the size of the encasing, colours, materials and finishes, visual amenity in the coastal use area, visual clutter and overexposure to advertising on public land, have been assessed in detail below:

Size of Encasing

Council was concerned with original proposal, which included a proposed substation encasing which was approximately 2770mm high x 3324mm long x 2085mm wide. This was significantly larger than the existing substations and would detract from the streetscape.

When the concern was raised with the Applicant, they provided an amended design to the Ausgrid kiosk substation encasing called the 'Skinny GRILL', which reduced the size of the encasing. See below table showing the existing and proposed dimensions of the encased kiosk substation:

Kiosk	Length	Width	Height
Existing Substation	2670mm	1480mm	1750mm
Original Proposal	3324mm	2085mm	2780mm
Amended Proposal	3286mm	1703mm	2283mm
Difference between Existing and Amended Proposal	+586mm (21.7%)	+223mm (15%)	+543mm (30%)

In addition, the Applicant provided the following justification regarding the size of the amended encasing:

“Summary of proposed Skinny GRILL encasing design changes:

- 20% reduction in overall volume of the unit;
- 30% reduction in width. Skinny GRILL encasing width is approximately 112mm from the existing substation, reduced from 301mm; and
- Overall reduction in length, width and height of the encasing.

JOLT and Ausgrid have collaborated to produce the smallest feasible substation encasing. As per the attached letter from Ausgrid (Appendix A), the new design satisfies Ausgrid’s technical constraints to ensure the substation will continue to be safely operated and maintained while housing critical electrical equipment for the JOLT EV charging station.

The height of the enclosure is a key design consideration and is the minimum feasible height to fit critical EV charger componentry like the meter box, which is installed between the substation and the encasing roof. This is the most efficient location for the associated electrical equipment that would otherwise need to be installed on the footpath, adjacent to the charger.”

As part of the Applicant’s submission, they provided a letter from Ausgrid’s Head of EV Charging and Infrastructure Development, that included the following statement:

“Ausgrid has collaborated with JOLT on a new ‘skinny grill’ unit. This innovation has reduced the size of the unit as far as possible, while still meeting Ausgrid’s technical constraints that allow our staff to safely access the kiosk for maintenance works. We understand that JOLT is proposing to install skinny grill units in response to Council concerns about the bulk and scale of the units initially proposed.”

Based on the amendments and proposed reduced encasing, as well as the comments from Ausgrid regarding the encasing being reduced and still providing the access as required, Council is satisfied that the increased size of the encasing has been minimised where possible. Whilst the kiosk substation size will be increased in length (by 586mm), width (by 223mm) and height (543mm), it is considered acceptable in the following ways:

- An appropriate increase between the size and scale of the existing substation, being a maximum increase in size of 30%. The structure not visually imposing to pedestrians when on the footpath area adjoining the substation.
- An appropriate scale in relation to surrounding building to the western side of Coogee Bay Road including the Coogee Bay Hotel and 4-storey residential flat building at No. 230 Arden Street.
- Sufficient footpath clearances are maintained.

Colours, Materials and Finishes

Council was concerned that the proposed black encasing would be visually dominant in the streetscape and present as a prominent feature. There was concern that the black colour draws the eye of the pedestrian or drivers to the structure and does not blend in with the other features and colours within the streetscape.

The concern was raised with the Applicant who provided the following response and justification:

“JOLT proposes to wrap both structures in bespoke indigenous artwork to mitigate perceived impact on visual amenity. JOLT intends to commission a local indigenous artist to create artwork that responds to the natural perspective of the locations, increasing the perception of depth and providing a sense of vibrancy in both locations.

A graffiti proof vinyl wrapping displaying the successful indigenous artwork will be installed over the top of the encasing and maintained for the duration of operations. The indigenous artwork is consistent with Council’s Public Art Strategy. It will both contribute to a sense of community and address Council’s concerns regarding visual impact.

To ensure that the final design is implemented to Council's standards, we recommend Council impose the following condition of approval:

Prior to the commencement of any construction works, the applicant shall engage a local indigenous artist to prepare a concept design for the substation encasing. The artwork must be approved by Council's Art and Cultural Advisory Committee in writing prior to the commencement of any construction works. The applicant must ensure the approved indigenous artwork is maintained during the ongoing use of the development. Any change to the artwork will require approval from Council."

Council is satisfied that an artwork to the proposed kiosk substation grill would have a reduced visual impact on the streetscape and locality, and enhance the cultural and environmental objectives of the Council, as outlined in Council's *Public Art Strategy*. This would be a welcomed improvement on the current finish of the kiosk substation that detracts from the visual qualities of the streetscape.

Therefore, it is recommended that a condition of consent be imposed requiring that the kiosk substation encasing to be of an artwork design in accordance with Council's *Public Art Strategy* and approval by Council's Arts and Culture Team.

Visual Amenity within the Coastal Use Area

The proposed EVCS is located within the coastal use area as per the SEPP (Resilience and Hazards) 2021 map. Therefore, the proposed development is subject to consideration under Clause 2.11 'Development on land within the coastal use area' of Chapter 2 of SEPP (Resilience and Hazards) 2021.

Clause 2.11 of SEPP (Resilience and Hazards) 2021 has been reproduced and Figure 20 provided below showing the coastal use area in relation to the proposed development site:

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

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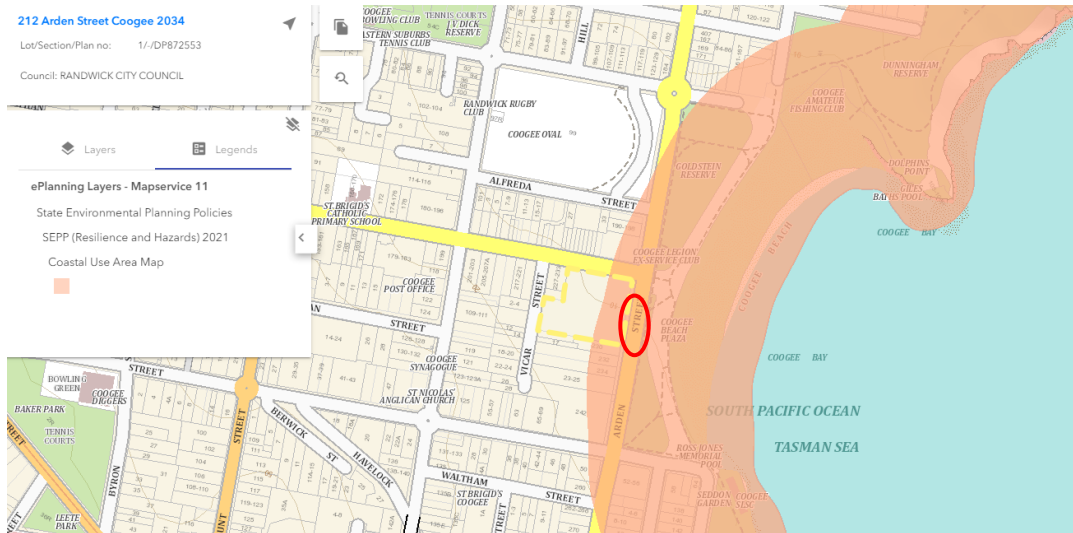


Figure 20: The proposed development site in relation to the coastal use area (Source: Department of Planning, Housing and Infrastructure)

Council was concerned that the proposed development would adversely impact upon the visual amenity and scenic qualities of the coastal area. The concern was raised with the Applicant who provided the following response and justification:

“Council has raised concern in terms of the size and finish of the proposed substation and its impact on the visual amenity of the coastal use area.

As discussed above, JOLT and Ausgrid have collaborated to produce the smallest feasible substation encasing and this is a reduction to the encasing previously proposed. In addition, JOLT proposes to wrap both structures in bespoke indigenous artwork to mitigate perceived impact on visual amenity.

The proposal as amended is considered to be an appropriate response for the context and having regard to these considerations in the following manner:

- *The siting of the substation will not affect existing safe access to and along the foreshore, noting that pedestrian access, including for persons with a disability, along the footpath towards the pedestrian lights at the corner of Coogee Bay Road and Arden Street will not be impeded by the proposed works;*
- *The proposed charging station will not result in overshadowing or wind funnelling, given that there is an existing structure, which is proposed to be increased in size but not in a significant manner to allow for such impacts;*
- *The proposed charging station will not result in the loss of views from the public domain towards the foreshore;*
- *The proposed charging station will not result in a loss of visual amenity of the coastal location, noting that there is an existing structure and the proposed structure will be more visually interesting incorporating indigenous artwork reflecting the indigenous heritage of the locality;*
- *The proposed charging station will not be highly visible or affect the visual amenity of the area with walking along the foreshore or headland or when sitting at or near the Beach or Goldstein Reserve, noting this is additionally protected by significant trees within the public domain; and*
- *The proposed charging station will be a positive addition to the locality in terms of showcasing local aboriginal artwork and sitting comfortably within the surrounding built environment.”*

Overall, Council is satisfied that the proposed development will not cause an adverse impact on the coastal use area in the following ways:

- The proposed development will not impact upon existing safe access to and along the foreshore, as adequate pedestrian access around the development will be maintained (see Key Issues above regarding safety).
- The proposed development will not have any undue impacts in terms of overshadowing, wind funnelling and the loss of views from public places to foreshores.
- The proposed development will not have any undue impact on the visual amenity and scenic qualities of the coastal area and Coogee Basin. Whilst the size of the existing structure will increase in size, the substation and associated works will not further detract from the scenic qualities of the area. The proposed public artwork that shall encase the kiosk substation will positively contribute to the scenic qualities of the foreshore area and improve the appearance of the existing kiosk substation, mitigating any visual impacts that the structure will have.
- The proposed development will not impact upon Aboriginal cultural heritage, practices and places.
- The proposed development will not impact upon the cultural and built environment heritage, as confirmed by Council's Heritage Planner.

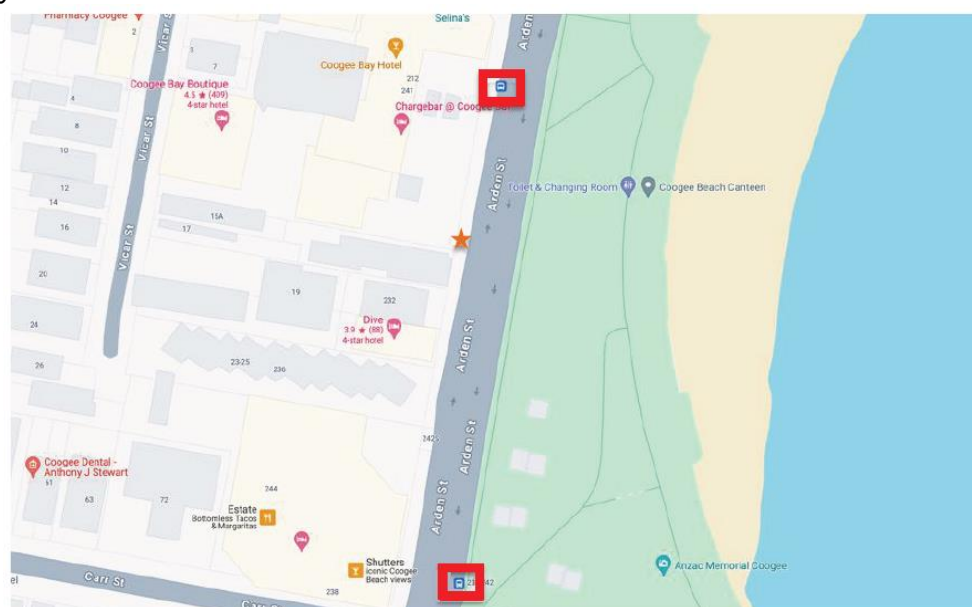
Visual Clutter and Overexposure to Advertising on Public Land

Council raised concerns regarding visual clutter and the overexposure of third-party public advertising within the immediate locality. Council has conducted a site analysis of advertising on public land within the area and that there are digital advertising signs along Arden Street, with one to the bus stop in front of the Coogee Bay Hotel and one to a Telstra payphone next to the bus stop on the eastern side of Arden Street near the intersection with Carr Street.

The concern was raised with the Applicant who provided the following response and justification:

"In addition to the visual amenity concerns discussed above, Council has raised an issue with additional advertising signage along Arden Street at bus stops on each side of the road and the potential for over saturation and visual clutter.

Figure 4 below illustrates the location of the substation (yellow star) in relation to the bus stops (shown in red) along Arden Street within this section between Carr Street and Coogee Bay Road.



The substation is located approximately 45m from the bus stop located to the north and approximately 110m from the bus stop located to the south (on the opposite side of the

street). The southern bus stop does not have any advertising, but it is noted that there is a Telstra phone box located beside the bus stop with Telstra advertising.

The advertising panels are limited to two and are to be located on the northern and southern ends of the structure with a maximum width of 1m. There is no advertising proposed to the eastern and western panels.

When travelling in a northerly direction by car or foot, the advertising at the bus stop will not be highly discernible until past the substation given the distance between the structures.

When travelling in a southerly direction by car or foot, the advertising at the Telstra phone box will not be highly discernible until past the substation given the distance of 110m between the structures.

In addition, the structure will sit below the signage for the Coogee Bay Hotel at the Arden Street driveway entrance.

The subject site is located within the E1 Local Centre zone. The objective for advertising in this zone is as follows:

- To reduce the visual complexity of streetscapes by providing fewer, more effective signs
- To recognise that outdoor advertising can help to express the character of a commercial district or business centre.

The proposed signage is limited to the northern and southern ends of the structure. In addition, given the separation for nearby signage, will not result in visual clutter. The kiosk will be wrapped with local indigenous art work adding to the character of the local area and providing a more suitable finish than that existing."

Overall, Council is satisfied that the proposed development will not contribute to the visual clutter and overexposure of advertising on public land within the locality for the following reasons:

- The proposed advertising is located on Arden Street, oriented to the northern and southern sides on the street, a considerable distance from the two bus stops and their respective advertising signage. Council is satisfied that there is sufficient separation between the signage.

The greatest impact of the cluttering will be to pedestrians walking on the western footpath to Arden Street, where signage will be visible from the proposed development and to the bus stop in front of the Coogee Bay Hotel. Council agrees with the Applicant that the distance between the kiosk substation and the bus stop is approximately 45m. The signage to the bus stop is located on the northern side of the structure, obscured from view by Norfolk Pine Streets along the streetscape.

- Council is satisfied that in this instance, the proposed advertising signage is appropriate within a commercial zone on a street that only has two other advertising signage emplacements, which are adequately separated. Other signage is limited to commercial building frontages that are appropriate within the commercial zone for the purposes of building identification.
- Appropriate conditions of consent have been recommended in regard to luminance and dwell times, as outlined below:
 - The digital signage must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
 - The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
 - The digital signage must comply with the relevant provisions of AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting.

- Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.

9. Conclusion

That the application to use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements to x2 advertising panels to the kiosk, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage 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 commercial centre zone in that the proposed activity and built form will support the commercial centre for business, retail, community and cultural activity, encourages economic growth, retains a sufficient level of accessibility and amenity including for pedestrians, and facilitates a safe public domain;
- 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 in improving the visual impacts of the existing substation kiosk;
- The development does not detract from the visual amenity and scenic qualities of the coastal use area, in accordance with the Resilience and Hazards SEPP;
- The proposal is consistent with the relevant objectives of the Industry and Employment SEPP and the Transport and Infrastructure SEPP;
- The proposed development will make a positive contribution to the commercial centre in providing an additional electric vehicle charging station that is a benefit to the public and will provide a form of social infrastructure for the local community; and
- Subject to conditions, the EVCS and advertising will be appropriately managed to confirm technological capabilities, minimise illumination impacts and ensure pedestrian and traffic safety.

Appendix 1: Referrals

1. External Referral Comments:

1.1. Ausgrid

The proposed application was referred to Ausgrid under Section 2.48 of the *Transport and Infrastructure SEPP 2021*. Ausgrid has confirmed that the proposed development is satisfactory, subject to conditions regarding supply of electricity and underground cables, which have been included in the draft consent.

2. Internal Referral Comments:

2.1. Council Property

Council's Property Officer has provided owner's consent for the subject application and has confirmed that the proposed development is satisfactory. The Officer raised issues regarding the encroachment of the Ausgrid kiosks substation encroaching over footpaths and liability issue (including trip & fall or property damage) from charging cords left on road. See Key Issues for a detailed assessment of these issues.

2.2. Sustainability

The 3-Council's Sustainability Officer has confirmed the proposed development is satisfactory in terms of the EVCS technology, including the double port, charging capacity, 1 hour parking signage, location, alignment with the align to the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*. The Officer has recommended a number of conditions to be imposed on the consent including requirements for charging capacity, operation, signposts and line markings, and sharing usage data with Council. Such recommended conditions have been included in the draft conditions of consent.

2.3. Integrated Transport

The Transport Engineer has confirmed the proposed development is satisfactory. The Officer confirmed that the submitted turnover study addressing the dedication of an on-street parking space for the EVCS use only was acceptable, based on the occupancy rate. The Officer has recommended a number of conditions to be imposed on the consent including quarterly usage reporting to be provided to Council, that Council can review and ultimately rescind parking arrangements in the future, requirement for a signs and lines concept plan for representation to Randwick Local Traffic Committee for endorsement and approval, and restrictions around the digital signage. Such recommended conditions have been included in the draft conditions of consent.

2.4. Technical Services

Council's Manager Technical Services has confirmed the proposed development is satisfactory, noting the adequate footpath clearance, no conflict with shop windows, no conflict with street lighting, no impact on drainage, and ultimately no concerns with location. The Officer also noted that the sleeved unit elevated above footpath is preferred configuration for assets in the case of future maintenance.

The Officer raised concerns for potential costs associated with redevelopment and relocation if any changes to private adjacent building, similar to that raised by Council's Transport Officer. A condition of consent has been recommended that Council can review and ultimately rescind parking arrangements in the future. Further conditions were recommended regarding the advertising panel and lighting which must address standards for obtrusive lighting effects to prevent light spill and flashing to adjoining residences. Such recommended conditions have been included in the draft conditions of consent.

2.5. Development Engineering

Council's Development Engineer has confirmed the proposed development is satisfactory and has recommended relevant conditions of consent to be imposed.

2.6. Heritage Planning

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

"The subject site is located in the vicinity of heritage item I48.

The proposed development appears to be in compliance with the controls and does not have any adverse impact on the heritage fabric. The above proposal is supported from a heritage perspective no further condition is required."

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Appendix 2: DCP Compliance Table

3.1 Section B2: Heritage

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

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
2	Sustainable transport		
2.3	Fuel efficient cars		
	i) A minimum of 10% parking spaces are to be designed and labelled for small & environmental vehicles in commercial, office or shopping centre development wherever 10 or more spaces are required. ii) Give priority location to these spaces with easy access to entry/exits and lifts of the office/shops/buildings.	The proposed EVCS and dedicated parking spaces are located within an economic zone, within close proximity to the commercial areas of the zone.	Yes, complies
2.5	Traffic and parking study requirements		
	i) Depending on the type of development one or more of the following will be required to be submitted with the development application: a. Transport Assessment Study and Travel Plan b. Parking and Access Study c. Construction Traffic Management Plan (Preliminary) for busy arterial roads <i>Note: Table 1 Vehicle Parking Rates sets out where one or more of these studies are required, depending on types of development.</i> ii) The Transport Assessment Study must be prepared by a qualified traffic engineer. The study/report must then be signed by the author with their qualifications and MIE membership number quoted.	The applicant has submitted a turnover study to convert an off-street parking space into a dedicated parking space for an EV only. See Key Issues including an assessment from Council's Transport Engineer, who is satisfied with the proposed development.	See Key Issues
3	Parking & Service Delivery Requirements		
3.7	Parking layout, configuration & dimensions		
	i) An off-street car space must be a minimum of 2.4m by 5.4m long and comply with AS 2890.1.	The proposed dedicated parking space for the EVCS is existing.	Yes, complies

3.3 Section F2: Outdoor Advertising and Signage

2	General Design and Siting		
	i) Signage should recognise the legitimate needs for directional advice, business identification and promotion. ii) Signage must complement and be compatible	The proposed advertising signage is considered acceptable as it will	Yes, complies

	<p>with the development on which it is situated and with adjoining development.</p> <p>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.</p> <p>vi) Signage shall be displayed in English but may include a translation in another language.</p>	<p>not detract from the streetscape, will not result in visual clutter, is appropriately scaled to the adjoining buildings in the area, and on existing Ausgrid kiosk substation sides.</p>	
3	Signage based on land use zones		
3.1	Business Zones		
	<p>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.</p> <p>ii) Signage must not dominate or obscure a building or its architectural features. Advertising should highlight and reinforce architectural details.</p> <p>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).</p> <p>v) The visual amenity and value of streetscapes should be protected through careful consideration of proposals for flush wall signage.</p> <p>viii) Outdoor advertising on or attached to buildings must align and relate to the architectural design lines on a building façade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings.</p> <p>xi) Pole or pylon signs must not exceed the height of adjoining or adjacent buildings, or 6 metres, whichever is the lower.</p>	<p>The proposed advertising signage is suitably scaled to a maximum height of 2.2m, flush to the Ausgrid kiosk substation and adjoining buildings. The advertising panels do not dominate the streetscape of kiosk substation, nor do they project above any building awnings.</p>	<p>Yes, complies</p>

Appendix 3: Advertising Compliance Table under Industry and Employment SEPP 2021Objectives and Schedule 5 criteria

Compliance with the objectives and Schedule 5 criteria is considered in the following tables:

Relevant Clause	Comment
Character of the area 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 site is located within Coogee Bay Local Centre. The proposal is compatible with the current and future character for the centre in providing a mix of commercial, retail and residential uses that serve the needs of the local community.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is compatible with the scale and proportions of the existing kiosk. The sign does not dominate or obscure any views; it is integrated into the casing of the EV charging station.
Special areas 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?	The signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterways, rural landscapes or residential areas. Council's Heritage Planner is satisfied that the proposed development will not impact upon the amenity of the nearby Coogee Bay Hotel Local Heritage Item. See Appendix 1 for comments.
Views and vistas Does the proposal obscure or compromise important views?	The approved signage panels are considered appropriate in terms of the existing scale and proportion of the kiosk. The signage panels will be integrated into the casing over the existing kiosk and will not obscure or compromise any important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The height of the signage does not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposal does not affect the viewing rights of other advertisers.
Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The approved signage panels are integrated into the casing for an existing structure and is compatible with its setting within Coogee Bay Local Centre.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal does not have an adverse impact on the visual interest of the streetscape and is sited appropriately.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	There is no existing advertisement at the site.
Does the proposal screen unsightliness?	The proposal forms part of a casing that screens the existing kiosk.

Relevant Clause	Comment
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings.
Does the proposal require ongoing vegetation management?	No vegetation management required.
Site and building 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 proposed signage is integrated into the casing of the existing Ausgrid substation and is limited to two signage panels.
Does the proposal respect important features of the site or building, or both?	The proposal is compatible in line with the existing kiosk and the setting within Coogee Bay Local Centre.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage facilitates the kiosk's innovative use as an EV charging station by affording users 7kw of free EV charging.
Associated devices and logos with advertisements and advertising structures 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 signage is integrated into the Ausgrid substation structure.
Illumination Would illumination result in unacceptable glare?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent have been recommended to be imposed to minimise the impacts of illumination.
Would illumination affect safety for pedestrians, vehicles or aircraft?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent have been recommended to be imposed to minimise the impacts of illumination.
Would illumination detract from the amenity of any residence or other form of accommodation?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent shall be imposed to minimise the impacts of illumination.
Can the intensity of the illumination be adjusted, if necessary?	The intensity of the illumination will be adjustable to meet luminance regulations for NSW.
Is the illumination subject to a curfew?	The illumination is not subject to a curfew.
Safety Would the proposal reduce the safety for any public road?	Conditions of consent relating to dwell times and illumination have been recommended to be imposed to minimise impact on road safety.
Would the proposal reduce the safety for pedestrians or bicyclists?	Conditions of consent relating to dwell times and illumination have been recommended to be imposed to minimise impact on pedestrian and bicyclist safety.

Relevant Clause	Comment
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal does not obscure sightlines from public areas.

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/659/2023

Development Consent Conditions (Commercial)



D46/24

Folder /DA No:	DA/659/2023
Property:	Road Reserve adjacent to 212-230 Arden Street, COOGEE NSW 2034
Proposal:	Use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

- 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:

Plan	Drawn by	Dated	Received by Council
Location, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Plan View, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Plan View Kiosk Dimensions, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Southwest Elevation, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Southeast Elevation Cross Section, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Northeast Elevation, Site Number 3332, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Jolt Products – EV Charger Podium (Split)	Jolt Charge Pty Ltd	-	27/03/2024
Skinny Grill DWG Blank Door, Sheet 1 of 1, Rev 1.0	Jolt	01/03/2024	27/03/2024

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.

- Charging Capacity and Capability**
The electric vehicle charging unit shall have a minimum charging capacity of 50kW and have a dual charge capability (i.e. charging capability for two electric vehicles).

Condition Reason: To ensure that the development meets the demand for Council's public electric vehicle charging network, in accordance with the 3rd Council's *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*.

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Condition	
3.	<p>Retractable Cable Management System</p> <p>The charging cable to the electric vehicle charging station is to incorporate a retractable cable management system so that that when the charging cable is not in use, it will retract back into the kiosk substation encasing or charging podium with only the charging plug located on the external of the kiosk substation encasing or associated charging podium.</p> <p>Further details of this technology shall be submitted to and approved by Council's Manager Development Assessment prior to the issue of any Construction Certificate for the development.</p> <p>Condition Reason: To ensure that the safety of the public is maintained from the development on public land.</p>
4.	<p>Charging Cable</p> <p>The colour of the charging cable shall be a colour that is readily visible and identifiable to pedestrians and motorists within the public domain.</p> <p>Further details of this cable colour shall be submitted to and approved by Council's Manager Development Assessment, prior to the issue of any Construction Certificate for the development.</p> <p>Condition Reason: To ensure that the safety of the public is maintained from the development on public land.</p>
5.	<p>Charging Plug</p> <p>Details of the type of the charging plug to the charging podium are to be provided to and approved by Council, prior to the issue of any Construction Certificate.</p> <p>Condition Reason: To ensure that the publicly available electric vehicle charging plug is the most compatible with Australian electric vehicles and has the preferred capacity and charging rate.</p>
6.	<p>Public Artwork Encasing</p> <p>Prior to the commencement of any construction works, the applicant shall engage with Council's Arts and Culture Team regarding the commissioning process and approval for a public artwork to the Ausgrid kiosk substation encasing, in accordance with Council's <i>Public Art Strategy</i>, wholly at the cost of the applicant. The commissioned artwork cannot be a sign or advertising and cannot contain material that discriminates against or vilifies any person or group or is offensive or sexually explicit.</p> <p>Condition Reason: To ensure that the development positively contributes to the cultural identity of the City and the streetscape, in accordance with Council's <i>Public Art Strategy</i>.</p>
7.	<p>Signage Changes</p> <p>Full details of the traffic signage and line-marking changes for the designated on-street electric vehicle parking space are to be provided to Council to the satisfaction of Council's Coordinator Integrated Transport and approved by the Randwick Local Traffic Committee, prior to the issue of any Occupation Certificate.</p> <p>Condition Reason: To ensure that sign and line marking change works are carried out in accordance with Council relevant policies.</p>
8.	<p>Obtrusive Lighting</p> <p>The applicant shall ensure that shielding, direction and dimming measures have been adopted in order to address obtrusive lighting effects from the advertising panels to prevent light spill and flashing to adjoining residences.</p>

- | | Condition |
|-----|---|
| | Details of such measures shall be included in the Construction Certificate, to the satisfaction of the Certifier. |
| | Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest. |
| 9. | Conflict with Development Application No. DA/437/2021
In the case of any conflict with the approval under Development Application No. DA/437/2021 regarding approved works within the road reserve, where: <ul style="list-style-type: none">Ausgrid relocates the kiosk substation to another location within the locality, the advertising signage as approved under this consent will not be valid and will require separate development consent in support of this relocation.Ausgrid removes and does not replace the kiosk substation to an alternate location within the locality (i.e. decommission the electric vehicle charging station). The operator of the electric vehicle charging station shall remove all associated structures and infrastructure in relation to the electric vehicle charging station and meet the cost of any associated repairs to the public domain. |
| | Condition Reason: To ensure that the Council maintains authority and the public interest over the structures on Council's Road Reserve. |
| 10. | Emergency Messaging System
The signage operator shall provide detailed information and training for NSW Police and Council in relation to an Emergency Messaging System. This information/training must be provided at no cost to NSW Police or Council. |
| | Condition Reason: To ensure that digital advertising can be used for emergency communication messaging for the benefit of the public. |
| 11. | Annual Fee
The applicant is responsible for the payment of an annual fee for each designated parking bay associated with the operation of the electric vehicle charging, as set out in Council's annual Pricing Policy Fees & Charges. |
| | Condition Reason: To ensure that the operator of the electric vehicle charging station pays the relevant fees in accordance with Council's Pricing Policy Fees & Charges. |
| 12. | Duration of Consent
This Development Consent is limited to a maximum period of fifteen (15) years from the date listed on the consent and shall expire after this time. |
| | Condition Reason: To ensure that the development complies with the advertising requirements, in accordance with the relevant environmental planning instrument. |

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

- | | Condition |
|-----|---|
| 13. | 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. |

Condition	
	Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.
14.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$2,000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
15.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
16.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):</p> <ol style="list-style-type: none"> a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. 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. a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building

Condition
<p>inspections and to issue an occupation certificate; and</p> <p>d) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>e) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and</p> <p>f) at least two days' notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p>

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

17. **Dilapidation Report**

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

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

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.

18. **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

	Condition
	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.
19.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
20.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
21.	<p>Supply of Electricity</p> <p>It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:</p> <ul style="list-style-type: none"> • The existing network can support the expected electrical load of the development. • site conditions or other issues that may impact on the method of supply. <p>The proponent should submit a connection application with Ausgrid as soon as practicable, this can be accessed via the Ausgrid website through the following: https://www.ausgrid.com.au/Connections/Get-connected/Apply-for-a-connection.</p> <p>Condition Reason: To ensure compliance with Ausgrid recommendations.</p>
22.	<p>Ausgrid Underground Cables</p> <p>Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.</p> <p>It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA).</p> <p>In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:</p> <ul style="list-style-type: none"> • SafeWork Australia – Excavation Code of Practice. • Ausgrid's Network Standard NS156 which outlines the minimum

Condition

requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries.

Condition Reason: To ensure compliance with Ausgrid recommendations.

DURING BUILDING WORK

Condition

23. **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.

24. **Restriction on Working Hours**

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

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

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Condition	
	<ul style="list-style-type: none"> • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

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

25. **Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

Condition	
h)	The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
i)	Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.
j)	Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
k)	Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

26. **Complaints Register**

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

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

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

Condition Reason: To ensure that any complaints from the public are registered and investigated in a Complaints Register.

27. **Compliance with relevant Australian Standards**

The electric vehicle charging unit is to comply with AS/NZS 3000:2018 (Electrical installations), AS/NZS 4417.2:2020 (Regulatory compliance mark for electrical and electronic equipment, Part 2: Specific requirements for particular regulatory applications), and any other relevant Australian Standards.

Condition Reason: To require measures are carried out in accordance with the relevant Australian Standards.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
28.	Occupation Certificate Requirements An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> .
Condition Reason: Statutory requirement. To ensure the site is authorised for occupation.	

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Condition	
29.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes:</p> <ul style="list-style-type: none"> a) The removal of cement slurry from Council's footpath and roadway. b) Install signage, line markings, crossings etc as required by Council's Integrated Transport and/or Randwick Local Traffic Committee. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
30.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
31.	<p>Data Sharing</p> <p>The operator of the electric vehicle charging station shall share quarterly data with Council regarding the use and uptake up the electric vehicle charging station. Details that are required within the quarterly data are to be agreed to between the operator of the electric vehicle charging station and Council, prior to the issuing of an Occupation Certificate.</p> <p>Condition Reason: To ensure that Council can account for and manage the uptake of public electric vehicle charging stations within the locality.</p>

OCCUPATION AND ONGOING USE

Condition	
32.	<p>Advertising and Signage</p> <p>The signage shall be in accordance with the Transport Corridor Outdoor</p>

Condition	
	Advertising and Signage Guidelines 2017 and relevant Australian Standards.
	Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
33.	<p>Advertising and Signage Dwell times between displays shall be no shorter than 10 seconds.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
34.	<p>Advertising and Signage The number of advertisements displayed on the digital screen must not exceed six (6) per minute.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
35.	<p>Advertising and Signage The transition time between different static digital advertisements displayed on the digital LED screens must be no longer than 0.1 seconds.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
36.	<p>Advertising and Signage The images displayed on the signage must not contain/use:</p> <ul style="list-style-type: none"> • Flashing or flickering lights or content. • Animated displays, moving parts or simulated movement. • Complex displays that hold a driver's attention beyond "glance appreciation". • Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber, or green circles, octagons, crosses, triangles, and words such as 'stop' or 'halt'. • A method of illumination that distracts or dazzles; and • Dominant use of colours red or green. <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
37.	<p>Advertising and Signage Signage shall be displayed in English but may include a translation in another language.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
38.	<p>Advertising and Signage The digital signage shall be maintained, cleaned regularly and kept in safe working order at all times to maintain pedestrian and vehicular safety. Any damage to the signs shall be rectified within a timely manner.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
39.	<p>Advertising and Signage The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. The area</p>

	Condition
	of any such name or logo must not be greater than 0.25 square metres.
	Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
40.	<p>Illumination</p> <p>Prior to the use of the digital signage panels for advertising, the Applicant must submit to the Certifier evidence from a qualified practitioner demonstrating compliance in the luminance levels in the latest version of AS 4282-1997 - Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997).</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
41.	<p>Illumination</p> <p>The digital panels shall be mounted, screened and directed so as to minimise light-spill in such a manner that it does not create a nuisance to surrounding properties or the public road network.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
42.	<p>Illumination</p> <p>The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
43.	<p>Illumination</p> <p>The digital signage must comply with the relevant provisions of AS 4282 – 1997 <i>Australian Standard – Control of the obtrusive effects of outdoor lighting</i>.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
44.	<p>Illumination</p> <p>Visible light reflectivity from the digital signage and substation kiosk structure shall not exceed 20 per cent and shall be designed to minimise glare.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
45.	<p>Charging Station Operation</p> <p>The operator of the electric vehicle charging station must operate the electric vehicle charging station at least 99% per year (i.e. 99% uptime throughout the year).</p> <p>Condition Reason: To ensure that the electric vehicle charging station operates in accordance with industry standards.</p>
46.	<p>Outgoing Maintenance Works</p> <p>The operator of the electric vehicle charging station shall be responsible to clean, maintain, renew and repair the electric vehicle charging (including all supporting structures) located on the public road reserve along Coogee Bay Road, with all works being undertaken to the satisfaction of Council.</p> <p>Condition Reason: To ensure that the applicant is responsible for the maintenance of public infrastructure on the Council road reserve.</p>
47.	Public Artwork Encasing

Condition	
	<p>The operator of the electric vehicle charging station must ensure the approved public artwork encasing to the kiosk substation shall be maintained during the ongoing use of the development. Any change to the artwork will require approval from Council, in accordance with Condition 6.</p> <p>Condition Reason: To ensure that the development positively contributes to the cultural identity of the City and the streetscape, in accordance with Council's <i>Public Art Strategy</i>.</p>
48.	<p>Utility Authority Access</p> <p>The operator of the electric vehicle charging station shall abide with any directive given by any utility authority in relation to access requirement to any utility within the immediate locality of the structures on the road reserve.</p> <p>Condition Reason: To ensure utility authorities can maintain access to critical utilities on Council's Road Reserve.</p>
49.	<p>Electronic Log</p> <p>An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council to allow a review of the sign's activity for any reason, including where a complaint has been made.</p> <p>Condition Reason: To ensure that Council can investigate potential complaints regarding the contents of the advertising content.</p>
50.	<p>Data Sharing</p> <p>The operator of the electric vehicle charging station shall share quarterly data with Council regarding the use and uptake up the electric vehicle charging station, in accordance with Condition 31.</p> <p>Condition Reason: To ensure that Council can account for and manage the uptake of public electric vehicle charging stations within the locality.</p>
51.	<p>Electricity Source</p> <p>The electricity from the Ausgrid kiosk substation shall be powered by 100% renewable electricity. Details of this electricity sourcing are to be provided to Council to confirm this arrangement.</p> <p>Condition Reason: To ensure that electric vehicle charging stations located on Council's Road Reserve source energy in order to address the impacts of climate change.</p>
52.	<p>Revocation or Suspension of Consent</p> <p>Council may revoke or suspend an Approval of the electric vehicle charging station and advertising at any time during the Approval Period if:</p> <ul style="list-style-type: none"> a) the conditions of the Approval have been failed to comply with; b) the use of Council's Road Reserve in accordance with the Approval results in adverse impacts on the use of the footway or adjoining roadway or on public safety or public amenity. <p>Condition Reason: To ensure that Council maintains authority over infrastructure within and the use of Council's Road Reserve.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition	
53.	<p>Demolition Work Plan</p> <p>A demolition work plan must be developed and be implemented for any demolition works in accordance with AS2601 (2001)- Demolition of Structures.</p> <p>The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.</p> <p>The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).</p> <p>A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition	
54.	<p>Demolition Work</p> <p>Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress", • Council is to be given at least two days written notice of demolition works involving materials containing asbestos, • Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request, • A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works. <p>Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.</p> <p>Condition Reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.</p>

Development Application Report No. D47/24

Subject: Road Reserve adjacent to 1 Elizabeth Street, Randwick
(DA/680/2023)


Executive Summary

Proposal:	Use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.
Ward:	West Ward
Applicant:	Jolt Charge Pty Ltd
Owner:	Randwick City Council
Cost of works:	\$51,150.00
Reason for referral:	The proposed development is located on land owned by Randwick City Council.

Recommendation

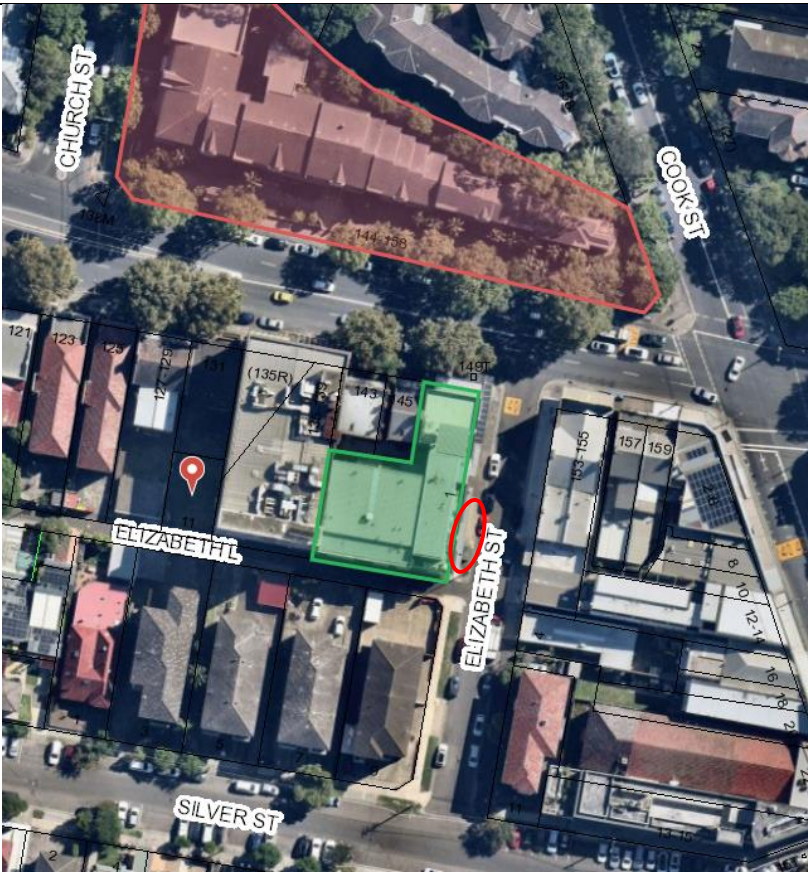
That the RLPP grants consent under Sections 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended, to Development Application No. DA/680/2023 for use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage, at the Road Reserve adjacent to 1 Elizabeth Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  1. RLPP Dev Consent Conditions (commercial) - DA/680/2023 - Road Reserve adjacent to 1 Elizabeth Street, RANDWICK NSW 2031 - DEV - Randwick City Council

D47/24

D47/24



Subject Site

Submissions received

North

Locality Plan

N.B. 12 submissions were received, with one objection submission from Unit 2, 144-158 Alison Road. All other submissions were of support outside the immediate locality on the map above.

1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the landowner is Randwick City Council.

The proposal seeks development consent for use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.

Specifically, the proposal is seeking to use the existing Ausgrid kiosk substation to facilitate an electric vehicle charging station (EVCS). The EVCS consists of the following elements:

- Designation of x1 on-street parking space for exclusive use for an electric vehicle only with line markings and new parking signage.
- Addition of a new charger podium with a retractable cable system with a 50kW DC charger for an electric vehicle, connected to the existing Ausgrid substation via underground cabling.
- Encasing the Ausgrid kiosk substation with a protective panelling and x2 digital advertising signage panels.
- Third-party digital advertising signage to the x2 signage panels to the encased Ausgrid kiosk substation.

The key issues associated with the proposal relate to alignment with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023* and type of technology being provided, pedestrian and driver safety, and visual amenity. Through further details and amended plans provided by the Applicant,

Council is satisfied that the applicant has adequately addressed these concerns and provide an EVCS that is of public benefit.

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

- Confirmation of electric vehicle charging station technology including retractable cabling, 50kW capacity with dual ports, details on the charging plug and podium relocation to account for potential future additional on-street charging.
- The encasing being covered in a public artwork to the satisfaction of Council's Arts and Culture Team.
- Signage and linemarkings for a dedicated space subject to approval the Randwick Local Traffic Committee.
- Conditions relating to the digital advertising and illumination.

2. Site Description and Locality

The proposed site for the EVCS is within the Council Road Reserve, to the western side of Elizabeth Street between Avoca Street to the north and Elizabeth Lane to the south.

The proposed location for the EVCS is adjoining the eastern side of 1 Elizabeth Street, Randwick, comprising of a 4 storey shop top development with a laundromat adjoining the proposed EVCS, and residential units above. The existing kiosk substation proposed for encasing and advertising is located to the eastern side of the No. 1 Elizabeth, towards the intersection with Elizabeth Lane to the south.

The site is within the Randwick Town Centre, zoned E2 'Commercial Centre'. The surrounding area is characterised by residential and commercial development including shop top development, mixed use development and residential flat buildings. The site is within walking distance to the Randwick shopping centre along Belmore Road and the other commercial shops along the strip.

The site is within close proximity to x2 Council-owned and run EVCS within the Council Silver Street carpark. The area is regularly serviced by local bus that travel to Bondi Junction, Coogee Beach, Maroubra Town Centre and Beach, and the Westfield Eastgardens.

Whilst the site is not listed as a Heritage Item or within a Heritage Conservation Area, it is situated adjacent to the Randwick Junction Heritage Conservation Area (Item C15 within Part 2, Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012).



Figure 1 & 2: Existing and proposed perspectives from the northern-eastern side of proposed structures
(Source: Jolt)

D47/24



Figure 3 & 4: Existing and proposed perspectives from the south-eastern side of proposed structures
(Source: Jolt)



Figure 5: West oblique view of the subject neighbourhood (May 2023) - (Source: Nearmap)

3. Relevant history

The following is a table outlining a brief history of Jolt Charge applications lodged with Council:

App No.	Address	Decision	Description
PL/47/2020	667P-829P Anzac Parade MAROUBRA NSW 2035	Advice Provided (15/12/2020)	Pre-lodgement meeting for operation of an Ausgrid electricity substation within the Maroubra Junction Car Park to be used as an electric vehicle charging station with an enclosure to the substation and integrated ancillary electronic advertising signage.
DA/69/2021	88 Beach Street COOGEE NSW 2034	Withdrawn (17/02/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station. NSW Planning Portal Ref: PAN-68422
DA/30/2021	76-82 Anzac Parade KENSINGTON NSW 2033	Withdrawn (20/04/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station.
DA/31/2021	110 Anzac Parade KENSINGTON NSW 2033	Approved (Council Delegation - 17/11/2021)	Advertising signage to Ausgrid kiosk electric vehicle charging station.

DA/32/2021	57-63 St Pauls Street RANDWICK NSW 2031	Withdrawn (12/04/2021)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station (Heritage Item).
DA/85/2021	2R Baden Street COOGEE NSW 2034	Refused (RLPP - 11/11/2021)	Installation of advertising signage associated with an electric vehicle charging station.
DA/84/2022	550 Bunnerong Road MATRAVILLE NSW 2036	Approved (Council Delegation - 30/03/2023)	Ancillary Advertising to Ausgrid Kiosk Electric Vehicle Charging Station
DA/85/2022	153-163 Beauchamp Road MATRAVILLE NSW 2036	Approved (Council Delegation - 14/04/2023)	Ancillary advertising to Ausgrid kiosk electric vehicle charging station.
DA/31/2021/A	(Carpark) 110 Anzac Parade, KENSINGTON NSW 2033	Approved – (Council Delegation - 23/06/2023)	S4.55(1A) Modification to modify conditions of consent.

DA/69/2021

Development Application No. DA/69/2021 was withdrawn on 17/02/2021 as it was lodged against the incorrect address. The Development Application was relodged as DA/85/2021.

DA/30/2021 & DA/32/2021

Development Application No's DA/32/2021 & DA/30/2021 were withdrawn on 20/04/2021 and 12/04/2021 respectively at Council's recommendation as advertising is prohibited within the Residential Zones of which they were proposed (being R3 and R2 respectively).

DA/31/2021

Development Application No. DA/31/2021 for advertising signage to Ausgrid kiosk electric vehicle charging station was approved under Council delegation on 17/11/2021. It is noted that under Clause 41(2)(b) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), the construction of the EVCS was carried out without consent by or on behalf of an electricity supply authority or public authority. As such, the new EVCS was separately notified and assessed under Part 5 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and determined by Ausgrid on 25 June 2021.

The approved works included and were limited to the installation of casing over the existing Ausgrid kiosk, containing equipment for the EVCS, digital signage panels and a protective outer surface. The changes to the road markings to denote the parking space for charging of EVs were dealt with separately under the *Roads Act 1993* through Council.

The proposed development application was only for the advertising signage will be displayed on two digital screens to the Ausgrid kiosk.

It is noted that the application was determined under Council delegation as the proposal only sought consent for advertising signage on Council land, of which is an exemption under Schedule 1 of the Local Planning Panels Direction.



Figure 6: Photo of the Jolt Charger approved as per DA/31/2021 (Source: Randwick City Council)

DA/31/2021/A

Modification Application No. DA/31/2021 for modification to modify conditions of consent was approved under Council delegation on 23/06/2023. The consent deleted conditions 7 & 8 regarding licensing and was replaced with an Annual Fee condition, as per below:

Licensing

- ~~7. Prior to the installation of the advertising panels, the advertiser shall enter into a contract with Council relating to the advertising panels to be displayed on the vehicle charging station. The agreement shall contain conditions relating to the payment of an annual fee. The fee is to be paid in advance and shall be set as a percentage of the advertiser's charge out rate for the advertising panels. At the beginning of the agreement and at the end of each calendar year, the advertiser shall notify Council of its intended charge out figure to enable Council invoicing to be prepared accordingly.~~
- ~~8. Prior to the installation of the advertising panels the applicant shall meet all costs associated for Council to have the subject licence agreement created.~~

Annual Fee

7. "The applicant is responsible for the payment of an annual fee for each approved parking bay associated with the operation of the EV charging, as set out in Council's annual Pricing Policy Fees & Charges."

DA/85/2021

Development Application No. DA/85/2021 for the installation of advertising signage associated with an electric vehicle charging station was refused by the RLPP on 11/11/2021. The proposal was determined by the RLPP as 16 unique submissions by way of objection were received.

The reasons for refusal by the RLPP have been reproduced below:

1. The proposal is not suited to the site, which is adjoining Dunningham Reserve and the coastal foreshore area;
2. The proposal is inconsistent with the following objectives in clause 3(1) of SEPP 64 (Advertising and Signage),
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) is of high-quality design and finish,

3. *The proposal is unsatisfactory when considered against the assessment criteria in Schedule 1 of SEPP 64 (Advertising and Signage), in particular:*
 - *The proposal is not compatible with the existing or desired future character of the area and locality in which it is proposed to be located, noting the visual impact of the proposed signage on Dunningham Reserve.*
 - *The proposal would detract from the amenity and visual quality of the nearby heritage items, adjoining open space areas, the coastal foreshore and waterways, and nearby residential areas.*
 - *The scale of the proposed advertising panels is not appropriate for the streetscape, setting and landscape of Dunningham Reserve.*
4. *The proposal is inconsistent with clause 14 of the Coastal Management SEPP.*
5. *The impacts of the proposed advertising outweighs the benefits, given the sensitive location and noting that there are other EV charging stations in close proximity to the site. Furthermore, it has not been demonstrated that it is necessary to provide advertising to facilitate the operation of the EV charging station.*
6. *Granting consent for such a proposal in a location adjoining a significant park and coastal foreshore area would set an undesirable precedent and would not be in the public interest.*

DA/84/2022 & DA/85/2022

Development Application No's DA/84/2022 & DA/85/2022 for Ancillary advertising to Ausgrid kiosk electric vehicle charging station were approved under Council delegation on 30/03/2023 and 14/04/2023 respectively. Similarly to DA/31/2021, it is noted that under Clause 41(2)(b) of ISEPP, the construction of the EVCS was carried out without consent by or on behalf of an electricity supply authority or public authority. As such, the new EVCS was separately notified and assessed under Part 5 of the *EP&A Act* and determined by Ausgrid on 10 January 2022 for both proposals.

The approved works included the installation of casing over the existing Ausgrid kiosk, containing equipment for the EVCS, digital signage panels and a protective outer surface. The changes to the road markings to denote the parking space for charging of EVs were dealt with separately under the *Roads Act 1993* through Council.

The proposed development application was only for the advertising signage will be displayed on two digital screens to the Ausgrid kiosk.

It is noted that the application was determined under Council delegation as the proposal only sought consent for advertising signage on Council land, of which is an exemption under Schedule 1 of the Local Planning Panels Direction.



Figure 7: Photo of the Jolt Charger approved as per DA/84/2022 (Source: Randwick City Council)



Figure 8: Photo of the Jolt Charger approved as per DA/85/2022 (Source: Randwick City Council)

Additional Information Request

On 8 January 2024, Council sent a formal additional information request to the applicant outlining issues with the alignment of the proposal with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, as well as other impacts on the locality of which had not been demonstrated. Council did not support the proposed development and based on this consideration and therefore recommended that the applicant withdraw the DA.

On 07 February 2024, Council stakeholders met with the applicant to discuss the key issues associated with the proposed development. It was confirmed in the meeting that Council would provide the applicant an opportunity to address all of Council's concerns.

On 13 February 2024, Council issued a formal Additional Information Request outlining issues including alignment with the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, safety, visual amenity, plan amendments, pedestrian access, impact on businesses, a turnover study, and the proximity of other signage.

On 27 March 2024, the applicant provided a formal response to the Additional Information Request, comprising of amended plans, a turnover study and further justification and clarifying details of the EVCS technology.

4. Proposal

The proposal seeks development consent for the use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements, a separate charger podium, and designation of a single on-street parking space for an electric vehicle with associated line markings and new parking signage.

Specifically, the proposal is seeking to use the existing Ausgrid kiosk substation to facilitate an electric vehicle charging station (EVCS). The EVCS consists of the following elements:

- Designation of x1 on-street parking space for exclusive use for an electric vehicle only with line markings and new parking signage.
- Addition of a new charger podium with a retractable cable system and a double 50kW DC charger for an electric vehicle, connected to the existing Ausgrid substation via underground cabling.
- Encasing the Ausgrid kiosk substation with a protective panelling and x2 digital advertising signage panels.
- Third-party digital advertising signage to the x2 signage panels to the encased Ausgrid kiosk substation.

Dedicated Parking Space

The proposal seeks to designate an on-street single parking space for the exclusive use of an electric vehicle. The parking space will be limited to parking for 1-hour timed parking restrictions, in alignment with the current 1-hour timed parking restrictions. The proposal includes the parking space having line markings drawn on the road and new parking signage installed to indicate EV charging only. A turnover study has been provided by the applicant that confirms that the location is appropriate for the type of EV charging proposed and will not result in any adverse parking impacts to local business or the surrounding area. Council's Traffic Engineer has confirmed that the findings of the report are satisfactory. See comments in Appendix 1.

Podium and Charger

The proposal includes a double 50kW charger to the podium adjoining the single dedicated on street parking space. Under the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*, a 50kW DC charger is considered a 'Level 3 - Fast (public) charger', adding 250-300km of range per hour for between 20-60 minutes of charging.

The cabling for the 50kW DC charger will be tethered to the podium via a retractable cable management system. A tethered charger is required for the faster DC charger (rather than the untethered slower AC charger). The retractable cable management system will ensure tension on the cable is maintained while charging and when not in use. The retractable cable management system ensures that there is no trailing cable when either in use or when the plugs have been correctly returned to the unit.

The proposed charging podium is separated from the kiosk substation by 3.8m, as the road reserve adjoining the eastern side of the kiosk substation is a 'no parking' road area. Underground cables will connect electricity from the kiosk substation to the charging podium.

Jolt Charging offers all customers up to 7kWh of free charging per day, which the applicant notes is enough to cover the average daily commute and save EV drivers more than \$1,200 per year. The service is managed by an application on the user's phone, which send a message should the vehicle not be moved following charging and fees may be charged should this occur.

Ausgrid Kiosk Substation Encasing

The proposal seeks to encase the Ausgrid substation with a protective panelling and x2 third-party digital advertising signage panels, orientated towards the north and south respectively. As part of the DA assessment process, the applicant has provided an amended design to the Ausgrid kiosk substation encasing called the ‘Skinny GRILL’, which results in the following changes:

- 20% reduction in overall volume of the unit;
- 30% reduction in width. Skinny GRILL encasing width is approximately 112mm from the existing substation, reduced from 301mm; and
- Overall reduction in length, width and height of the encasing.

Kiosk	Length	Width	Height
Existing Substation	2700mm	1480mm	1740mm
Amended Proposal	3286mm	1703mm	2203mm

Jolt Charge Pty Ltd has entered into a partnership with Ausgrid to install and operate EVCS on existing Ausgrid kiosk substations across Sydney. The advertising signage forms part of the Jolt Charge business model to subsidise the free charging, by including third party advertising that is subject to change.

The height of the enclosure is a key design consideration and is the minimum feasible height to fit critical EV charger componentry like the meter box, which is installed between the substation and the encasing roof.

The proposal was also amended from a black encasing to encase the Ausgrid kiosk substation in a bespoke indigenous artwork that mitigates Council’s concerns regarding the visual impact of the structure. JOLT intends to commission a local indigenous artist to create artwork that responds to local context, which will reduce the visual impact of the structure and provide a sense of vibrancy in the location. A graffiti proof vinyl wrapping displaying the successful indigenous artwork will be installed over the top of the encasing and maintained for the duration of operations.

Advertising

The x2 advertising panels to the Ausgrid substation form part of the business model by Jolt Charging to subsidise the offer of up to 7kw free charging. The proposed signage will operate 24 hours a day, seven days a week.

The advertising signage panels are limited to 14.5% of the overall structure in the form of a maximum of two panels. The content of this advertising will be third party and is a digital display, subject to change. The content of advertising will be managed remotely and will be compliant with the Outdoor Media Association guidelines for digital signage. The advertising panels to the north and south ends of the substation encasing face the higher pedestrianised orientations.

The charging service is a free service to registered Jolt users which allows for 7kw of charging. Full charging of a vehicle takes 90-120 minutes, depending on the vehicle, with the use of a retractable cable. The proposed 1-hour parking limit will therefore act as a top-up service, rather than a full charging service, in keeping with the typical use in the commercial area. The service is managed by an app on the user’s phone, which messages the user, should the vehicle not be moved following charging and fees may be charged in this instance.

The advertising to the Ausgrid kiosk substation will at times be used for the display of emergency messaging and public information on behalf of Ausgrid and other state authorities.

No advertising is proposed on the charging podium adjacent to the car parking space.

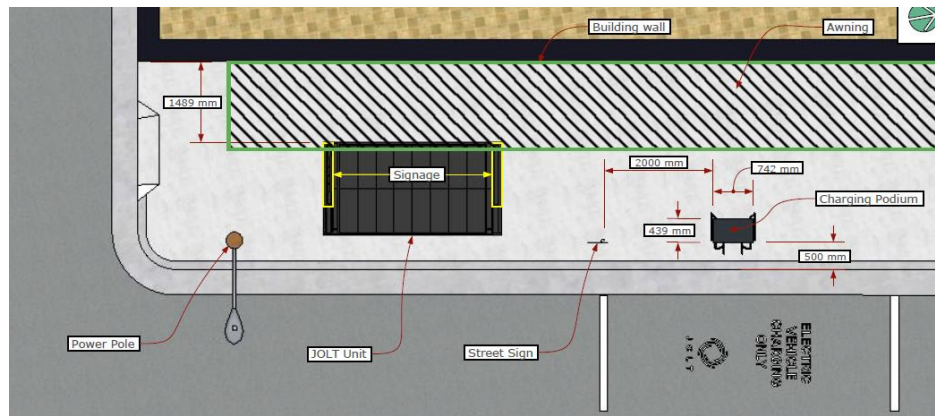


Figure 9: Proposed layout plan (Source: Jolt)

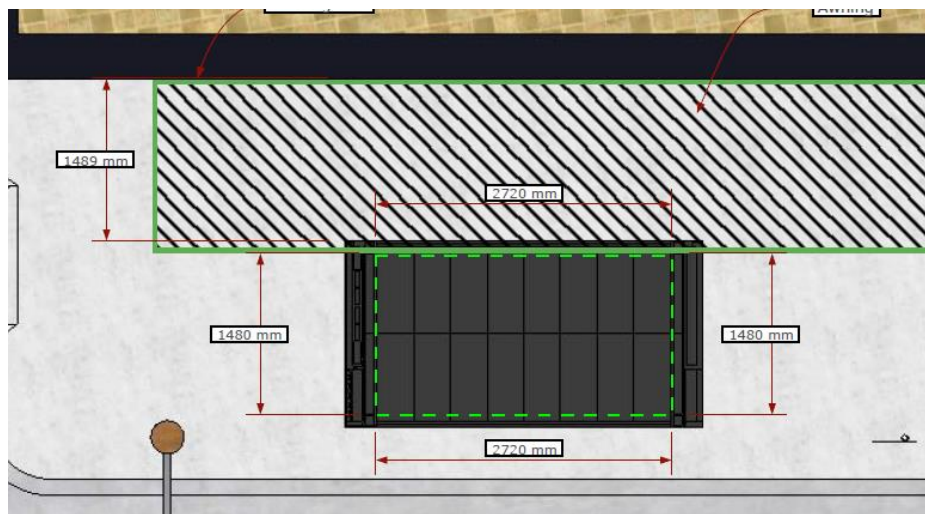


Figure 10: Proposed substation plan and dimensions (Source: Jolt)

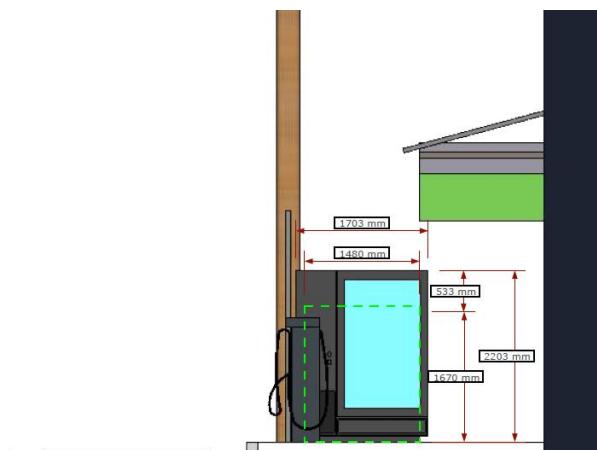


Figure 11: Proposed northern elevation (Source: Jolt)

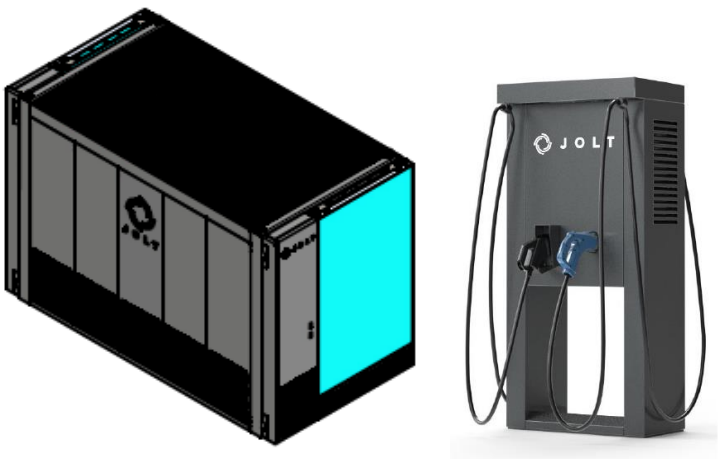


Figure 12 & 13: Sample 3D rendered of the proposed substation and podium (not to scale) (*Source: Jolt*)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council’s Community Engagement Strategy. As a result of the notification process, 12 submissions were received as a result of the notification process.

Of the 12 submissions, one (1) submission was received objecting to the proposed development from or on behalf of the following properties:

- Unit 2, 144-158 Alison Road, Randwick

The submission raised concerns with regards to the following which have been paraphrased and summarised below:

Issue	Comment
I definitely object to this new venture. You have made many mistakes. What an inconvenience this will be to us residents.	Overall, Council is satisfied that the proposed development is satisfactory in terms of the public benefit outweighing the adverse impacts (subject to the recommended conditions of consent).

Of the 12 objection submissions, eleven (11) submissions were in support of the proposed development from or on behalf of the following properties:

- Unit 301, 20-22 Mary Street, Surry Hills NSW 2010
- Unit 313, 6 Bay Street, Botany NSW 2019
- 8 Alfred Street, Bronte NSW 2024
- Unit 3, 21 Mears Avenue, Randwick NSW 2031
- 1-3 Meymott Street, Randwick NSW 2031
- Unit 8, 26 Boronia Street, Kensington NSW 2033
- Unit 7, 94 Mount Street, Coogee NSW 2034
- 14 Little Street, Maroubra NSW 2035
- 29 Maroubra Road, Maroubra NSW 2035
- 18 Burunda Street, Como NSW 2226
- 1x residential address unknown

The submissions matters have been paraphrased and summarised below:

Issue	Comment
Fulfil the commitments for the EV transition of all levels of government. A commitment to a greener and more sustainable future. Need a reliable network of charging infrastructure to support the transition.	Agreed, the proposed EVCS will contribute to Council's <i>Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023</i> . See detailed assessment in the Key Issues section of the Report.
Enable charging of EV vehicles who cannot at home. Assist renters with EVs to charge their vehicles.	Agreed.
The daily free charging is a great community benefit, especially when the cost of living is on the rise. It will create sustainable transport options more accessible and affordable for everyone in our community.	Whilst Council does not actively promote free charging, Council understands that the free charging is of a financial benefit offered to the community.
More charging stations mean a better chance to find a charger unoccupied and newer charging stations support better charging speed, so less time spent charging.	Agreed, will increase availability of EVCS in the LGA.
The chargers are well located are an important consideration for ongoing uptake of EVs.	Agreed, the EVCS is located within the Randwick Junction Town Centre.
There are opportunities for our Council to support this, particularly with no cost to the community.	Agreed, the proposed development will not result in any cost to Council.

6. Relevant Environment Planning Instruments

6.1. State Environmental Planning Policies (SEPP)

6.1.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 'Vegetation in non-rural areas'

The aims of Chapter 2 are:

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

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.

6.1.2. SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has not been submitted with this application, as it does not meet the requirements of the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

6.1.3. SEPP (Industry and Employment) 2021

Chapter 3 Advertising and signage

Chapter 3 of SEPP (Industry and Employment) 2021 requires the consent authority to ensure that advertisement and signage is compatible with the desired amenity and visual character of urban/natural setting by regulating the impact of outdoor advertising.

The proposed development seeks consent for x2 digital advertising panels to the northern and southern sides of the encased Ausgrid substation. Each advertising panel is 980mm x 1.65m, being a total area of 1.62m². The advertising contents are for third-party advertising.

An assessment of the advertising has been included below that considers the relevant sections of Chapter 3 of the SEPP. The relevant sections of the Chapter have been addressed below.

Clause 3.1 - Objectives Compliance Table

Clause 3.1 outlines the aims of Chapter 3, which have been reproduced below:

- (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 site is located within Randwick Junction Town Centre on the western side on Elizabeth Street bounded by Alison Road to the north and Elizabeth Lane to the south. The locality is characterised by a range of commercial and residential uses. The proposed signage is considered compatible with the desired amenity and visual character of the immediate locality.

The advertising signage is permitted within the E2 Economic Zone, which forms part of the business model from Jolt Charging to offer 7kw of free charging. The digital panels are compatible with the scale and proportions of the Ausgrid kiosk substation. The digital panels do not dominate or obscure any views and is integrated into the casing of the EV charging station. The signage can be programmed to provide effective communication in line with regulations relating to luminance and dwell times.

A condition of consent limiting the duration of the consent to 15 years is included in the recommended development consent.

The proposal satisfies the objectives of the Policy.

Clause 3.8 - Prohibited Advertisements

In accordance with Clause 3.8(1), the display of advertisement is prohibited within the following zones or descriptions:

environmentally sensitive area
heritage area (excluding railway stations)
natural or other conservation area
open space
waterway
residential (but not including a mixed residential and business zone, or similar zones)
scenic protection area
national park
nature reserve

The subject advertising is located within the E2 'Commercial Centre' Zone. A search of Council's internal mapping systems and survey information submitted with the application indicates that the existing kiosk substation is not characterised by the abovementioned affectations or descriptions. See further details in the below.

Clause 3.11 - Matters for consideration

Clause 3.11 of the SEPP outlines the matters of consideration specifically relating to advertising development, which states the following:

(1) A consent authority (other than in a case to which subsection (2) applies) must not grant consent to an application to display an advertisement to which this Chapter applies unless the advertisement or the advertising structure, as the case requires—

- (a) is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and*
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
- (c) satisfies any other relevant requirements of this Chapter.*

The subject advertising has been assessed as per Clause 3.11 of the SEPP, addressing each of these components. See Clause 3.1 assessment above regarding the objectives of the chapter. An assessment against the Schedule 5 criteria is included below in Appendix 3, as well as other matters of consideration within the subject chapter.

Clause 3.12 - Duration of Consents

In accordance with Clause 3.12 (1), the duration of the consent is limited to 15 years or a lesser period, if specified by Council. However, Council may specify a period less than 15 years if it already has a policy in place for display of advertisements for a lesser period, or the area in which the advertisement is to be displayed is undergoing change in accordance with the LEP or if it is required by another provision of the Industry and Employment SEPP Policy. Council does not have a policy guiding advertising within the LGA. As such, suitable conditions of consent limiting the duration of the consent to 15 years is included in the development consent.

Final Comments

Overall, Council is satisfied that the proposed advertising signage is consistent with the requirements of the SEPP and is therefore recommended for approval, subject to conditions relating to luminance, dwell times and a 15-year duration.

6.1.4. SEPP (Resilience and Hazards) 2021

Chapter 4 'Remediation of land'

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

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

6.1.5. SEPP (Transport and Infrastructure) 2021

Division 5 - Electricity transmission or distribution

Clause 2.48 'Determination of development applications—other development' of the Transport and Infrastructure SEPP states the following:

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*

- (iii) within 5m of an exposed overhead electricity power line,
- (c) installation of a swimming pool any part of which is—
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,
- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

Comment: The proposed works are to an Ausgrid substation kiosk within the road reserve. As such, the proposal was referred to Ausgrid for comment. See below Ausgrid referral in Appendix 1 which notes that Ausgrid does not object to the proposed development. As such, Clause 2.48 of the Transport and Infrastructure SEPP has been satisfied.

Division 17 - Roads and traffic

Clause 2.124A 'Development permitted with consent—generally' under Subdivision 3 'Electric vehicle charging units' of the Transport and Infrastructure SEPP states the following:

- (1) Development for the purposes of installing an EV charging unit may be carried out with consent if—
 - (a) the unit does not obstruct the following—
 - (i) vehicular, cyclist or pedestrian access to or from, or entry into, a building,
 - (ii) cyclist or pedestrian movement along a cycleway or footpath, and
 - (b) the unit does not obstruct access to, or interfere with, a structure, device, fixture or equipment used for firefighting or fire protection, including a fire hydrant.
- (2) (Repealed)

Comment: Council is satisfied that the proposed EV charging unit does not obstruct access into a building, movement along the footpath or to fire equipment. As such, Clause 2.124A of the Transport and Infrastructure SEPP has been satisfied and the proposed development is permitted with consent from Council.

6.2. Randwick Local Environmental Plan 2012 (RLEP)

The site is zoned E2 'Commercial Centre' under the Randwick Local Environmental Plan 2012. See below Figure 14 showing the zoning map of the locality and the subject site:

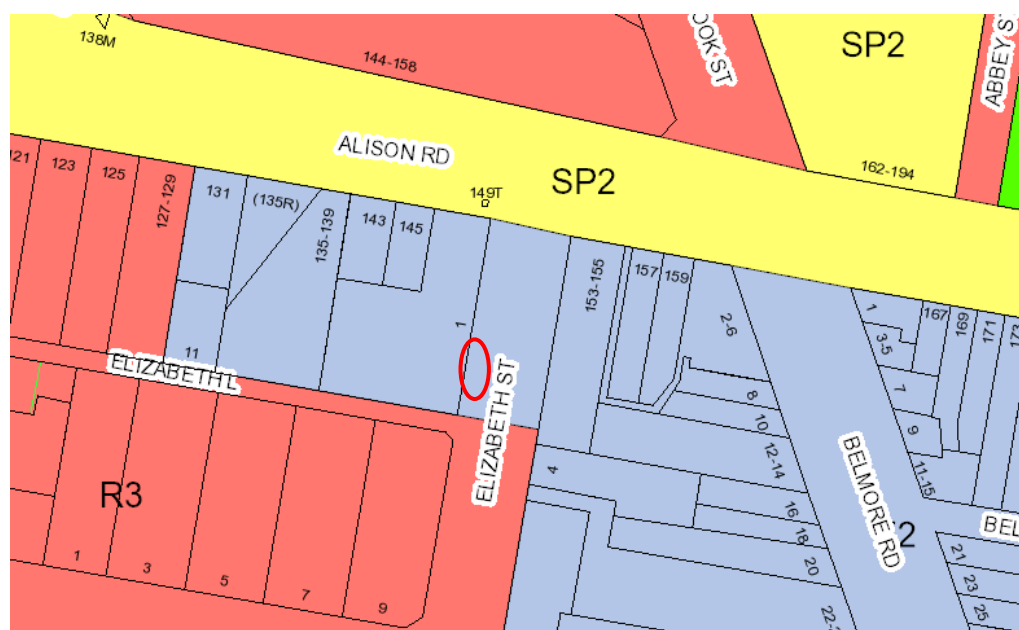


Figure 14: The Zoning Map and the subject site circled in red (Source: Randwick City Council)

The proposal comprises of two separate elements, being the EVCS and advertising.

Firstly, the applicant is seeking consent for an ‘advertising-enabled EV charging unit’, which has the following definition (as per the *SEPP (Transport and Infrastructure) 2021*):

advertising-enabled EV charging unit means an EV charging unit that includes a screen or other display capable of displaying advertisements.

The permissibility of such a use is granted with Council consent, subject to Clause 2.124A ‘Development permitted with consent—generally’ of the *SEPP (Transport and Infrastructure) 2021*. Council is satisfied the proposed development meets the requirements set out in the SEPP and is therefore permitted in the zone with consent. See details in the report section above.

Secondly, the advertising component is defined in the RLEP as an ‘advertising structure’ with the following definition:

advertising structure has the same meaning as in the Act.

Note— The term is defined as a structure used or to be used principally for the display of an advertisement.

An ‘advertising structure’ is a type of ‘signage’ as defined in the RLEP. The ‘advertising structure’ component of the proposal is permitted with Council consent in the E2 ‘Commercial Centre’ zone.

Overall, the proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will support the commercial centre for business, retail, community and cultural activity, encourages economic growth, contributes to a vibrant and active local centre, retains a sufficient level of accessibility and amenity including for pedestrians, and facilitates a safe public domain.

6.2.1. Clause 5.10 - Heritage conservation

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.

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.

See Appendix 1 below for the Heritage Referral comments (no objections raised in relation to the proposal).

6.2.2. *Schedule 2 Exempt development*

Council notes that the proposed advertising signage does not comply with any of the signage provision outlined within the schedule. As such, development consent is required for the proposed advertising signage.

7. Development Control Plans and Policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 and the Key Issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>

Section 4.15 '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	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of Key Issues

Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023

As part of the proposed development, Council has considered the proposed development in relation to the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023 (Public EV Strategy)*.

The *Public EV Strategy* was formulated from the Regional Environmental Program (REP), which consists of the three Sydney Eastern Suburbs Councils of Woollahra Council, Waverley Council and Randwick City Council.

From 1 September 2023, the *Public EV Strategy* was placed on public exhibition for a four-week period, ending on 27 September 2023. On 28 November 2023, the Council met and endorsed the Public EV Strategy without any amendments.

Whilst the subject proposal was lodged on 13 September 2023, predating the endorsement of the *Public EV Strategy*, Council has included a consideration of the *Public EV Strategy* as a matter for considerations under the public interest and alignment with the future strategy for public EV chargers through three Council areas.

The *Public EV Strategy* notes that “*whilst vehicle refuelling is a private undertaking, Council has a key role in enabling market facilitation of kerbside/on-street charging around local and neighbourhood centres and high-density residential areas where there is a lack of private investment and limited space for larger EV charging hubs.*”

The Strategy identifies that “*In 2025, the total number of charging ports required is around 450 comprising of 230 in Randwick, 120 in Waverley and 100 in Woollahra LGAs. By 2030, a total of 1,600 charging ports are required.*”

The Applicant has demonstrated that there is a need for fast 50kw DC EVCS within the LGA that are required to meet this demand. Below is a reproduction of the justification by the Applicant with regard to the *Public EV Strategy*:

“The Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023 (the Strategy) was endorsed by Council on 28 November 2024. We note that the JOLT development applications were lodged before the strategy was adopted by Council. As such, the Strategy forms no legal basis for town planning assessment of the applications. Notwithstanding this, JOLT maintains that the proposed two fast charging locations wholly satisfy public charging objectives outlined in the strategy.

Council’s strategy acknowledges that access to charging stations is a significant impediment to EV adoptions and acknowledges NSW Government research that estimates 42% of Randwick residents require access to on-street EV charging. While general considerations establish that most EV charging tends to take place at home or work, the

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significant portion of renters or homeowners without off-street parking, particularly in Randwick and Coogee, require public EV charging stations as their primary charging method. The proposed Randwick and Coogee charging locations are characterized primarily by high density apartment dwellings complemented by a mixture of commercial, retail and tourist activity generators. The proposed charging stations will provide much needed charging infrastructure to apartment owners or renters without access to at-home charging stations and visitors to the area.

The Strategy estimates that Randwick LGA will require approximately 230 charge ports in Randwick LGA by the end of 2025, with 1 in 3 public charging stations to be a fast DC charger. Currently, there are 10 fast DC chargers (and charging ports) installed in Randwick LGA, which means the number of fast DC charging stations will need to at least triple in order to meet the Strategy’s forecast of 76 fast charging ports by the end of 2025.

The Strategy identifies both Randwick and Coogee as key centres that will require a combination of slow and fast charging options. The proposed JOLT charging stations achieve objective 6 of the Strategy, which identifies the number of fast charging stations in Randwick and Coogee to be operational by 2025. The number of current and target fast charging stations in Randwick and Coogee are outlined in Table 1.

Table 1 - Existing and Target Fast Charging Ports in Randwick and Coogee			
Location	Centre Type	Existing fast charging ports	Target to be operation by 2025
Randwick	Regional	2	4
Coogee	Local	0	2

With regards to charging speed, JOLT has doubled the proposed charging speed from 25kW to 50kW chargers with simultaneous dual charge capability (meaning each charger has the ability to charge two cars simultaneously). We note Council’s comments “it is Council’s preference for a 50kW dual DC charger in carparks and chargers on streets with 75kW and greater charging capacity” and wish to highlight that this is not consistent with the Council’s endorsed strategy, which identifies much slower AC charger as ideal for on-street charging.

The proposed 50kW speed is more than double the speed for on-street charging types in Council’s Strategy, which identifies slow 7-22kW AC charging as the ideal type for on-street charger. Council’s Strategy states “the ideal charging network matches the types of chargers with the use case of the drivers” and “fast chargers in locations where motorists stop for shorter periods of time”. Both of the Randwick and Coogee proposals are located in built up mixed use areas where high turnover of vehicles is important to ensure efficient and equitable access to charging and that drivers have appropriate time to engage with local businesses while they charge. In this instance JOLT is proposing 50kW chargers with one dedicated 1P charging bay, which is appropriate.

It is important to note that the power outputs of charging stations are limited by the AC and DC charging rates of the car. AC chargers rely on the vehicle’s onboard charger to transfer energy to the battery. This is the limiting factor for AC charging speed for all current vehicles on the market. JOLT’s 50kW DC charging solutions are not limited by any on board converter and charge EVs at their native voltage.

As highlighted in Table 2, JOLT’s chargers are between 5-7 times more efficient than on-street AC charging stations that are referenced in Council’s Strategy. This results in the servicing of a higher volume of electric vehicles resulting in more efficient utilisation of on-street car parking spaces.

Table 2 - Charging Speed Comparison				
Make & Model	Vehicle Max AC Charging Rate	22kW AC km added in 1 hour	JOLT 50kW DC km added in 1 hour	Charging speed comparison
Tesla Model Y	11kW	60km	300km	5x faster
BYD Atto 3	7kW	42km	300km	7x faster
Tesla Model 3	11kW	60km	300km	5x faster
Polestar Model 3	11kW	60km	300km	5x faster
MG ZS EV	11kW	60km	300km	5x faster

In response to the above and to determine if the proposed development is aligned to the *Public EV Strategy*, the relevant elements in the *Public EV Strategy* have been reproduced below and comments provided regarding the proposed development:

Guiding Principles

The *Public EV Strategy* includes six guiding principles to guide the 3-Councils' role and actions in the sector. See the guiding principles below with comments regarding the proposed development:

- **Equity** - *Electric chargers are accessible for all residents, particularly those living in apartments or townhouses. The installation of charging should be based on the principle of full cost recovery so that residents without EVs aren't subsidising those with EVs.*

Planner's Comment: The proposed EVCS is located within close proximity to residential flat buildings within the locality (see in more detail below). There is no additional burden on other residents to cover any costs of the EVCS and the subsequent charging. The EVCS infrastructure is being paid for by the applicant, Jolt Charge, in collaboration with Ausgrid. The cost for charging an EV is at the cost of the customer.

- **Accessibility** - *Electric vehicle chargers are safe, reliable, easy to use and readily available. Charging/ parking restrictions are enforced, and good charging etiquette is encouraged.*

Planner's Comment: Council is satisfied that the EVCSs are accessible and safe. The proposed development has been reviewed by Council's Technical Services, Integrated Transport and Property team, of which are supportive of the proposed development (subject to conditions, see Appendix 1 for the comments). Parking restrictions for EV use only will be required through signage changes and line-markings. See safety as a matter raised below in the Key Issues.

- **Urban form** - *On-street chargers should complement the street environment and ensure streets are highly accessible/ prioritised for pedestrians and cyclists.*

Planner's Comment: Council is satisfied that whilst the encasing of the Ausgrid kiosk substation will result in a larger envelope, the treatment of the casing finish will be more appropriate and visually complementary to the streetscape (subject to conditions, see visual amenity consideration as a matter raised below in the Key Issues). In addition, Council is satisfied that reasonable levels of pedestrian access have been maintained on the footpath.

- **Strategic** - *Strategic and data led decisions are made around the installation and management of charging locations and types.*

Planner's Comment: Council is satisfied that the proposed EVCS is located within an important commercial centre, in accordance with the place-based approach to locations within the *Public EV Strategy*. Council is also satisfied that the proposed 50kW charger is capable of providing two (2) charge ports that can simultaneously charge two (2) vehicles at a maximum speed of 25kW per vehicle.

- **Mode shift** - Mode shift is prioritised over private vehicle transport. The provision of charging stations must not encourage traveling by car for non-essential trips.

Planner's Comment: Whilst Council does not generally support the provision of free charging (as it encourages additional travelling for charging), Council is satisfied that the free charging only accounts for 7kw of charging per customer. In addition, the proposed EVCS is located within a busy commercial centre within the LGA that people drive to for their retail, shopping and dining needs. As such, Council is satisfied that the location is appropriate and will be used for appropriate charging needs that do not lead to non-essential trips.

- **Economic development** - The provision of electric vehicle chargers encourages visitors and tourists to local popular destinations, including world renowned beaches and parks.

Planner's Comment: Council notes that the addition of the proposed EVCS will contribute to encourages visitors within the commercial centre.

Overall, Council is satisfied that the proposed development generally complies with the guiding principles of the *Public EV Strategy*, contributing to the reasons to support the proposed development.

Charging Capacity, Network and Location

The *Public EV Strategy* includes a section regarding the 'ideal future charging network', made up of four components, as demonstrated in Table 1 below:





	Description	Type	Parking Time	Use Case Example	Responsibility
 Home & Workplace	Chargers in home garages/driveways and in workplace carparks	Slow 7 – 22 kW AC	5+ hours	Local residents with off-street parking or employees who drive to work	Homeowner and businesses
 On-Street	Chargers on kerbside and street carparks	Slow 7 – 22 kW AC	2+ hours	Local residents without off-street parking	Council or private installers
 Destination	Chargers in destinations with carparks, e.g. shopping centres	Slow to Medium 7 – 22 kW AC or 25 – 50 kW DC	1 to 4 hours	Shoppers or gym members charging whilst parked	Council or private installers
 Hubs	Chargers on highways and service stations	Fast 50 – 350 kW DC	10 – 30 mins	Motorists recharging to get to a destination	Council, State/Federal Government, private installers

Table 1: Table of the different components of the 'ideal future charging network' (Source: Randwick City Council)

Council is satisfied that the proposed 50kW charger will provide two charge ports that can simultaneously charge two vehicles at a maximum speed of 25kW per vehicle. Where only one port is in use, the vehicle will charge at the maximum speed (being 50kW).

The proposal is only seeking consent for one 50kW charger that will service a single, dedicated on-street parking space, of which is sufficient in terms of fast charging. However, Council raises the contention that whilst only one parking space is being dedicated for an electric vehicle, that the charging podium has capacity for simultaneously charging for two vehicles and the development

should take into consideration the potential for a second on street parking space dedication in the future.

Therefore, in order for Council to act in the public interest and support development on Council land that considers the future capabilities/demand of this product, a condition of consent has been recommended to relocate the EV charging podium further towards the northern end of the designated parking space, so that should Council seek to leverage the second charging port for a second on-street parking space, the podium is located to reach the second vehicle. Amended plans are to be provided to Council demonstrating the indicative location of two parked electric vehicles, their respective charging outlets and the charging podium in an appropriate location for simultaneous double charging. Figure 15 below shows an indicative location of the new charging podium, subject to confirmation by the Applicant in plan form, which will be required to be approved by Council prior to the issue of a Construction Certificate.

The relocation of the charging podium will not interfere with the pedestrian entrance to the adjoining laundromat shop, which will maintain sufficient clearance on the footpath from the relocated podium. Adequate clearance will also be maintained to the fire exits to the northern side of the shop entrance. Whilst the podium will be further relocated away from the kiosk substation, in this instance, the infrastructure is still visually connected and appropriate within the streetscape.

Furthermore, it is recommended that a condition of consent be included confirming that the charging podium is to provide two charging ports (as per proposed by the applicant). This is in order to futureproof the development into the future, should Council wish to provide an additional on-street parking space for an EVCS, dependant on future demand.

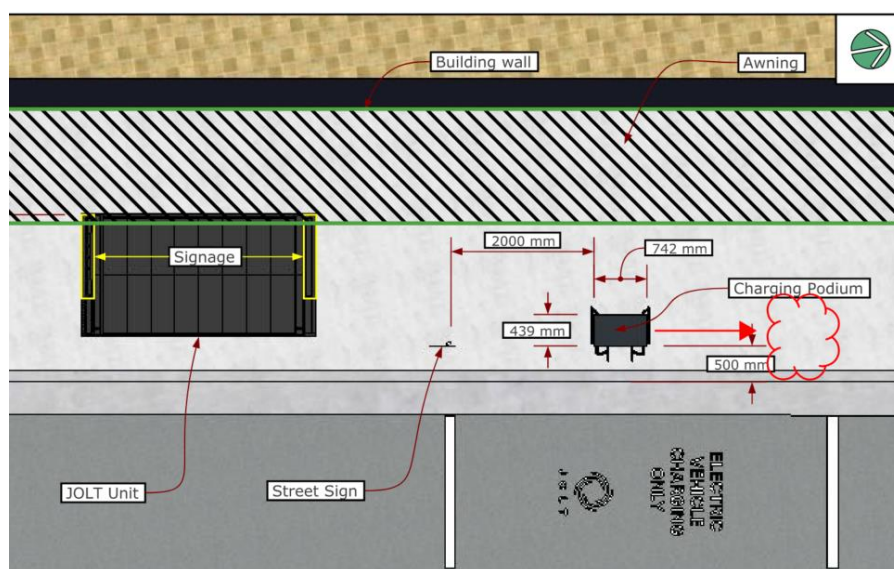


Figure 15: Proposed plan showing the indicative relocation of the podium in red, subject to further plans from the applicant (Source: Jolt Charge)

As outlined in the Supporting Documentation of the *Public EV Strategy*, there are several different plugs with different compatibilities to Australian EV models and charging rates. The Applicant has failed to provide details of the type of charging plug that will be installed to the charging podium. A condition of consent has been recommended that details of the type of plug are to be provided and approved by Council prior to the issue of a Construction Certificate. This is to ensure that the type of plug is the most compatible with Australian EVs and has the preferred charging rate.

Therefore, Council is satisfied that the charging capacity of the proposed development meets the requirement of the *Public EV Strategy*.

Charging Network and Location

Council is satisfied that the proposed development is located within an area in demand for on-street chargers, in particular for residential flat buildings within the locality. The *Public EV Strategy* outlines

a place-based approach to selecting suitable locations with different types of charging stations installed in regional centres, local centres, and neighbourhood centres. The type of charging is designed to match the average duration of stay and surrounding urban form. This means that fast to ultra-fast charging should be the focus for regional centres, medium to fast charging at key destinations where people stay for up to 4 hours and slower charging near high density areas to facilitate long-stay and overnight charging.

Figure 16 is a map from the *Public EV Strategy* that summarise these suggested locations for various types of chargers, as well as targets for 2025:

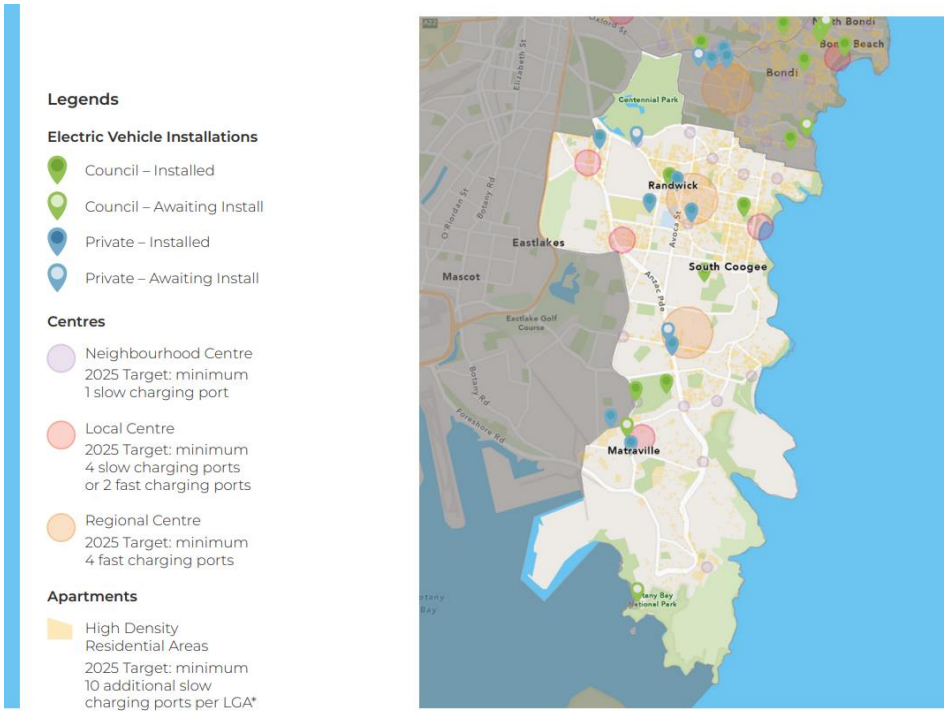


Figure 16: Map of public EVCS by 2025 (Source: Randwick City Council)

For the Randwick Junction Regional Centre, the *Public EV Strategy* has a 2025 target of a minimum of 4 fast charging ports.

Table 2 is a list of all of the chargers are classified as public chargers that are accessible to the public within the Randwick Junction area:

Network Operator	Site Name	Charger Type	Number of Charging Ports	Power Rating Charger	Power Available (kW)
Evie Networks	Royal Randwick	DC	2	50	100
Eastern Suburbs Public Electric Charging Network	Randwick Junction – Silver St Carpark	AC	2	22	44

Table 2: Details of EV chargers within the Randwick Junction Centre area (Source: Randwick City Council)

The *Public EV Strategy* defines a ‘Level 3 - Fast (public) charger’ as a 50kW DC charger.

Table 1 demonstrates that there are currently only 2 fast chargers within the Randwick Junction area, being the two DC chargers in the Royal Randwick carpark, provided by Evie Networks. Therefore, there is currently a need for two additional DC chargers within the Randwick Junction area.

It is noted that whilst the proposed development is within close proximity to two AC chargers, owned and run by Council as part of the Eastern Suburbs Public Electric Vehicle Charging Station Network, they do not meet the definition of a ‘fast charger’ and therefore do not contribute to the 2025 charging goals in the *Public EV Strategy*.

Furthermore, as a guide, Figure 17 below is from the *NSW EV Kerbside Charging Grants Map*, an analysis of LGAs by the *Department of Climate Change, Energy, the Environment and Water* by population density and residential dwelling type, identifying the areas with the greatest need for on-street kerbside chargers.

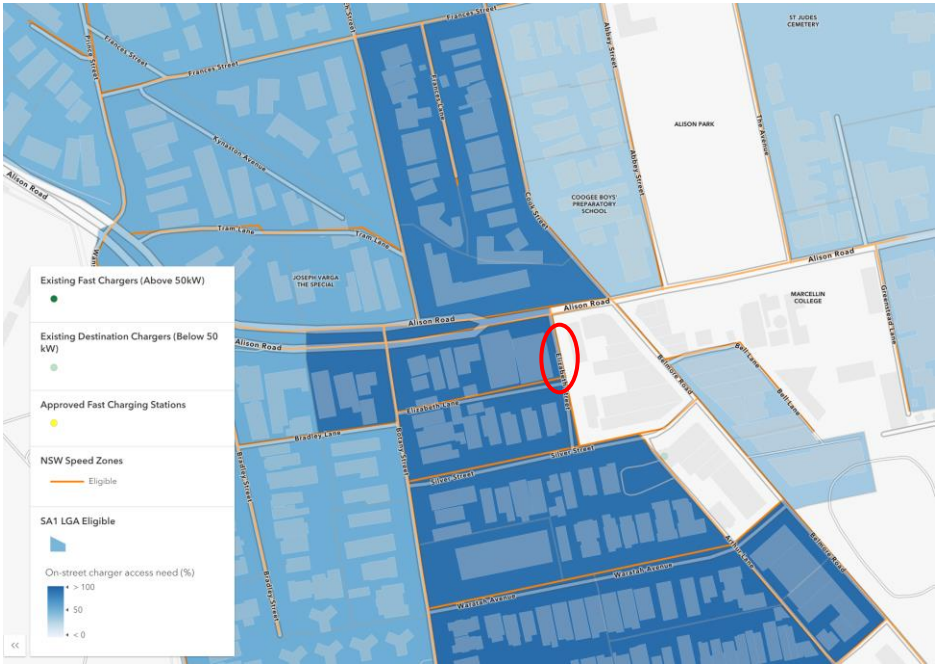


Figure 17: Photo of the Jolt Charger approved as per DA/85/2022 (Source: Department of Climate Change, Energy, the Environment and Water)

Figure 17 demonstrates that as per the *Department of Climate Change, Energy, the Environment and Water*, there is a 91% demand for on-street EVCS technology for residents. Council also confirms that the immediate locality comprises of a number of older residential flat buildings, where retrofitting of EVCS within the existing building and respective strata schemes can be difficult. Furthermore, the proposed road reserve is not earmarked for infrastructure upgrades, bus or bike lanes and road reconfiguration.

Overall, Council is satisfied that the proposed ECVS is located within a busy commercial centre and within close proximity to many older residential flat buildings, which creates a demand for additional fast-charging EVCS in this location.

Therefore, Council is satisfied that the proposed technology and location align with the *Public EV Strategy*.

Strategy Actions

The *Public EV Strategy* includes a number of Actions in order to achieve the six objectives laid out in the Strategy for the 3-Councils. Below is a list of the relevant Actions from the Action Plan outlined in the *Public EV Strategy* with comments regarding the proposed development:

Action	Description	Stakeholder(s)	Timeframe	Comments
Direct Deployment				
Expand the Charging the East network	Continue to expand the Charging the East Network in the Eastern Suburbs.	Regional Environment Program	Current	The proposal is located within an appropriate

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	Select sites using special analysis and the Site Selection Criteria (provided in Supporting Documentation). Use a consistent consultation and rollout process for installations. Develop a website showing uptake, numbers of chargers and frequently asked questions.			site, as outlined above. See below assessment against the Site Selection Criteria.
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	0 – 12 months	The app and website technology for Jolt Charge include mapping systems showing the availability of their EVCSs.
Continue reporting	Report back to councils on Action Plan progress, EV uptake and EV charger usage on a quarterly basis. Review EV Strategy after 5 years	Governance	0 – 12 months	It is recommended that a condition be included on the consent requiring Jolt Charge to share quarterly data with Council regarding the use and uptake up the proposed EVCS. This is as per the request from the 3 rd Council's Sustainability Officer and Council's Traffic Engineer.
Land Access				
Develop a consistent approach to proposals from third-party charging providers (rental, licence fee, etc)	Council frequently receives unsolicited proposals from third-party charging providers. Some of these are backed by grant funding through the Federal and State government. There is a need to develop a transparent and consistent approach to dealing with these offers e.g. via an EOI process.	Third-party providers Governance team	0 – 12 months	No such process is currently in place. As such, the merits of each proposal will be assessed on a case-by-case basis.
Education and Advocacy				
Explore payment via a single app	Advocate for a single access and payment	Charge Station Operators NSW Treasury	0 – 12 months	No such technology has

	application across all charging stations.			been developed.
Optimise user experience	Investigate the potential to work with charge station operators to create an EV charging booking systems and/or overstay notifications and idling fees.	ChargeFox and other Charge Station Operators	2 – 4 years	Not an expectation under this proposal.
Planning Requirements				
Adopt new signage and parking arrangements	New signage and parking signage and restrictions have been issued by TfNSW and should be used except in specific circumstances (i.e. heritage areas).	Traffic and Transport Teams	Current	It is recommended that a condition be included on the consent requiring signage and road line-markings change to be approved by the Randwick Traffic Committee.
Require 100% renewable electricity	Require all new public EV charging stations to be powered by 100% renewable electricity	Regional Environment Program Charge Station Operators	Current	It is recommended that a condition be included on the consent requiring the electricity from the Ausgrid kiosk substation be powered by 100% renewable electricity.
Align DCP and planning approvals, NCC, performance standards across councils	Align Council's DCP conditions for new developments to ensure they are consistent with any guidance from the NCC and NSW Government.	Planning teams	0-12 months	No such DCP has been developed at the lodgement of the subject DA.

Site Selection Criteria for EV Charging Infrastructure on Public Land

Policy	Description	Selection Options
Mandatory Criteria		
Electrical Connection	Is electrical connection available to the site?	Yes, via the Ausgrid kiosk substation.
Footpath	Is there low impact on the footpath and pedestrian traffic.	Yes, sufficient footpath clearance maintained.
Accessibility	Is this site accessible to disabled residents?	Yes.
Vandalism Risk	Is the site have a low vandalism risk?	Yes, panelling to an existing Ausgrid kiosk substation will reduce potential for vandalism risk.

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Lighting	Is adequate lighting available at the site?	Yes, via existing street lighting.
Nearby Chargers	Is there a gap in charging infrastructure available in surrounding area?	Yes, as outlined in the Strategy above.
Parking Availability	Is adequate parking available nearby relative to demand?	Yes, Council's Traffic Engineer is satisfied that the submitted turnover study sufficiently addressing the parking impact of the development.
Desirable Criteria		
Availability	Is the site accessible at all times?	Yes.
Parking Angle	What is the angle of car relative to kerb?	Parallel.
Spare Spaces	Are spare spaces available for future expansion?	Yes, an additional parking space could be designated for EV charging only.
Parking Fees	Is parking free at the site?	Yes.
Adjacent Land	What is 'Type' directly adjacent to the parking space?	Property with Off-street parking.
Land Owner	Who is the owner of the parking space land?	Randwick City Council.
Community Consultation	Is the feedback from the community likely to be positive or neutral?	Positive, see submissions.
Ranking Criteria		
Beaches & Parks	Proximity to popular beaches or parks. E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Shops & Cafes	Proximity to popular shops and cafes. E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Apartments/ Multi-unit dwellings	Proximity to apartments, multi-unit dwellings E.g., < 50m away = 10, 200m away = 5, > 400m away = 0	10
Score	Sum of ranking criteria	30/30

Overall, Council is satisfied that the proposed development complies with the Actions and Site Selection Criteria outlined in the Public EV Strategy.

Final Comments

In the absence of specific DCP controls relating to new EVCSs on public land, Council has completed a detailed assessment against the relevant sections of the Public EV Strategy. As demonstrated above, Council is satisfied that the proposed development complies with the different sections of the *Public EV Strategy*, including guiding principles, charging capacity, charging network and location, strategy actions, and site selection criteria. Therefore, it is recommended that the proposed development be approved, subject to conditions relating to elements outlined in the *Public EV Strategy* relating to sharing quarterly data, signage requirements and to require the electrical chargers be powered by 100% renewable electricity.

Safety

Council Officers raised issues regarding safety, in particular of pedestrians, regarding the proposed development. This includes the potential trip hazard of the cabling and how this will be addressed within this high pedestrian area.

The Applicant has provided the following response and justification addressing this concern:

"JOLT acknowledges Council's concerns regarding pedestrian safety, specifically trip hazard, and is pleased to provide further details of the proposed JOLT's cable management system and how this presents a 'best in class' solution to manage risk of tripping."

It is important to understand that currently, a cable is essential and unavoidable for charging an electric vehicle. What is more important to recognise is that not all cables are the same and not all cables pose the same amount of risk to both the EV driver and pedestrians in terms of being a trip or tripping hazard.

There are two types of EV chargers in regard to cables. 'Tethered' where the cable is an integral part of the unit (fixed to the unit) and 'untethered' (where the EV driver brings their own cable). All fast DC charging stations require tethered cables. Slow AC chargers can be operated with or without tethered cables. Untethered EV charging units lead to trailing cables. A trailing cable is one that lays in the floor whilst the vehicle is charging. These types of cable (Figures 1) represent a serious trip hazard. In terms of posing a risk of tripping / a trip or tripping hazard, untethered EV charging points pose the highest risk as there is no possible means of cable management.

All of JOLT's charging stations include a retractable cable management system to ensure tension on the cable is maintained while charging and while not in use. The retractable cable management system ensures that there is no trailing cable when either in use or when the plugs have been correctly returned to the unit. Conceivably, there may be a situation where a customer does not return a plug to the correct position following a charging session; however, this situation applies to all DC charging stations where tethered cables are a requirement.

JOLT has safely responsibly operated fast DC chargers in Randwick LGA since 2021 and has not been made aware of any instance where customers have not returned plugs to their correct position or tripping. The existing cable retraction system is considered safe and appropriate and when combined with the high utilization and turnover of customers the likelihood of tripping is very low."

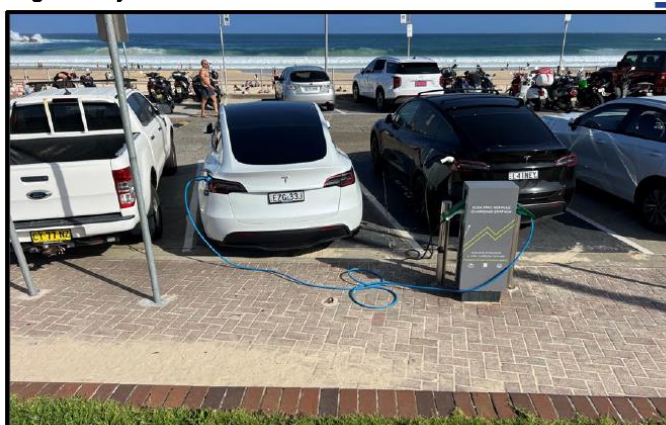


Figure 1. Example for AC charger and trailing cable



Figure 2. JOLT charging podium while in use. Highlighting cable retraction mechanism.



Figure 3. JOLT charging podium while not in use. Highlighting cable retraction mechanism and no trailing cables

Council is satisfied that the safety of pedestrians will be adequately protected as a result of the subject development. The proposed podium is located adjoining the proposed dedicated parking space, 500mm from the kerb. Council's Manager Technical Services has also reviewed the proposed development and was satisfied that the structure will not impact upon pedestrian safety.

When the charging cable is in use, sufficient area will be maintained on the footpath for pedestrian access. However, the cable is proposed as a black colour, which may be difficult to see by visually impaired people as well as other pedestrians in the busy streetscape. As such, in order to make sure that members of the public can clearly see the charging cable when in use, a condition of consent has been recommended that the colour of the cable is readily visible to the public, taking into consideration particular colour vision deficiencies.

When the charging cable is not in use, the Applicant asserts that the retractable cable system will ensure tension on the cable is maintained. However, the Applicant also notes that the cable will need to be placed in correct holding slot. If not properly stored away, the cable could be left along the footpath or roadway. This was raised as an issue by Council's Property Officer, who has received correspondence that a Jolt EVCS charging cable, when not in use, has been left with the cabling laid along the roadway. See Figure 18 below:



Figure 18: Photo of the Jolt EVCS on Beauchamp Road with the charging cable on the roadway (Source: Randwick City Council)

Council is concerned that as the EVCS is located in a busy local centre and that a trailing cable on the footpath and/or roadway is a potential trip hazard or disruption to cars on the roadway. In order

to address such concerns, a condition of consent has been recommended that the EVCS include a retractable cable management system that when the cable is not in use, it will retract back into the Ausgrid kiosk substation encasing. Further details of such a technology will be required to be provided to and approved by Council prior to the issue of a Construction Certificate.

In terms of driver safety, Council's Traffic Engineer did not raise any concerns regarding safety, subject to conditions recommended for restrictions around the digital signage.

Overall, Council is satisfied that the safety of the public will be maintained, subject to the recommended conditions regarding the charging cable to the charging podium and digital signage.

Visual Amenity

Council Officers raised issues regarding the visual amenity of the proposed development, with particular consideration of the impact that the development would have on the streetscape. The following issues relating to the size of the encasing, colours, materials and finishes, visual clutter and overexposure to advertising, have been assessed in detail below:

Size of Encasing

Council was concerned with original proposal, which included a proposed substation encasing which was approximately 2770mm high x 3324mm long x 2085mm wide. This was significantly larger than the existing substations and would detract from the streetscape.

When the concern was raised with the Applicant, they provided an amended design to the Ausgrid kiosk substation encasing called the 'Skinny GRILL', which reduced the size of the encasing. See below table showing the existing and proposed dimensions of the encased kiosk substation:

Kiosk	Length	Width	Height
Existing Substation	2700mm	1480mm	1740mm
Original Proposal	3324mm	2085mm	2780mm
Amended Proposal	3286mm	1703mm	2273mm
Difference between Existing and Amended Proposal	+586mm (21.7%)	+223mm (15%)	+533mm (30%)

In addition, the Applicant provided the following justification regarding the size of the amended encasing:

"Summary of proposed Skinny GRILL encasing design changes:

- *20% reduction in overall volume of the unit;*
- *30% reduction in width. Skinny GRILL encasing width is approximately 112mm from the existing substation, reduced from 301mm; and*
- *Overall reduction in length, width and height of the encasing.*

JOLT and Ausgrid have collaborated to produce the smallest feasible substation encasing. As per the attached letter from Ausgrid (Appendix A), the new design satisfies Ausgrid's technical constraints to ensure the substation will continue to be safely operated and maintained while housing critical electrical equipment for the JOLT EV charging station.

The height of the enclosure is a key design consideration and is the minimum feasible height to fit critical EV charger componentry like the meter box, which is installed between the substation and the encasing roof. This is the most efficient location for the associated electrical equipment that would otherwise need to be installed on the footpath, adjacent to the charger."

As part of the Applicant's submission, they provided a letter from Ausgrid's Head of EV Charging and Infrastructure Development, that included the following statement:

"Ausgrid has collaborated with JOLT on a new 'skinny grill' unit. This innovation has reduced the size of the unit as far as possible, while still meeting Ausgrid's technical constraints that allow our staff to safely access the kiosk for maintenance works. We understand that JOLT is

proposing to install skinny grill units in response to Council concerns about the bulk and scale of the units initially proposed.”

Based on the amendments and proposed reduced encasing, as well as the comments from Ausgrid regarding the encasing being reduced and still providing the access as required, Council is satisfied that the increased size of the encasing has been minimised where possible. Whilst the kiosk substation size will be increased in length (by 586mm), width (by 223mm) and height (533mm), it is considered acceptable due to the following:

- An appropriate increase between the size and scale of the existing substation, being a maximum increase in size of 30%. The structure not visually imposing to pedestrians when on the footpath area adjoining the substation.
- An appropriate scale in relation to the adjacent building at No. 1 Elizabeth Street, which has a three storey nil setback to the Elizabeth Street boundary.
- Clearance maintained between the substation and the pedestrian awning adjoining at No. 1 Elizabeth Street.
- Sufficient footpath clearances are maintained in the proposal.

Colours, Materials and Finishes

Council was concerned that the proposed black encasing would be dominant in the streetscape and visually prominent. There was concern that the black colour draws the eye of the pedestrian or drivers to the structure and does not blend in with the other features and colours within the streetscape.

The concern was raised with the Applicant who provided the following response and justification:

“JOLT proposes to wrap both structures in bespoke indigenous artwork to mitigate perceived impact on visual amenity. JOLT intends to commission a local indigenous artist to create artwork that responds to the natural perspective of the locations, increasing the perception of depth and providing a sense of vibrancy in both locations.

A graffiti proof vinyl wrapping displaying the successful indigenous artwork will be installed over the top of the encasing and maintained for the duration of operations. The indigenous artwork is consistent with Council’s Public Art Strategy. It will both contribute to a sense of community and address Council’s concerns regarding visual impact.

To ensure that the final design is implemented to Council’s standards, we recommend Council impose the following condition of approval:

Prior to the commencement of any construction works, the applicant shall engage a local indigenous artist to prepare a concept design for the substation encasing. The artwork must be approved by Council’s Art and Cultural Advisory Committee in writing prior to the commencement of any construction works. The applicant must ensure the approved indigenous artwork is maintained during the ongoing use of the development. Any change to the artwork will require approval from Council.”

Council is satisfied that an artwork to the proposed kiosk substation grill would have a reduced visual impact on the streetscape and locality, and enhance the cultural and environmental objectives of the Council, as outlined in Council’s *Public Art Strategy*. This would be a welcomed improvement on the current finish of the kiosk substation that detracts from the visual qualities of the streetscape.

Therefore, it is recommended that a condition of consent be imposed requiring that the kiosk substation encasing to be of an artwork design in accordance with Council’s *Public Art Strategy* and approval by Council’s Arts and Culture Team.

Visual Clutter and Overexposure to Advertising on Public Land

Council raised concerns regarding visual clutter and the overexposure of third-party public advertising within the immediate locality. Council has conducted a site analysis of advertising on public land within the area.

On 29 April 2024, the RLPP approved Development Application No. DA/570/2022 for the installation of a telecommunications facility (payphone) with associated third-party digital signage, at 149T Alison Road, Randwick. Figures 19 and 20 show the approved plan showing the location of the payphone and associated digital signage in elevation:

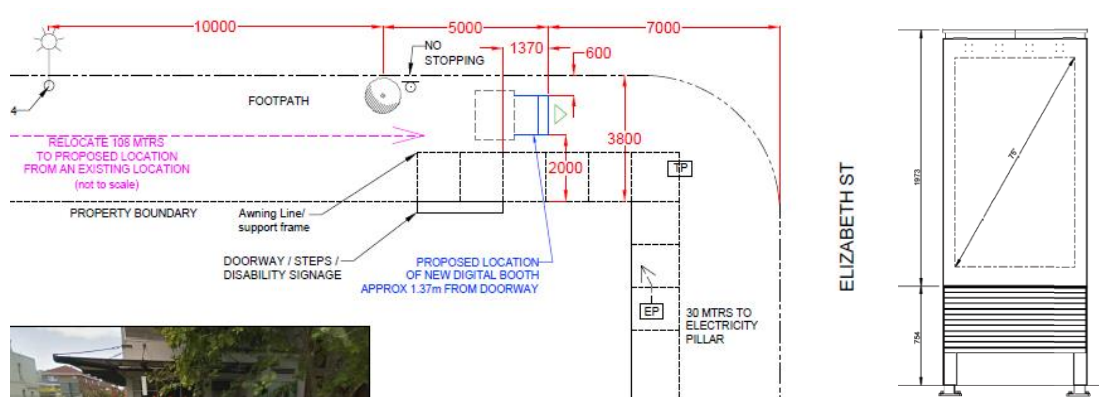


Figure 19 and 20: Approved plans as per DA/85/2022 (Source: JCDecaux Australia Pty Ltd)

Figure 21 shows the approved payphone and associated digital signage in relation to the proposed EVCS:



Figure 21: Aerial plan showing the indicative location of the x2 advertising panels (Source: JCDecaux Australia Pty Ltd)

The concern was raised with the Applicant who provided the following response and justification:

“Council has raised an issue with the proposed advertising signage along Elizabeth Street, as there is a telephone box is likely to be located to the Alison Road frontage in the near future.

The advertising panels are to be located to the northern and southern ends of the kiosk with the northern panel located 32m from the corner of the building with Alison Road. Given the separation between the structures, the potential for over saturation and visual clutter is extremely limited.

The subject site is located within the E2 Commercial Centre zone. The objectives for advertising in this zone, is as follows:

- To reduce the visual complexity of streetscapes by providing fewer, more effective signs.
- To recognise that outdoor advertising can help to express the character of a commercial district or business centre.

The proposed signage is limited to the northern and southern ends of the structure. In addition, given the separation from nearby signage on another street, the proposal will not result in visual clutter. The kiosk is located adjacent to a three storey shop top housing development, which is located up to the street boundary, and is keeping with the commercial nature of development at street level."

Overall, Council is satisfied that the proposed development will not contribute to the visual clutter and overexposure of advertising on public land within the locality for the following reasons:

- The proposed advertising is located on Elizabeth Street, oriented to the northern and southern sides on the street, whilst the approved payphone advertising panel is located on Alison Road to the eastern side of the road. Generally, both advertising structures will not be readily visible at the same time.

The greatest impact of the cluttering will be to pedestrians walking west along Alison Road, where both panels will be visible. However, the proposed panel to the northern side of the EVCS will be obscured from parked vehicles and parking signs along Elizabeth Street. In addition, Council agrees with the Applicant that the northern panel located 32m from the corner of the building with Alison Road, which is considerable distance. See Figure 22 to demonstrate the location of the advertising panels from the footpath.

- Council is satisfied that in this instance, the proposed advertising signage is appropriate within a commercial zone on a street that does not have any other digital advertising. Other signage is limited to commercial building frontages that are appropriate within the commercial zone.
- Appropriate conditions of consent have been recommended in regard to luminance and dwell times, as outlined below:
 - The digital signage must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
 - The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
 - The digital signage must comply with the relevant provisions of AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting.
 - Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.



Figure 22: Image of the indicative location of the x2 advertising panels (*Source: Google Maps*)

9. Conclusion

That the application to use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements to x2 advertising panels to the kiosk, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage 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 commercial centre zone in that the proposed activity and built form will support the commercial centre for business, retail, community and cultural activity, encourages economic growth, retains a sufficient level of accessibility and amenity including for pedestrians, and facilitates a safe public domain;
- 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 in improving the visual impacts of the existing substation kiosk;
- The proposal is consistent with the relevant objectives of the Industry and Employment SEPP and the Transport and Infrastructure SEPP;
- The proposed development will make a positive contribution to the commercial centre in providing an additional electric vehicle charging station that is a benefit to the public and will provide a form of social infrastructure for the local community; and
- Subject to conditions, the EVCS and advertising will be appropriately managed to confirm technological capabilities, minimise illumination impacts and ensure pedestrian and traffic safety.

Appendix 1: Referrals

1. External Referral Comments:

1.1. Ausgrid

The proposed application was referred to Ausgrid under Section 2.48 of the *Transport and Infrastructure SEPP 2021*. Ausgrid has confirmed that the proposed development is satisfactory, subject to conditions regarding supply of electricity and underground cables, which have been included in the draft consent.

2. Internal Referral Comments:

2.1. Council Property

Council's Property Officer has provided owner's consent for the subject application and has confirmed that the proposed development is satisfactory. The Officer raised issues regarding the encroachment of the Ausgrid kiosks substation encroaching over footpaths and liability issue (including trip & fall or property damage) from charging cords left on road. See Key Issues for a detailed assessment of these issues.

2.2. Sustainability

The 3-Council's Sustainability Officer has confirmed the proposed development is satisfactory in terms of the EVCS technology, including the double port, charging capacity, 1 hour parking signage, location, alignment with the align to the *Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023*. The Officer has recommended a number of conditions to be imposed on the consent including requirements for charging capacity, operation, signposts and line markings, and sharing usage data with Council. Such recommended conditions have been included in the draft conditions of consent.

2.3. Integrated Transport

The Transport Engineer has confirmed the proposed development is satisfactory. The Officer confirmed that the submitted turnover study addressing the dedication of an on-street parking space for the EVCS use only was acceptable, based on the occupancy rate. The Officer has recommended a number of conditions to be imposed on the consent including quarterly usage reporting to be provided to Council, that Council can review and ultimately rescind parking arrangements in the future, requirement for a signs and lines concept plan for representation to Local Traffic Committee for endorsement and approval, and restrictions around the digital signage. Such recommended conditions have been included in the draft conditions of consent.

2.4. Technical Services

Council's Manager Technical Services has confirmed the proposed development is satisfactory, noting the adequate footpath clearance, no conflict with shop windows, no conflict with street lighting, no impact on drainage, and ultimately no concerns with location. The Officer also noted that the sleeved unit elevated above footpath is preferred configuration for assets in the case of future maintenance.

The Officer raised concerns for potential costs associated with redevelopment and relocation if any changes to private adjacent building, similar to that raised by Council's Transport Officer. A condition of consent has been recommended that Council can review and ultimately rescind parking arrangements in the future. Further conditions were recommended regarding the advertising panel and lighting which must address standards for obtrusive lighting effects to prevent light spill and flashing to adjoining residences. Such recommended conditions have been included in the draft conditions of consent.

2.5. Development Engineering

Council's Development Engineer has confirmed the proposed development is satisfactory and has recommended relevant conditions of consent to be imposed.

2.6. Heritage Planning

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

"The subject site is located in the vicinity of heritage items I256 and I255 and Heritage conservation area C15.

From a heritage perspective it appears that the proposed development does not have any adverse on the heritage fabric and is complying with the controls. The proposed development is supported from a heritage perspective no further condition required."

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Appendix 2: DCP Compliance Table

3.1 Section B2: Heritage

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

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
2	Sustainable transport		
2.3	Fuel efficient cars		
	i) A minimum of 10% parking spaces are to be designed and labelled for small & environmental vehicles in commercial, office or shopping centre development wherever 10 or more spaces are required. ii) Give priority location to these spaces with easy access to entry/exits and lifts of the office/shops/buildings.	The proposed EVCS and dedicated parking spaces are located within an economic zone, within close proximity to the commercial areas of the zone.	Yes, complies
2.5	Traffic and parking study requirements		
	i) Depending on the type of development one or more of the following will be required to be submitted with the development application: a. Transport Assessment Study and Travel Plan b. Parking and Access Study c. Construction Traffic Management Plan (Preliminary) for busy arterial roads <i>Note: Table 1 Vehicle Parking Rates sets out where one or more of these studies are required, depending on types of development.</i> ii) The Transport Assessment Study must be prepared by a qualified traffic engineer. The study/report must then be signed by the author with their qualifications and MIE membership number quoted.	The applicant has submitted a turnover study to convert an off-street parking space into a dedicated parking space for an EV only. See Key Issues including an assessment from Council's Transport Engineer, who is satisfied with the proposed development.	See Key Issues
3	Parking & Service Delivery Requirements		
3.7	Parking layout, configuration & dimensions		
	i) An off-street car space must be a minimum of 2.4m by 5.4m long and comply with AS 2890.1.	The proposed dedicated parking space for the EVCS is existing.	Yes, complies

3.3 Section D3: Randwick Junction Centre

It is noted that the proposed development is located outside the area designated as the Randwick Junction Commercial Centre within this section of the DCP.

3.4 Section F2: Outdoor Advertising and Signage

2	General Design and Siting		
	<ul style="list-style-type: none"> i) Signage should recognise the legitimate needs for directional advice, business identification and promotion. ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development. 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. vi) Signage shall be displayed in English but may include a translation in another language. 	<p>The proposed advertising signage is considered acceptable as it will not detract from the streetscape, will not result in visual clutter, is appropriately scaled to the adjoining buildings in the area, and on existing Ausgrid kiosk substation sides.</p>	Yes, complies
3	Signage based on land use zones		
3.1	Business Zones		
	<ul style="list-style-type: none"> 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. ii) Signage must not dominate or obscure a building or its architectural features. Advertising should highlight and reinforce architectural details. 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). v) The visual amenity and value of streetscapes should be protected through careful consideration of proposals for flush wall signage. viii) Outdoor advertising on or attached to buildings must align and relate to the architectural design lines on a building façade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings. xi) Pole or pylon signs must not exceed the height of adjoining or adjacent buildings, or 6 metres, whichever is the lower. 	<p>The proposed advertising signage is suitably scaled to a maximum height of 2.2m, flush to the Ausgrid kiosk substation and adjoining buildings. The advertising panels do not dominate the streetscape of kiosk substation, nor do they project above the adjoining building awning.</p>	Yes, complies

Appendix 3: Advertising Compliance Table under Industry and Employment SEPP 2021Objectives and Schedule 5 criteria

Compliance with the objectives and Schedule 5 criteria is considered in the following tables:

Relevant Clause	Comment
Character of the area 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 site is located within Randwick Junction Town Centre. The proposal is compatible with the current and future character for the centre in providing a mix of commercial, retail and residential uses that serve the needs of the local community.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is compatible with the scale and proportions of the existing kiosk. The sign does not dominate or obscure any views; it is integrated into the casing of the EV charging station.
Special areas 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?	The signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterways, rural landscapes or residential areas. Council's Heritage Planner is satisfied that the proposed development will not impact upon the amenity of the nearby Randwick Junction Heritage Conservation Area. See Appendix 1 for comments.
Views and vistas Does the proposal obscure or compromise important views?	The approved signage panels are considered appropriate in terms of the existing scale and proportion of the kiosk. The signage panels will be integrated into the casing over the existing kiosk and will not obscure or compromise any important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The height of the signage does not dominate the skyline or reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposal does not affect the viewing rights of other advertisers.
Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The approved signage panels are integrated into the casing for an existing structure and is compatible with its setting within Randwick Junction Town Centre.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal does not have an adverse impact on the visual interest of the streetscape and is sited appropriately.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	There is no existing advertisement at the site.
Does the proposal screen unsightliness?	The proposal forms part of a casing that screens the existing kiosk.

Relevant Clause	Comment
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings.
Does the proposal require ongoing vegetation management?	No vegetation management required.
Site and building 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 proposed signage is integrated into the casing of the existing Ausgrid substation and is limited to two signage panels.
Does the proposal respect important features of the site or building, or both?	The proposal is compatible in line with the existing kiosk and the setting within Randwick Junction Town Centre
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage facilitates the kiosk's innovative use as an EV charging station by affording users 7kw of free EV charging.
Associated devices and logos with advertisements and advertising structures 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 signage is integrated into the Ausgrid substation structure.
Illumination Would illumination result in unacceptable glare?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent have been recommended to be imposed to minimise the impacts of illumination.
Would illumination affect safety for pedestrians, vehicles or aircraft?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent have been recommended to be imposed to minimise the impacts of illumination.
Would illumination detract from the amenity of any residence or other form of accommodation?	The intensity of the illumination will be programmed to meet luminance regulations for NSW. Conditions of consent shall be imposed to minimise the impacts of illumination.
Can the intensity of the illumination be adjusted, if necessary?	The intensity of the illumination will be adjustable to meet luminance regulations for NSW.
Is the illumination subject to a curfew?	The illumination is not subject to a curfew.
Safety Would the proposal reduce the safety for any public road?	Conditions of consent relating to dwell times and illumination have been recommended to be imposed to minimise impact on road safety.
Would the proposal reduce the safety for pedestrians or bicyclists?	Conditions of consent relating to dwell times and illumination have been recommended to be imposed to minimise impact on pedestrian and bicyclist safety.

Relevant Clause	Comment
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal does not obscure sightlines from public areas.

Responsible officer: William Joannides, Environmental Planning Officer

File Reference: DA/680/2023

Development Consent Conditions (Commercial)



Folder /DA No:	DA/680/2023
Property:	Road Reserve adjacent to 1 Elizabeth Street, RANDWICK NSW 2031
Proposal:	Use of an existing Ausgrid substation kiosk as an advertising-enabled EV charging unit, including third-party digital advertisements to x2 advertising panels to the kiosk, a separate charger podium, and designation of a single on-street parking space for an electric vehicle use only with line markings and new parking signage.
Recommendation:	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>
Location, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Plan View, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Plan View Kiosk Dimensions, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Southwest Elevation, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Southeast Elevation Cross Section, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Northeast Elevation, Site Number 35372, Rev C	Jolt Charge Pty Ltd	07/03/2024	27/03/2024
Jolt Products – EV Charger Podium (Split)	Jolt Charge Pty Ltd	-	27/03/2024
Skinny Grill DWG Blank Door, Sheet 1 of 1, Rev 1.0	Jolt	01/03/2024	27/03/2024

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. **Amendment of Plans & Documentation**
The approved plans and documents must be amended in accordance with the following requirements:

- a) The electric vehicle charging podium is to be relocated further to the

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- | | Condition |
|----|---|
| | northern end of the designated parking space, to accommodate for a potential second designated electric vehicle parking space on the street. The changes shall be required to demonstrate the indicative location of two parked electric vehicles, their respective charging outlets and the charging podium in an appropriate location for simultaneous double charging capabilities. |
| | Amended plans are to be submitted to and approved by Council's Manager Development Assessment, in accordance with Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> , prior to a Construction Certificate being issued for the development. |
| | Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development. |
| 3. | <p>Charging Capacity and Capability</p> <p>The electric vehicle charging unit shall have a minimum charging capacity of 50kW and have a dual charge capability (i.e. charging capability for two electric vehicles).</p> <p>Condition Reason: To ensure that the development meets the demand for Council's public electric vehicle charging network, in accordance with the 3rd Council's <i>Eastern Suburbs Electric Vehicle Infrastructure Strategy 2023</i>.</p> |
| 4. | <p>Retractable Cable Management System</p> <p>The charging cable to the electric vehicle charging station is to incorporate a retractable cable management system so that that when the charging cable is not in use, it will retract back into the kiosk substation encasing or charging podium with only the charging plug located on the external of the kiosk substation encasing or associated podium.</p> <p>Further details of this technology shall be submitted to and approved by Council's Manager Development Assessments prior to issuing a Construction Certificate for the development.</p> <p>Condition Reason: To ensure that the safety of the public is maintained from the development on public land.</p> |
| 5. | <p>Charging Cable</p> <p>The colour of the charging cable shall be a colour that is readily visible to pedestrian and motorists in the public domain.</p> <p>Further details of this cable colour shall be submitted to and approved by Council's Manager Development Assessments, prior to issuing a Construction Certificate for the development.</p> <p>Condition Reason: To ensure that the safety of the public is maintained from the development on public land.</p> |
| 6. | <p>Charging Plug</p> <p>Details of the type of the charging plug to the charging podium are to be provided to and approved by Council, prior to the issue of a Construction Certificate.</p> <p>Condition Reason: To ensure that the publicly available electric vehicle charging plug is the most compatible with Australian electric vehicles and has the preferred capacity and charging rate.</p> |
| 7. | <p>Public Artwork Encasing</p> <p>Prior to the commencement of any construction works, the applicant shall engage with Council's Arts and Culture Team regarding the commissioning process and approval for a public artwork to the Ausgrid kiosk substation encasing, in accordance with Council's <i>Public Art Strategy</i>, wholly at the cost of the applicant.</p> |

- | | Condition |
|-----|---|
| | <p>The commissioned artwork cannot be a sign or advertising and cannot contain material that discriminates against or vilifies any person or group or is offensive or sexually explicit.</p> <p>Condition Reason: To ensure that the development positively contributes to the cultural identity of the City and the streetscape, in accordance with Council's <i>Public Art Strategy</i>.</p> |
| 8. | <p>Signage Changes</p> <p>Full details of the signage and line-marking changes for the designated on-street electric vehicle parking space are to be provided to Council to the satisfaction of Council's Coordinator Integrated Transport for approval by the Randwick Traffic Committee (RTC), prior to the issuing of an Occupation Certificate.</p> <p>Condition Reason: To ensure that sign and line marking change works are carried out in accordance with Council relevant policies.</p> |
| 9. | <p>Obtrusive Lighting</p> <p>The applicant shall ensure that shielding, direction and dimming measures have been adopted in order to address obtrusive lighting effects from the advertising panels to prevent light spill and flashing to adjoining residences.</p> <p>Details of such measures shall be included in the Construction Certificate, to the satisfaction of the Certifier.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p> |
| 10. | <p>Emergency Messaging System</p> <p>The signage operator shall provide detailed information and training for NSW Police and Council in relation to an Emergency Messaging System. This information/training must be provided at no cost to NSW Police or Council.</p> <p>Condition Reason: To ensure that digital advertising can be used for emergency communication messaging for the benefit of the public.</p> |
| 11. | <p>Annual Fee</p> <p>The applicant is responsible for the payment of an annual fee for each designated parking bay associated with the operation of the electric vehicle charging, as set out in Council's annual Pricing Policy Fees & Charges.</p> <p>Condition Reason: To ensure that the operator of the electric vehicle charging station pays the relevant fees in accordance with Council's Pricing Policy Fees & Charges.</p> |
| 12. | <p>Duration of Consent</p> <p>This Development Consent is limited to a maximum period of fifteen (15) years from the date listed on the consent and shall expire after this time.</p> <p>Condition Reason: To ensure that the development complies with the advertising requirements, in accordance with the relevant environmental planning instrument.</p> |

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

- | | Condition |
|-----|--|
| 13. | <p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be</p> |

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- | | Condition |
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| | <p>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> |
| 14. | <p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$2,000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p> |
| 15. | <p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p> |

BEFORE BUILDING WORK COMMENCES

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| 16. | <p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. a) 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. |

Condition
<p>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</p> <p>c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p>

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

17. **Dilapidation Report**

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

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

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.

18. **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

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	Condition
	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.
19.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
20.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
21.	<p>Supply of Electricity</p> <p>It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:</p> <ul style="list-style-type: none"> • The existing network can support the expected electrical load of the development. • site conditions or other issues that may impact on the method of supply. <p>The proponent should submit a connection application with Ausgrid as soon as practicable, this can be accessed via the Ausgrid website through the following: https://www.ausgrid.com.au/Connections/Get-connected/Apply-for-a-connection.</p> <p>Condition Reason: To ensure compliance with Ausgrid recommendations.</p>
22.	<p>Ausgrid Underground Cables</p> <p>Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.</p> <p>It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA).</p> <p>In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:</p>

Condition

- SafeWork Australia – Excavation Code of Practice.
- Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries.

Condition Reason: To ensure compliance with Ausgrid recommendations.

DURING BUILDING WORK

Condition

23.

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—

- b) 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
- c) 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.

24.

Restriction on Working Hours

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

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

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use of jack-hammers, driven-type piling/shoring or the like	3.00pm • (maximum) • Saturday - No work permitted • Sunday & public holidays - No work permitted

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

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

25. **Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

Condition

beforehand.

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.
- j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

26. **Complaints Register**

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

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

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

Condition Reason: To ensure that any complaints from the public are registered and investigated in a Complaints Register.

27. **Compliance with relevant Australian Standards**

The electric vehicle charging unit is to comply with AS/NZS 3000:2018 (Electrical installations), AS/NZS 4417.2:2020 (Regulatory compliance mark for electrical and electronic equipment, Part 2: Specific requirements for particular regulatory applications), and any other relevant Australian Standards.

Condition Reason: To require measures are carried out in accordance with the relevant Australian Standards.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

28. **Occupation Certificate Requirements**

An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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	Condition Reason: Statutory requirement. To ensure the site is authorised for occupation.
29.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes:</p> <ul style="list-style-type: none"> a) The removal of cement slurry from Council's footpath and roadway. b) Install signage, line markings, crossings etc as required by Council's Integrated Transport and/or Randwick Traffic Committee. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
30.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
31.	<p>Footpath Clearance</p> <p>Prior to the issue of an Occupation Certificate, the Certifier is required to confirm that a minimum clearance of 1.489m is maintained between the western side of the encased Ausgrid kiosk substation and the eastern side of the external building wall to No. 1 Elizabeth Street.</p> <p>Condition Reason: To ensure that structure on the Council footpath does not impact upon the safety and pedestrian access within the locality.</p>
32.	<p>Data Sharing</p> <p>The operator of the electric vehicle charging station shall share quarterly data with Council regarding the use and uptake up the electric vehicle charging station. Details that are required within the quarterly data are to be agreed to between the operator of the electric vehicle charging station and Council, prior to the issuing of</p>

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an Occupation Certificate.

Condition Reason: To ensure that Council can account for and manage the uptake of public electric vehicle charging stations within the locality.

OCCUPATION AND ONGOING USE

Condition

33. **Advertising and Signage**
The signage shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards.

Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
34. **Advertising and Signage**
Dwell times between displays shall be no shorter than 10 seconds.

Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
35. **Advertising and Signage**
The number of advertisements displayed on the digital screen must not exceed six (6) per minute.

Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
36. **Advertising and Signage**
The transition time between different static digital advertisements displayed on the digital LED screens must be no longer than 0.1 seconds.

Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
37. **Advertising and Signage**
The images displayed on the signage must not contain/use:
 - Flashing or flickering lights or content.
 - Animated displays, moving parts or simulated movement.
 - Complex displays that hold a driver's attention beyond "glance appreciation".
 - Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber, or green circles, octagons, crosses, triangles, and words such as 'stop' or 'halt'.
 - A method of illumination that distracts or dazzles; and
 - Dominant use of colours red or green.
Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.
38. **Advertising and Signage**
Signage shall be displayed in English but may include a translation in another language.

Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.

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Condition	
39.	<p>Advertising and Signage</p> <p>The digital signage shall be maintained, cleaned regularly and kept in safe working order at all times to maintain pedestrian and vehicular safety. Any damage to the signs shall be rectified within a timely manner.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
40.	<p>Advertising and Signage</p> <p>The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. The area of any such name or logo must not be greater than 0.25 square metres.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
41.	<p>Illumination</p> <p>Prior to the use of the digital signage panels for advertising, the Applicant must submit to the Certifier evidence from a qualified practitioner demonstrating compliance in the luminance levels in the latest version of AS 4282-1997 - Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997 as required under Condition 4 of this consent.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
42.	<p>Illumination</p> <p>The digital panels shall be mounted, screened and directed so as to minimise light-spill in such a manner that it does not create a nuisance to surrounding properties or the public road network.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
43.	<p>Illumination</p> <p>The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
44.	<p>Illumination</p> <p>The digital signage must comply with the relevant provisions of AS 4282 – 1997 <i>Australian Standard – Control of the obtrusive effects of outdoor lighting</i>.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
45.	<p>Illumination</p> <p>Visible light reflectivity from the digital signage and substation kiosk structure shall not exceed 20 per cent and shall be designed to minimise glare.</p> <p>Condition Reason: To ensure that the advertising signage does not impact upon the amenity/safety of the locality and is in the public interest.</p>
46.	<p>Charging Station Operation</p> <p>The operator of the electric vehicle charging station must operate the electric vehicle charging station at least 99% per year (i.e. 99% uptime throughout the year).</p> <p>Condition Reason: To ensure that the electric vehicle charging station operates in</p>

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	accordance with industry standards.
47.	<p>Footpath Clearance</p> <p>A minimum 1.489m wide section of footpath is to remain unimpeded for pedestrian use between the electric vehicle charging station and the external building wall at No. 1 Elizabeth Street.</p> <p>Condition Reason: To ensure that structure on the Council footpath does not impact upon the safety and pedestrian access within the locality.</p>
48.	<p>Outgoing Maintenance Works</p> <p>The operator of the electric vehicle charging station shall be responsible to clean, maintain, renew and repair the electric vehicle charging (including all supporting structures) located on the public road reserve along the Elizabeth Street site frontage, with all works being undertaken to the satisfaction of Council.</p> <p>Condition Reason: To ensure that the applicant is responsible for the maintenance of public infrastructure on the Council road reserve.</p>
49.	<p>Public Artwork Encasing</p> <p>The operator of the electric vehicle charging station must ensure the approved public artwork encasing to the kiosk substation shall be maintained during the ongoing use of the development. Any change to the artwork will require approval from Council, in accordance with Condition 7.</p> <p>Condition Reason: To ensure that the development positively contributes to the cultural identity of the City and the streetscape, in accordance with Council's <i>Public Art Strategy</i>.</p>
50.	<p>Utility Authority Access</p> <p>The applicant shall abide with any directive given by any utility authority in relation to access requirement to any utility within the immediate locality of the structures on the road reserve.</p> <p>Condition Reason: To ensure utility authorities can maintain access to critical utilities on Council's Road Reserve.</p>
51.	<p>Electronic Log</p> <p>An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council to allow a review of the sign's activity for any reason, including where a complaint has been made.</p> <p>Condition Reason: To ensure that Council can investigate potential complaints regarding the contents of the advertising content.</p>
52.	<p>Data Sharing</p> <p>The operator of the electric vehicle charging station shall share quarterly data with Council regarding the use and uptake up the electric vehicle charging station, in accordance with Condition 32.</p> <p>Condition Reason: To ensure that Council can account for and manage the uptake of public electric vehicle charging stations within the locality.</p>
53.	<p>Electricity Source</p> <p>The electricity from the Ausgrid kiosk substation shall be powered by 100% renewable electricity. Details of this electricity sourcing are to be provided to Council to confirm this arrangement.</p> <p>Condition Reason: To ensure that electric vehicle charging stations located on Council's Road Reserve source energy in order to address the impacts of climate change.</p>

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Condition	
54.	<p>Revocation or Suspension of Consent</p> <p>Council may revoke or suspend an Approval of the electric vehicle charging station and advertising at any time during the Approval Period if:</p> <ul style="list-style-type: none"> a) the conditions of the Approval have been failed to comply with; b) the use of Council's Road Reserve in accordance with the Approval results in adverse impacts on the use of the footway or adjoining roadway or on public safety or public amenity. <p>Condition Reason: To ensure that Council maintains authority over infrastructure within and the use of Council's Road Reserve.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition	
55.	<p>Demolition Work Plan</p> <p>A demolition work plan must be developed and be implemented for any demolition works in accordance with AS2601 (2001)- Demolition of Structures.</p> <p>The demolition work must be carried out in accordance with relevant SafeWork NSW Requirements and Codes of Practice; Australian Standard – AS 2601 Demolition of Structures and Randwick City Council's Asbestos Policy.</p> <p>The demolition work plan must include details of the demolition, removal, storage and disposal of any hazardous materials (including materials containing asbestos).</p> <p>A copy of the demolition work plan must be provided to the Principal Certifier and Council. A copy shall also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition	
56.	<p>Demolition Work</p> <p>Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",

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| <ul style="list-style-type: none">• Council is to be given at least two days written notice of demolition works involving materials containing asbestos,• Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,• A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works. |
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Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

Development Application Report No. D48/24

Subject: 45-51W Burnie Street, Clovelly (DA/131/2024)

Executive Summary

Proposal:	Boundary adjustment, construction of a 3-storey dwelling house and 2 x 3-storey semi-detached dwellings, Torrens title subdivision of semi-detached dwellings, installation of swimming pools, and associated ancillary, earthworks and landscaping works.
Ward:	North Ward
Applicant:	Fran Development Pty Ltd
Owner:	Mrs M R Scheinberg & Mr S M Scheinberg
Cost of works:	\$2,390,578.00
Reason for referral:	The development contravenes the development standards for building height and floor space ratio by more than 10%.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/131/2024 for boundary adjustment, construction of a 3-storey dwelling house and 2 x 3-storey semi-detached dwellings, Torrens title subdivision of semi-detached dwellings, installation of swimming pools, and associated ancillary, earthworks and landscaping works at No. 45-51W Burnie Street, Clovelly, for the following reasons:

1. The proposed development is of an excessive height and is incompatible with surrounding development and the streetscape, resulting in non-compliance with the height of buildings development standard pursuant to clause 4.3 of RLEP 2012 and the floor space ratio (FSR) development standard pursuant to clause 4.4 of RLEP 2012.
2. The submitted written requests to vary the height of buildings and FSR development standards pursuant to clause 4.6 of RLEP 2012 are not considered to be well founded in that they do not sufficiently demonstrate that the proposed non-compliance is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify a variation to the development standards.
3. The proposal is inconsistent with the objectives of the R2 Low Density Residential Zone in that it is not compatible with the desired future character of the locality and significantly exceeds the level of built form anticipated for the subject site. The proposed development fails to recognise or reflect the desirable elements of the existing streetscape and built form.
4. Pursuant to clause 5.21 of RLEP 2012 and Part B8 of RDCP 2013, the proposal results in adverse flood impacts.
5. Pursuant to clause 6.2 of RLEP 2012 and Part C1, Section 4.7 of RDCP 2013, the proposal involves excessive earthworks.
6. Pursuant to Part B5 of RDCP 2013, the proposal results in tree protection impacts.
7. Pursuant to Part B6 of RDCP 2013, the proposal results in waste management impacts.
8. Pursuant to Part B7 of RDCP 2013, the proposal fails to provide sufficient on-site car parking and results in unacceptably steep vehicle grades.
9. Pursuant to Part C1, Section 2.2 of RDCP 2013, the proposal fails to comply with the minimum 12m lot frontage width requirement.

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10. Pursuant to Part C1, Section 2.5 of RDCP 2013, the proposal fails to comply with the minimum deep soil permeable surfaces requirement.
11. Pursuant to Part C1, Section 3.2 of RDCP 2013, the proposal fails to comply with the maximum two (2) storey height requirement.
12. Pursuant to Part C1, Section 3.3 of RDCP 2013, the proposal fails to comply with the minimum setback requirements.
13. Pursuant to Part C1, Section 4.1 of RDCP 2013, the proposal does not follow the natural topography of the site and is unsympathetic to the prevailing streetscape character.
14. Pursuant to Part C1, Section 4.2 of RDCP 2013, the design of the proposed semi-detached dwellings are inconsistent with the character of the streetscape and does not retain an appropriate scale.
15. Pursuant to Part C1, Section 5.3 of RDCP 2013, the proposal results in adverse visual privacy impacts to neighbouring properties.
16. Pursuant to section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the suitability of the site for the proposed development as not been adequately demonstrated.
17. Pursuant to section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.

Attachment/s:

Nil



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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standards for building height and floor space ratio by more than 10%.

The proposal seeks development consent for boundary adjustment, construction of a 3-storey dwelling house and 2 x 3-storey semi-detached dwellings, Torrens title subdivision of semi-detached dwellings, installation of swimming pools, and associated ancillary, earthworks and landscaping works.

The key issues associated with the proposal relate to non-compliance with the development standards for building height and floor space ratio (FSR), adverse visual privacy impacts to neighbouring properties, and flooding impacts.

It is noted that the application is currently subject to a Class 1 appeal against the deemed refusal of the application with the Land and Environment Court (refer No. 2024/00145426).

The proposed development results in substantial variations to the development standards in relation to building height and FSR and results in several non-compliances with the applicable planning controls within Section C1 of Randwick Development Control Plan (RDCP) 2013. The proposed development is considered to result in adverse impacts to neighbouring properties and is inconsistent with the scale of surrounding development and the prevailing streetscape character.

The suitability of the site for the proposed development has not been adequately demonstrated and the proposed development is not in the public interest. In this regard, the proposal is recommended for refusal.

2. Site Description and Locality

The subject site is known as 45-51W Burnie Street, Clovelly and is legally described as Lot 4 in DP 6512 and Lot 2 in DP 606041. The site has total area of 1,052m², is trapezoidal in shape, and has a 26.2m frontage to Burnie Street to the south. The topography of the site slopes downwards from the front to the rear by approximately 3.3m.

As shown in Figures 1 and 2, the site is currently vacant.



Figure 1: Aerial view of subject site (Source: NearMap)



Figure 2: Subject site, viewed to north from Burnie Street (Source: Council Officer)

Surrounding development comprises a mix of dwellings, semi-detached dwellings, residential flat buildings, and shop top housing.

To the east of the site, at Nos. 53 and 55 Burnie Street, is two (2) x single storey semi-detached dwellings (refer Figure 3). To the west of the site, at No. 41-43 Burnie Street, is a two (2) storey shop top housing building (refer Figure 4).



Figure 3: Semi-detached dwellings to east of subject site (Source: Google Maps)



Figure 4: Shop top housing to west of subject site (Source: Google Maps)

Development to the north of the site, at Nos.1, 3, and 5 Allan Avenue, comprises one (1) to two (2) storey semi-detached dwellings (refer Figure 5). Development to the south of the site, on the opposite side of Burnie Street/Clovelly Road, comprises two (2) storey residential properties (refer Figure 6).



Figure 5: Semi-detached dwellings to north of subject site (Source: Google Maps)



Figure 6: Dwellings to south of subject site (Source: Google Maps)

3. Relevant history

- DA/487/2016 sought consent for construction of a 4 level building including childcare centre for 80 children and 16 staff, 2 bedroom dwelling on top level, semi-basement level with car parking for 16 cars, bike store, storage, plant and communication rooms, on-street pick-up and drop-off parking zones, landscaping, fencing and associated works. The application was withdrawn on 28 March 2017.
- DA/537/2017 sought consent for construction of a 3 storey building including childcare centre for 80 children and 16 staff, 2 bedroom dwelling on top level, semi-basement level with car parking for 17 cars, bike store, storage, plant room, on-street pick-up and drop-off parking zones, landscaping, fencing and associated site works. The application was refused by the Land and Environment Court on 6 February 2020.

Request for Information

On 10 April 2024, Council requested additional information relating to building height, floor space ratio, DCP non-compliances, visual privacy impacts, parking issues, driveway issues, flooding

issues, and waste management issues. A further information request relating to tree management was issued to the Applicant on 15 April 2024.

Council officers communicated with the Applicant on several occasions to clarify the Applicant's queries. No formal response or amended plans/documentation were provided by the Applicant.

On 18 April 2024, the Applicant filed a Class 1 appeal against the deemed refusal of the application with the Land and Environment Court (refer No. 2024/00145426).

4. Proposal

The proposal seeks development consent for the following works (refer Figures 7-9):

- Construction of a three (3) storey dwelling house comprising:
 - Ground floor – single car garage, lounge room, bathroom, laundry, kitchen, open-plan dining/living room, side courtyard, and rear alfresco with swimming pool.
 - First floor – three (3) bedrooms (each with ensuite), and front balcony.
 - Second floor – master bedroom with ensuite and walk-in robe, retreat room, and rear balcony.
- Construction of 2 x three (3) storey semi-detached dwellings, each comprising:
 - Ground floor – single car garage, lounge room, bathroom, laundry, kitchen, open-plan dining/living room, side courtyard, and rear alfresco with swimming pool.
 - First floor – three (3) bedrooms (each with ensuite), and front balcony.
 - Second floor – master bedroom with ensuite and walk-in robe, retreat room, and rear balcony.
- Adjustment of existing boundary between Lots 2 and 4.
- Subdivision of adjusted Lot 4 into two (2) Torrens title allotments.
- Associated earthworks and landscaping works.

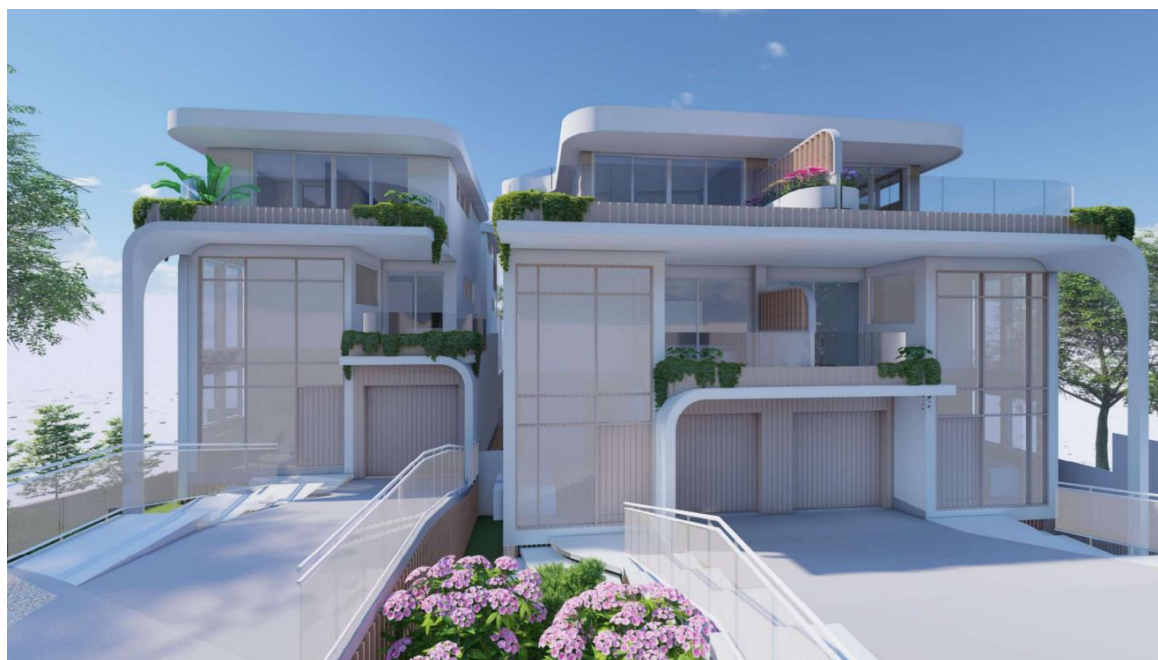


Figure 7: Proposed photomontage (Source: Applicant)

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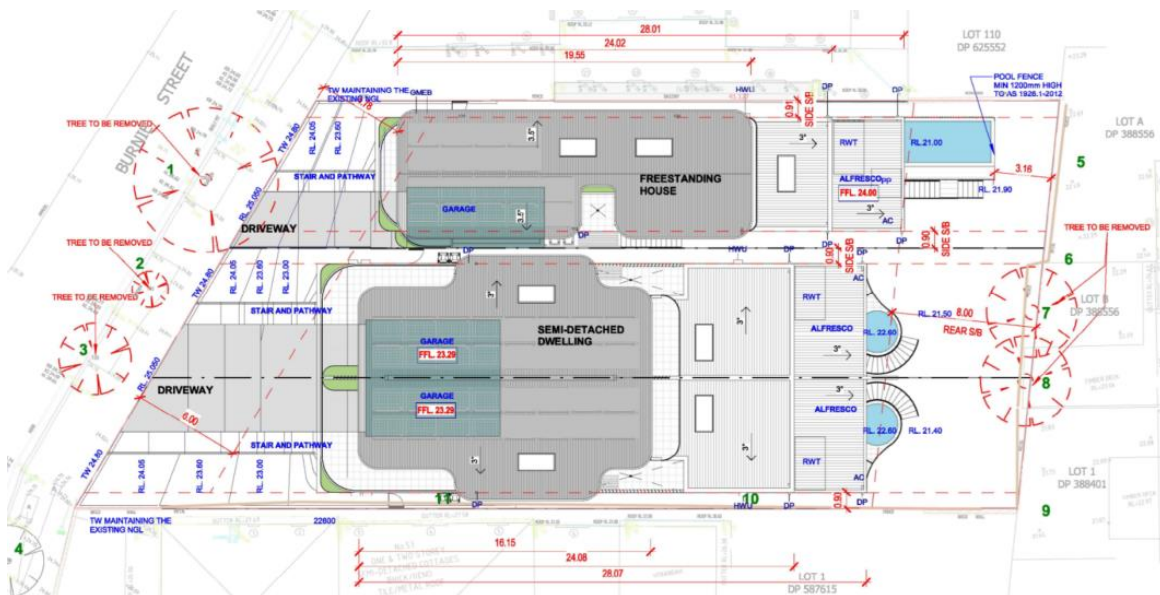


Figure 8: Proposed site plan (Source: Applicant)

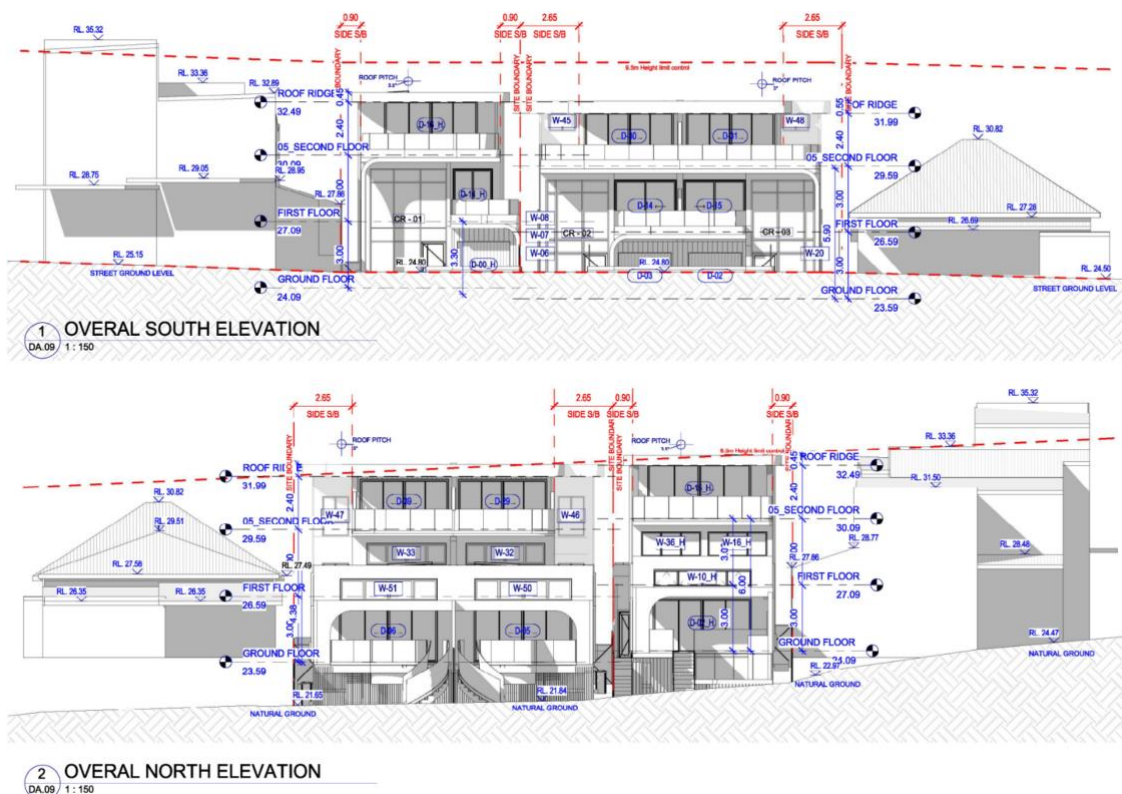


Figure 9: Proposed south and north elevations (Source: Applicant)

5. Notification

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

- 29 Burnie Street
- 53 Burnie Street
- 57 Clifton Road
- 3 Allan Avenue
- 5 Allan Avenue

Issue	Comment
Inconsistent survey information	Agreed – recommendation for refusal
Works encroach on neighboring properties	Agreed – recommendation for refusal
Non-compliant building height	Agreed – recommendation for refusal
Non-compliant floor space ratio	Agreed – recommendation for refusal
Privacy impacts	Agreed – recommendation for refusal
Non-compliant setbacks	Agreed – recommendation for refusal
Non-compliant deep soil area	Agreed – recommendation for refusal
Flooding concerns	Agreed – recommendation for refusal
Land subsidence and asbestos concerns	Agreed – recommendation for refusal
Tree removal concerns	Agreed – recommendation for refusal
Lack of geotechnical reporting	Agreed – recommendation for refusal
Non-compliant lot frontage width	Agreed – recommendation for refusal
Design is incompatible with streetscape	Agreed – recommendation for refusal
Excessive bulk and scale	Agreed – recommendation for refusal

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Sustainable Buildings) 2022.

6.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW.

Refer to discussion by Council's Landscape Officer at Appendix 1 of this report.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

A site remediation validation report (prepared by WSP dated April 2015) was submitted with the DA. This validation report was undertaken following remediation of contaminated land at the site. The validation report outlined that a Detailed Site Investigation (DSI) of the site was undertaken by WSP, and a Remedial Action Plan (RAP) was prepared by WSP Environmental PTY/LTD.

The DSI and RAP were not submitted with the DA and were requested by Council as part of the Request for Information dated 10 April 2024. No formal response was provided by the Applicant.

In this regard, insufficient information has been submitted to enable a comprehensive assessment against Chapter 4 of the Resilience and Hazards SEPP.

6.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 Low Density Residential under Randwick Local Environmental Plan 2012 and the proposal, being for a dwelling and two (2) semi-detached dwellings, is permissible with consent.

The proposal is inconsistent with the specific objectives of the zone in that the proposed activity and built form will result in a development that is inconsistent with the desired future character of the locality and streetscape and would result in adverse amenity impacts to neighbouring properties.

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

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Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.1: Lot Size (min)	275m ²	350.5m ² (dwelling) 363.8m ² (east semi) 338.4m ² (west semi)	Yes
CI 4.3: Building height (max)	9.5m	11.9m (dwelling) 11.6m (semis)	No
CI 4.4: Floor space ratio (max)	0.6:1	0.749:1 (dwelling) 0.648:1 (east semi) 0.697:1 (west semi)	No

Clause 4.3 – Building Height

A maximum building height of 9.5m applies to the subject site pursuant to clause 4.3 of RLEP 2012. The submitted SEE states that the proposed development exceeds this development standard by 0.6m.

However, based on Council’s calculations (refer to below table and Figure 10), the proposal results in a height exceedance of up to 2.4m (25% variation).

Refer to discussion and clause 4.6 assessment at Section 7 of this report below.

	Roof ridge	Existing ground	Building height	Variation
Dwelling	RL 32.90	RL 21.00	11.9m	2.4m (25.2%)
Semi-detached Dwellings	RL 32.54	RL 20.94	11.6m	2.1m (22.1%)

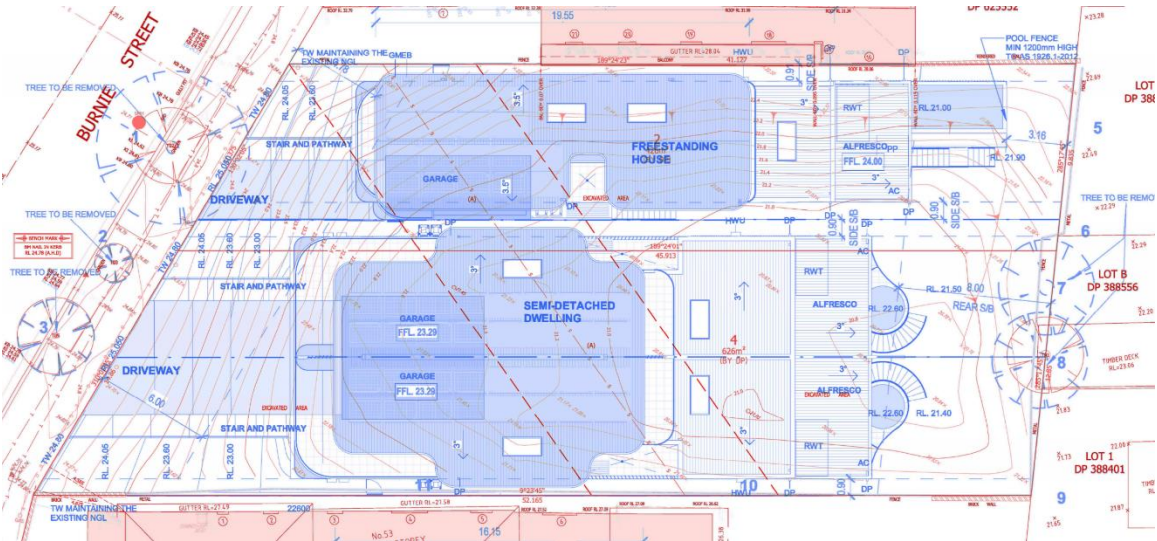


Figure 10: Overlay of proposed roof plan (blue) and survey plan (red)

Clause 4.4A – Floor Space Ratio

Pursuant to clause 4.4A(2) of RLEP 2012, a maximum FSR of 0.6:1 applies to the proposed dwelling and semi-detached dwellings.

Clause 4.4A(3) is not applicable in this instance as the proposal seeks consent for a boundary adjustment and Torrens title subdivision, and as such, results in the creation of new allotments.

The submitted SEE states that the proposal results in an FSR of 0.7:1 (246.9m²) for the dwelling and an FSR of 0.63:1 (447.9m² GFA) for the semi-detached dwellings.

However, the submitted GFA plans and calculations are not accurate and have incorrectly excluded the area of internal stairs and internal lifts.

Based on Council's calculations, the GFA and FSR of the development are as follows:

- Dwelling – approx. 262.75m² (0.749:1)
- Eastern semi – approx. 235.93m² (0.648:1)
- Western semi – approx. 235.90m² (0.697:1)

Refer to discussion and clause 4.6 assessment at Section 7 of this report below.

Clause 4.6 – Exceptions to development standards

The non-compliances with the development standards are discussed at Section 7 of this report.

Clause 5.6 – Architectural roof features

The submitted SEE contends that the proposed roof fascia and solar panels are architectural roof features and so should be excluded from the calculation of building height.

Council is not satisfied that the roof fascia and solar panels are architectural roof features pursuant to clause 5.6 of RLEP 2012 as these elements do not provide any decorative element.

Clause 5.21 – Flood planning

Refer to discussion by Council's Development Engineer at Appendix 1.

Clause 6.2 – Earthworks

The objective of clause 6.2 of RLEP 2012 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items, or features of the surrounding land.

Clause 6.2 is supported by Part C1, Section 4.7 of RDCP 2013 which requires that *“any excavation and backfilling within the building footprint must be limited to a maximum 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification.”*

The proposal involves significant cut and fill works. Earthworks are proposed within 900mm of the side and rear boundaries. The proposed built form does not respond to the topography of the site and results in exposed under-croft areas.

The proposal results in excessive and unnecessary earthworks and is inconsistent with the streetscape and character of surrounding development. On this basis, the proposal is inconsistent with clause 6.2 of RLEP 2012.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3: Building height (max)	9.5m	11.9m (dwelling) 11.6m (semis)	2.4m 2.1m	25.2% 22.1%

CI 4.4: Floor space ratio (max)	0.6:1	0.749:1 (dwelling) 0.648:1 (east semi) 0.697:1 (west semi)	52.4m ² 17.65m ² 32.86m ²	24.9% 8.08% 16.18%
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The NSW Department of Planning and Environment (DPE) made amendments to clause 4.6 of the Standard Instrument which commenced on 1 November 2023. The changes aim to simplify clause 4.6 and provide certainty about when and how development standards can be varied.

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

3. *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard*

Pursuant to section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*, a development application for development that proposes to contravene a development standard must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3).

As part of the clause 4.6 reform the requirement to obtain the Planning Secretary's concurrence for a variation to a development standard was removed from the provisions of clause 4.6, and therefore the concurrence of the Planning Secretary is no longer required. Furthermore, clause 4.6 of the Standard Instrument no longer requires the consent authority to be satisfied that the proposed development shall be in the public interest and consistent with the zone objectives as consideration of these matters are required under sections 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979*, and clause 2.3 of RLEP 2012 accordingly.

Clause 4.6(3) establishes the preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

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

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

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

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

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

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

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

Additionally, in *WZSydney Pty Ltd v Ku-ring-gai Municipal Council* [2023] NSWLEC 1065, Commissioner Dickson at [78] notes that the avoidance of impacts may constitute sufficient environmental planning grounds "as it promotes "good design and amenity of the built environment", one of the objectives of the EPA Act." However, the lack of impact must be specific to the non-compliance to justify the breach (*WZSydney Pty Ltd* at [78]).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of a development standard. The assessment and consideration of the applicant's request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

7.1. Exception to the Height of Buildings development standard (CI 4.3)

The applicant's written justification for the departure from the Height of Buildings development standard is contained in Appendix 2.

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

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

The objectives of the Height of Buildings standard are set out in Clause 4.3(1) of RLEP 2012:

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

Assessing officer's comment: As discussed below, the reasons stated in the applicant's written request are not concurred with. It is considered that the proposal does not uphold objectives (a), (b), or (c) of the development standard, and as such, the applicant has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The proposal is not considered to respond appropriately to the constraints of the site. The proposal results in visual privacy impacts to neighbouring properties, as well as flooding impacts. The height of the proposed built form is not an appropriate response to the site and cannot be attributed to previous 'site disturbance' and flood planning levels only.

In conclusion, the applicant's written request has not adequately demonstrated that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- *The proposed development is consistent with the objectives of the R2 zone and the building height standard.*
- *Assessing height limits based on existing ground floor levels is not reasonable due to site excavation, resulting in current levels below the natural topography. The proposed DA involves earthworks to restore the ground surface to proposed levels close to the pre-remediation natural surface levels.*
- *The site is prone to 1 in 100-year flood events, necessitating the finish floor levels (FFLs) of the proposed buildings to be above specified levels, as outlined in the Appendix 4 - Flood Assessment Report. Reinstating the natural topography of the site is crucial.*
- *The development has been thoughtfully designed to align with the natural topography of the locality. The massing of the development is considerate of the site's slope towards the back, ensuring a harmonious integration with the scale and character of neighbouring buildings and the overall streetscape. The non-compliant built form above the height plane is a consequence of the previous disturbance of the site. If strict compliance with the height standard was enforced, it would lead to an inferior planning outcome as it wouldn't account for the unique characteristics and history of the site.*
- *Given the sloping nature of the land, a significant number of properties along Burnie street and Clovelly Road already have a three-storey street frontage to mitigate amenity impacts. This alignment with the proposal enhances visual consistency and cohesiveness within the area. It ensures that development height does not cause unreasonable impacts on neighbouring dwellings in terms of overshadowing, view loss, privacy, and visual amenity.*
- *The proposed height variation does not increase the intensity of the uses on the site, and the development complies with the maximum floor space ratio (FSR).*
- *The proposal successfully fulfills the following objectives of the EP&A Act and RLEP:*
 - *1.3(c) of the Act: To promote the orderly and economic use and development of land,*
 - *1.3(g) of the Act: To promote good design and amenity of the built environment,*
 - *1.2(f) of the RLEP (f): To facilitate sustainable population and housing growth.*

Assessing officer's comment: For reasons discussed herein, Council does not concur with the reasons stated in the applicant's written request. The proposal results in visual privacy impacts to neighbouring properties, as well as flooding impacts. Council is not satisfied that the height variation does not increase the intensity of the uses on the site, nor that the development complies with the FSR standard.

Additionally, Council is not satisfied that the proposed roof fascia and solar panels are architectural roof features pursuant to clause 5.6 of RLEP 2012 and so should not be excluded from the calculation of building height.

The desired future character of the locality and the intensity of development anticipated for the site is established by the current planning controls. Previous 'site disturbance' and flood planning levels are not considered sufficient environmental planning ground to justify the contravention of the building height development standard, particularly when coupled with several other non-compliances (including FSR, setbacks, lot frontage width, deep soil area, and car parking) and associated impacts to neighbouring properties.

The argument that *"the height of the proposed development, despite the variations, aligns with the adjoining development"* is incorrect noting that adjoining development comprises:

- Nos. 53 and 55 Burnie St (east) – one (1) storey semi-detached dwellings
- No. 41-43 Burnie St (west) – two (2) storey shop-top housing
- Nos. 1, 3, and 5 Allan Ave (north) – one (1) to two (2) storey dwellings
- No. 294-296 Clovelly Rd (south) – two (2) storey dwelling

In *Clovelly Montessori Academy Pty Ltd v Randwick City Council [2020] NSWLEC 1051*, relating to the refusal of a three (3) storey development at the subject site, the Commissioner found that “*the majority of the new buildings in the locality reflect likely future development in the R2 zone being single or 2 storey dwellings*” [para. 195].

The proposed three (3) to four (4) storey built form is inconsistent with the scale of surrounding development and the prevailing streetscape character. The proposal fails to comply with Part C1, Section 3.2 of RDCP 2013 which prescribes a maximum two (2) storey building height.

On this basis, the applicant has not adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the Height of Buildings development standard.

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

The applicant's written justification for the departure from the Floor Space Ratio (FSR) development standard is contained in Appendix 3.

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

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

The objectives of the FSR standard are set out in Clause 4.4 (1) of RLEP 2012:

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

Assessing officer's comment: As discussed below, the reasons stated in the applicant's written request are not concurred with. It is considered that the proposal does not uphold objectives (a), (b), (c), or (d) of the development standard, and as such, the applicant has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The proposal is not considered to respond appropriately to the constraints of the site. The proposal results in visual privacy impacts to neighbouring properties, as well as flooding impacts. The bulk and scale of the proposed built form is not an appropriate response to the site and cannot be attributed to previous 'site disturbance' and flood planning levels only.

In conclusion, the applicant's written request has not adequately demonstrated that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- *The proposed development is consistent with the objectives of the R2 zone and the floor space ratio development standard.*
- *The proposed development complies with the site coverage, landscaped area, and setback provisions.*
- *The proposal GFA for the whole site complies with the FSR standards.*
- *Due to the sloping nature of the site, the construction of three 3-storey buildings is essential to mitigate the overshadowing impacts. Houses with three storeys typically entail more inefficient use of space for circulation compared to their two-storey counterparts.*
- *The proposed variation is minor but contributes significantly to improved space and amenities for future residents.*
- *There will be a negligible impact on the solar amenity received by the neighbouring properties due to the orientation and height of the buildings.*
- *The proposal successfully fulfils the following objectives of the EP&A Act and RBLEP:*
 - *1.3(c) of the Act: To promote the orderly and economic use and development of land,*
 - *1.3(g) of the Act: To promote good design and amenity of the built environment,*
 - *1.2(f) of the RLEP (f): To facilitate sustainable population and housing growth.*

Assessing officer's comment: For reasons discussed herein, Council does not concur with the reasons stated in the applicant's written request. The proposal results in visual privacy impacts to neighbouring properties, as well as flooding impacts.

The desired future character of the locality and the intensity of development anticipated for the site is established by the current planning controls. The proposal is of excessive bulk and scale, results in adverse amenity impacts to neighbouring properties, and is incompatible with the surrounding streetscape character.

Improved 'space and amenities' for future occupants are not considered sufficient environmental planning ground to justify contravention of the FSR development standard, particularly when coupled with several other non-compliances (including height, setbacks, lot frontage width, deep soil area, and car parking) and associated impacts to neighbouring properties. On this basis, the applicant has not adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument	Refer to discussion at Sections 6 & 7 of this report.
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 does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. Refer Appendix 4.
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 inconsistent with the dominant character in the locality and shall be detrimental to the desired character of the local area.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site does not have sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions are agreed with and have been noted in this report.
Section 4.15(1)(e) – The public interest	<p>The proposal is inconsistent with the objectives of the R2 zone and will result in significant adverse environmental impacts on the locality. The application received numerous submissions in objection to the proposed development.</p> <p>Accordingly, the proposal is not considered to be in the public interest.</p>

9.1. Discussion of key issues

Flood Impacts

Pursuant to clause 5.21 of RLEP 2012 and Part B8 of RDCP 2013, the proposal results in adverse flood impacts.

Refer to detailed discussion by Council's Development Engineer at Appendix 1 of this report.

Earthworks

Pursuant to clause 6.2 of RLEP 2012 and Part C1, Section 4.7 of RDCP 2013, the proposal involves excessive earthworks. Refer to detailed discussion at Section 6 of this report.

Tree Protection

Pursuant to Part B5 of RDCP 2013, the proposal results in tree protection impacts. Refer to detailed discussion by Council's Landscape Officer at Appendix 1 of this report.

Waste Management

Pursuant to Part B6 of RDCP 2013, the proposal results in waste management impacts. Refer to detailed discussion by Council's Landscape Officer at Appendix 1 of this report.

Car Parking

Pursuant to Part B7 of RDCP 2013, the proposal fails to provide sufficient on-site car parking and results in unacceptably steep vehicle grades.

The proposal fails to comply with the requirement for two (2) spaces per dwelling/semi-detached dwelling with three (3) or more bedrooms. A total of three (3) car parking spaces are provided at the site, which falls short of the requirement for six (6) car parking spaces.

Refer to detailed discussion by Council's Development Engineer at Appendix 1 of this report.

DCP Compliance

The proposal is inconsistent with several of the RDCP 2013 controls, as outlined below:

- Part C1, Section 2.2 Lot Frontage: The proposed dwelling fails to comply with the minimum 12m frontage width control, resulting in the creation of an allotment with inadequate size to accommodate a dwelling. The 2.55m non-compliance contributes to further non-compliances, which are not supported due to the associated amenity impacts.
- Part C1, Section 2.5 Deep Soil Permeable Surfaces: The proposal has an approximate deep soil area of 363m² (34.5%) and fails to comply with the minimum 60% deep soil area control which applies to development on land with a site area of 601m² or greater. Pursuant to the DCP definition, site area is not measured against any proposed allotments, it is the area of any land on which development is to be carried out.
- Part C1, Section 3.2 Building Height: The proposed three (3) storey development fails to comply with the maximum two (2) storey height control.
- Part C1, Section 3.3 Setbacks: The proposal fails to comply with the relevant side, and rear setback controls.

Whilst the submitted SEE states that the proposal complies with the rear setback control, the submitted plans indicate that the north-eastern corner of the proposed dwelling is setback 7.8m from the rear and so encroaches within the 8m rear setback area.

The non-compliant side setbacks (nil to 0.9m setbacks at all floor levels) do not provide adequate building separation for visual privacy and contribute to the excessive bulk and scale of the built form.

- **Part C1, Section 7.2 Front Fencing:** The proposal fails to comply with the maximum 1.2m fence height for front fencing. The fence height may be increased to 1.8m, provided the upper two-thirds are 30% open. However, insufficient details have been provided to demonstrate that the fencing is suitably open.

Building Design and Streetscape

Part C1, Section 4.1 of RDCP 2013 seeks to ensure the form, scale, massing and proportions of dwellings recognise and adapt to the characteristics of a site in terms of topography, configuration, orientation and surrounding natural and built context.

The proposed built form does not follow the natural topography of the site, is unsympathetic to the prevailing streetscape character, and does not retain a human scale. The development is of excessive bulk and scale and presents to Burnie Street as one large mass, rather than three (3) separate dwellings. A more skillful design (i.e. split-level design) would reduce the visual dominance of the built form.

Additionally, the external building façades lack appropriate articulation. The selected materials are solid and comprise excessive rendered and glazed elements, which are uncharacteristic of the streetscape. The extensive gazing, oversized front balconies, and large arched structures dominate the streetscape. The raised driveway structures dominate the streetscape appearance of the built form and inhibit suitable deep soil planting, which is not supported.

Visual Privacy Impacts

Pursuant to Part C1, Section 5.3 of RDCP 2013, development must be designed to minimise overlooking of neighbouring dwellings to maintain reasonable levels of privacy. The proposed development fails to comply with Part C1, Section 5.3 and should therefore be refused.

Concern is raised regarding overlooking from the proposed rear balconies, living areas, and elevated pool/deck areas to the windows and private open space (POS) areas at Nos. 1, 3, and 5 Allan Street.

Additionally, concern is raised regarding overlooking from the rear balcony of the eastern semi-detached dwelling to the rear POS area at No. 53 Burnie Street and overlooking from the rear balcony of the western semi-detached dwelling to the rear POS area of the proposed dwelling.

At the front of the site, concern is raised regarding overlooking from the front balcony at Level 2 of proposed dwelling to the east-facing windows of the shop-top housing development at No. 43 Burnie Street. Concern is also raised regarding overlooking between the Level 2 balconies of the proposed dwelling and the proposed western semi-detached dwelling.

The proposed side courtyards are not supported as they are elevated and result in overlooking of neighbouring properties. The inclusion of privacy screening to the courtyards is not supported as this creates additional visual bulk and gross floor area.

10. Conclusion

The proposed development results in non-compliances with several of Council's built form planning controls and is inconsistent with the provisions of RLEP 2012 and RDCP 2013, resulting in a development that significantly exceeds that which is anticipated for the site.

The proposed development is considered to result in adverse impacts to neighbouring properties and is inconsistent with the scale of surrounding development and the prevailing streetscape character. The key issues associated with the proposal relate to non-compliance with the development standards for building height and floor space ratio (FSR), adverse visual privacy impacts to neighbouring properties, and flooding impacts.

The proposed development cannot be supported, and it is recommended that the application for boundary adjustment, construction of a 3-storey dwelling house and 2 x 3-storey semi-detached dwellings, Torrens title subdivision of semi-detached dwellings, installation of swimming pools, and

associated ancillary, earthworks and landscaping works at No. 45-51W Burnie Street, Clovelly be refused for the following reasons:

1. The proposed development is of an excessive height and is incompatible with surrounding development and the streetscape, resulting in non-compliance with the height of buildings development standard pursuant to clause 4.3 of RLEP 2012 and the floor space ratio (FSR) development standard pursuant to clause 4.4 of RLEP 2012.
2. The submitted written requests to vary the height of buildings and FSR development standards pursuant to clause 4.6 of RLEP 2012 are not considered to be well founded in that they do not sufficiently demonstrate that the proposed non-compliance is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify a variation to the development standards.
3. The proposal is inconsistent with the objectives of the R2 Low Density Residential Zone in that it is not compatible with the desired future character of the locality and significantly exceeds the level of built form anticipated for the subject site. The proposed development fails to recognise or reflect the desirable elements of the existing streetscape and built form.
4. Pursuant to clause 5.21 of RLEP 2012 and Part B8 of RDCP 2013, the proposal results in adverse flood impacts.
5. Pursuant to clause 6.2 of RLEP 2012 and Part C1, Section 4.7 of RDCP 2013, the proposal involves excessive earthworks.
6. Pursuant to Part B5 of RDCP 2013, the proposal results in tree protection impacts.
7. Pursuant to Part B6 of RDCP 2013, the proposal results in waste management impacts.
8. Pursuant to Part B7 of RDCP 2013, the proposal fails to provide sufficient on-site car parking and results in unacceptably steep vehicle grades.
9. Pursuant to Part C1, Section 2.2 of RDCP 2013, the proposal fails to comply with the minimum 12m lot frontage width requirement.
10. Pursuant to Part C1, Section 2.5 of RDCP 2013, the proposal fails to comply with the minimum deep soil permeable surfaces requirement.
11. Pursuant to Part C1, Section 3.2 of RDCP 2013, the proposal fails to comply with the maximum two (2) storey height requirement.
12. Pursuant to Part C1, Section 3.3 of RDCP 2013, the proposal fails to comply with the minimum setback requirements.
13. Pursuant to Part C1, Section 4.1 of RDCP 2013, the proposal does not follow the natural topography of the site and is unsympathetic to the prevailing streetscape character.
14. Pursuant to Part C1, Section 4.2 of RDCP 2013, the design of the proposed semi-detached dwellings are inconsistent with the character of the streetscape and does not retain a human scale.
15. Pursuant to Part C1, Section 5.3 of RDCP 2013, the proposal results in adverse visual privacy impacts to neighbouring properties.
16. Pursuant to section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the suitability of the site for the proposed development has not been adequately demonstrated.
17. Pursuant to section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.

Appendix 1: Referrals

1. Development Engineer

General Comments

The application is not supported and is recommended for refusal in its present form due to significant issues with flooding, parking, driveway access & waste management. Further detail is provided below.

Parking Issues

Under Part B7 of Council's DCP 2013 parking is required to be provided for the dwellings at the following rates

- *For dwelling with 1 or 2 bedrooms – 1 space*
- *For dwellings with 3 bedrooms or greater – 2 spaces*

The proposed free-standing dwelling comprises of a 3-bedroom residence thereby requiring the minimum provision of 2 spaces. The submitted plans indicate a single car garage with an internal length of driveway in front. The driveway is too steep to accommodate a second carspace with grades up to 1 in 4 proposed which significantly exceeds the maximum 5% grade for a carspace under AS 2890.1 resulting in a parking shortfall of 1 space for the free-standing dwelling. The shortfall has not been addressed in the SEE which incorrectly indicates compliance and is not supported.

The proposed 2 x 3-bedroom semi-detached dwellings are similarly non-compliant with only single garages & internal driveway grades of up to 1 in 4 (25%) proposed for each of the dwellings.

Overall, the development is required to provide 6 spaces (2 for each dwelling) but is only able to provide 3 compliant carspaces resulting in a parking shortfall of 3 spaces (50%). This is not supported and is likely to lead to additional impacts on the surrounding availability of on-street parking.

Driveway Issues

For the western driveway serving the free-standing residence the proposed alignment level is depicted on the plans and section (sheet DA.111) as RL 25.05 AHD which is 260mm above the existing footpath level indicated on the site survey of approx. RL 24.78. the raising of the driveway appears to be intended to protect the garages from flooding however they will result in unacceptably steep vehicle grades across the Council verge between the Council footpath and any new layback in excess of 20% and is not supported.

Similarly for the eastern driveways serving the semi-detached dwellings, the proposed alignment level is depicted on the plans and section (sheet DA.21) as RL 25.05 AHD which is 260mm above the existing footpath level indicated on the site survey of RL 24.78 AHD. This will result in unacceptably steep vehicle grades across the Council verge between the footpath and the layback in excess of 20% and is not supported.

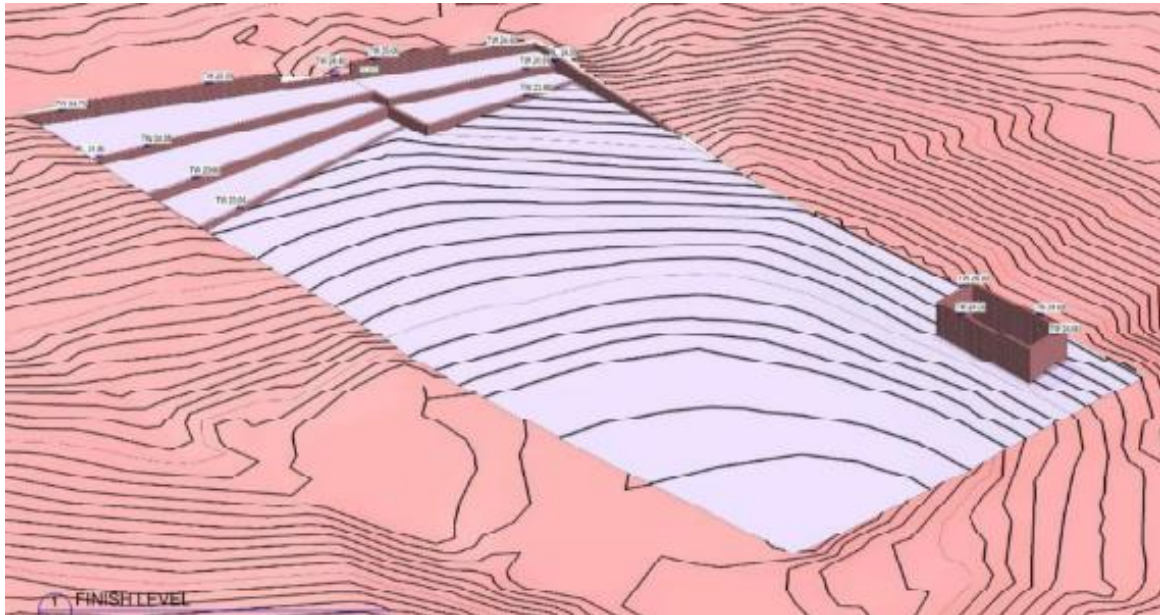
Council's DCP generally requires a driveway crest to be provided internal to the site equating to the level of the 1% AEP + 0.3m freeboard. The crest cannot be provided at the front property alignment as it will unnecessarily raise Council's footpath.

Flooding Issues

The submitted flood study by HAC Pty Ltd is not supported as it has not addressed some of the key flooding implications of the proposed development including the post development flows into the site from Burnie Street. Development Engineering is of the view that the front property boundary has not been appropriately modelled and in reality a significant amount of floodwater will likely be diverted away from the site frontage on Burnie Street resulting in unacceptable flooding impacts on properties downstream to the east on Burnie Street.

The flood study is inconsistent with the architectural plans in that it depicts a lower boundary level in its model than the architectural plans in areas not occupied by the proposed driveways. The architectural plans indicate the existing footpath level of RL 24.80 is to be generally maintained

across the frontage (with the exception of the driveways at RL 25.05) whereas the flood study indicates finished boundary levels of RL 24.70, RL 24.40 and RL 24.60 as you proceed east to west across the site frontage (see below).



It is presumed the footpath levels have been lowered to compensate for the raised driveway level to maintain overland flow, but this will not be practical as the Council footpath which is immediately adjacent to the front boundary will need to immediately transition from a proposed level of RL 25.05 to RL 24.4, which is impossible.

It is therefore considered the flood study has not accurately taken into account the front boundary levels and existing footpath levels on Council's verge and so does not accurately reflect the post development flood conditions on the site.

Furthermore, the significant raising of the alignment level (front property boundary) at the location of the driveways and the lowering at other locations is not supported as it will divert and raise floodwaters in front of the site on Burnie Street and have implication for vehicle access and pedestrian movements across the site frontage.

The flood model will need to be amended on the premise that there will no changes to the level of the Council footpath across the full site frontage.

Proposed pool for single dwelling

Following on from a resident's objection it is noted the proposed pool in the rear yard of the free-standing dwelling is immediately adjacent to an overland flow path that is entering the site at the rear from the west and north. The applicant's flood model appears to indicate the pool has been incorporated into the flood modelling and does not appear to significantly intrude into the rear flow path. This appears to be satisfactory.

Waste Management Issues

The submitted plans have not indicated an area dedicated to the storage of waste bins. Each dwelling will be required to accommodate storage for 3 x 240L bins comprising of 1 general waste (red lid) , 1 recycling (yellow lid) and 1 FOGO (green lid)

A storage area is indicated within the proposed garages however it is unclear if it is for waste storage and if it will accommodate the required number of bins.

Furthermore, storage of bins within the garage will require the occupant to wheel full bins up a driveway grade of 1 in 4 (25%) so as to transport the bins kerbside for collection. This is not supported for new development and a alternative waste storage area that allows relatively flat transport of bins to the kerb for collection will need to be provided.

No waste management plan has been submitted with the application.

The applicant is to submit amended plans and/or additional information that addresses the above issue prior to Development Engineering proceeding with the assessment of this application.

2. Landscape Officer

Tree Management Issues

Consistent with advice provided for the previous application, Council will concede to removal of the mature, most western Coastal Banksia (Tree 1 in the Arborists Report) from the Burnie Street public footpath due to the acute lean of its trunk to the southeast and concerns over its condition and future status, as well as its direct conflict with the new vehicle crossing for the free-standing dwelling (no. 1) in this same location as shown.

Importantly, this arrangement would facilitate the planting of a replacement street tree towards the western site boundary upon completion to ensure there is no 'net-loss' from the streetscape.

Similarly, no objections are raised to removing the smaller Coastal Banksia (T2) immediately to its east due also to its bias to the east as a result of being suppressed under the more dominant T1 described above. This would then assist with re-positioning the crossing for proposed Dwelling no.2 into this area, as described further below.

However, removal of the other established street tree, Coastal Banksia (T3), even further to the east to allow for the two, co-joined crossings associated with the new semi-detached dwellings (no's 2-3) is not supported as the retention of such mature native coastal species is a priority in Council's DCP for the purposes of biodiversity and environmental amenity.

The Arborist Report has not identified any significant defects/faults with T3 that would justify its removal as part of this application; there is seen to be adequate space to undertake a re-design, and was also noted to be part of a formal strategy of this species in the street, so its retention will assist with integration of this development into the streetscape.

As such, the applicant is advised to undertake a re-design so that the current co-joined arrangement is split in two, so that separate/individual crossings are now provided for each of the two semi-detached dwellings (no's 2-3), comprising one each along each of the side property boundaries (to the east and west of the tree), with distances in millimetres to its trunk, as well as existing & future levels to be included to enable an accurate assessment of potential impacts.

An approach of removal and replacement is not favoured in all cases given the time frame involved before any new trees can attain a similar size and presence, especially when reasonable alternatives exist that would allow their preservation, as ultimately, without adequate justification (part of which includes a suitable replacement strategy on the Landscape Plan), Council rarely considers the removal of all vegetation from a property to allow for a new development as an acceptable outcome.

This requirement and its relationship to the other issues identified elsewhere in this Memorandum has been discussed with Council's Development Engineer, who confirmed that he raises no objections to such an alternative arrangement for the crossings/internal hardstands/garages.

Despite Tree 7 (Umbrella Tree) being positioned on the northern side of the existing rear dividing fence (giving the impression it is on another site) the survey shows it is in fact located wholly within this development site. As it is an undesirable, invasive weed species that is exempt from our DCP, we will formally require its removal, even if not directly affected by the works in any way, so as to eliminate this weed source from the local environment, and can then be replaced by more suitable coastal natives in its place in this same area.

Tree 8 (Willow Myrtle) is located just to its east and also 50/50 on the rear/common boundary between this site and the adjoining private property at 3 Allan Ave, meaning it is equally co-owned by both properties. It is regarded as a low value, short lived non-endemic native species, with the Arborist recommending its removal seemingly due to ground level changes proposed across the

rear boundary. Whilst Council would not object to its removal, in order for this to form part of any future consent, the applicant would need to obtain specific written agreement from the neighbour/tree owner, who are under no obligations to agree to this as understandably, its canopy may assist them with future screening & privacy which benefits them as part of this proposal. If the neighbours agreement is not obtained for this, then any works in this area that pose a threat to the tree will need to be re-designed.

We also have no objections to the removal of Trees 10-11 along the eastern boundary due to also being low value species.

Landscape Plan Issues

The submitted 'Concept Landscape Plan', dwg L.01, rev A dated 17/02/24 does not contain an acceptable level of detail and/or treatment for developments of this type, as the current scheme will not result in a high-quality outcome for future occupants due both to species selection, arrangement, layout and similar, as it does not address issues associated with the differences in ground levels and relationship to the proposed elevated structures and the public domain, visual interest, as well as privacy and amenity for both future occupants and adjoining neighbours.

The applicant also needs to demonstrate compliance with all of the numerical controls contained in Council's C1 DCP associated with landscaping and minimum site percentages, specifically increasing plant quantities in the front setback to assist with presentation of the development. There is seen to be many opportunities to substantially increase planting within the whole of this development site.

Local gully type species which can readily cope with inundation during major storm events within the overland flow path can be selected across the rear boundary, rather than the slow growing, non-endemic species that are currently shown, as these are not considered to respond to prevailing conditions.

As such, the applicant needs to engage a qualified professional in the Landscape industry to provide completely new plans, separately for the stand alone dwelling and the semi-detached dwellings, which must respond to/address/reflect all of the issues detailed in this report and is to include strategically selected and located accent plantings and canopy trees.

3. Environmental Health Officer

A site remediation validation report (prepared by WSP dated April 2015) was submitted to Council with the development application DA/131/2024.

This validation report was undertaken following remediation of contaminated land at the subject site. The validation report outlined that a Detailed Site Investigation (DSI) of the site was undertaken by WSP. In addition, a Remedial Action Plan (RAP) was prepared by WSP Environmental PTY/LTD in September 2014.

The Detailed Site Investigation Report and Remedial Action Plan were not provided to Council with the Site Remediation Validation Report.

In order for Council to adequately assess the validation report, it is important that Council receives the supporting documentation, including the DSI and the site RAP for the site.

The following documentation is required to be provided to Council prior to the determination of the application;

1. The Detailed Site Contamination Investigation prepared by WSP Environmental PTY LTD dated September 2014- 45-51 Burnie Street Clovelly.
2. The Remedial Action Plan prepared by WSP Environmental PTY LTD dated September 2014- 45-51 Burnie Street, Clovelly, NSW.

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

Executive summary

This is a written request prepared in accordance with Clause 4.6 of the Randwick Local Environmental Plan 2012 (RLEP) to justify a variation to the Height of Buildings development standard under Clause 4.3 of the same EPI.

The variation sought is in relation to development application (DA) for construction of three houses at 45-51W Burnie Street, Clovelly on Lot 2 DP 606041 and Lot 4 Section B DP 6512.

The proposed development involves adjusting the boundaries between two existing lots and construction of three dwellings comprising one free-standing house and two semi-detached houses along with associated landscaping, pools and earthworks. Additionally, the project includes Torren Title subdivision of the semi-detached properties.

A visual representation of the proposed development as a whole is detailed in the **Figure 1** below:



Figure 1: IGC of the proposed three houses

The subject land, zoned R2 Low Density Residential under the RLEP, is bound by a maximum building height development standard of 9.5m.

According to the RLEP, building height is defined as the vertical measurement from the existing ground level to the highest point of the building. However, due to remedial actions in 2015, the natural topography of the site was altered, resulting in existing levels after excavation sitting 1 to 1.5 meters lower than the pre-remediation surface level and below the levels of surrounding neighbouring properties.

To evaluate the development's compliance with height controls, two different scenarios were modelled:

- Scenario 1: Development Height compared to the existing disturbed site.
- Scenario 2: Development Height compared to the existing ground level of surrounding properties (with levels extrapolated to simulate the pre-remediation surface).

Visual representations of these scenarios and building height variations are provided in **Figures 2 and 3**.

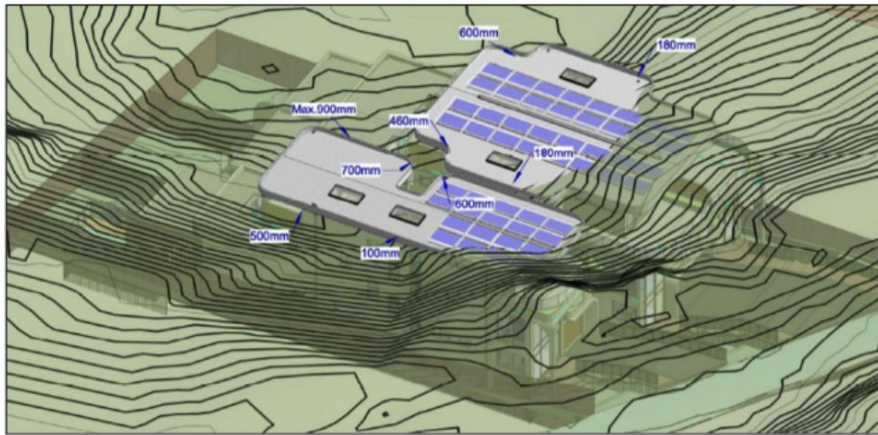


Figure 2: The Height Plane Diagram based on the existing disturbed ground levels

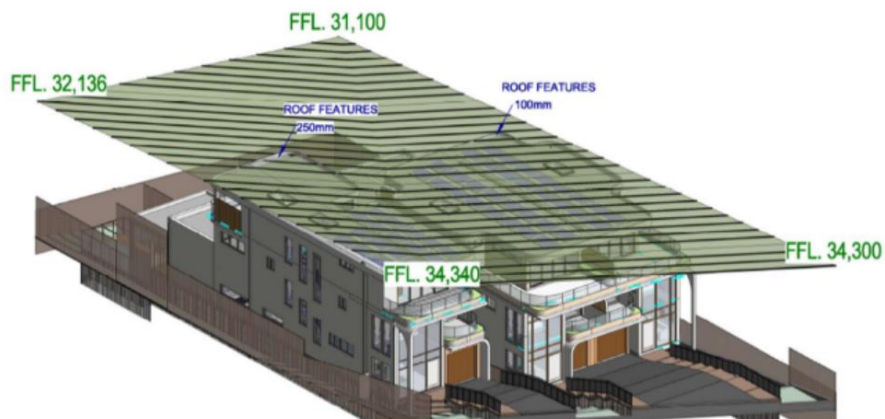


Figure 3: The Height Plane Diagram based on the existing neighbouring ground levels

In the worst-case scenario, the proposed development exceeds the standard building height limit by a maximum of 600mm (a minor variation of 6.3%). In scenario 2, the height limit is compliant, with only a minor exceedance of 250mm, primarily due to decorative roof features.

The top part of the building is designed to include a decorative fascia cover as an architectural roof feature. For standalone structure, the fascia's height is 450mm, and for semi-detached buildings, it is 550mm. Architectural roof features are allowed above the 9.5m building height development standard by consent. Therefore, they are technically not part of this Clause 4.6 Variation Request, as per Clause 5.6 of the RLEP.

The comparison of these two scenarios indicates that the exceedance of the height limits is a result of the existing level of the site, which does not represent the natural topography. After the excavation of the site, these levels are situated below the surrounding elevations. Therefore, the height of the proposed development, despite the variations, aligns with the adjoining development. The project fulfills the objectives of the height standard and the R2 low residential zone, making it in the public interest.

Excluding the architectural roof features, which are not considered under Clause 4.6, this variation request assesses the remaining structures above the building height development standard based on the existing ground level.

1. Standard to be varied

The standard proposed to be varied is the height of buildings development standard which is set out in Clause 4.3 of the RLEP as follows:

"4.3 Height of buildings

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."

The numerical value of the development standard applicable in this instance is 9.5 metres. The height of buildings development standard is not excluded from the operation of Clause 4.6 of the RLEP.

"(1) The objectives of this clause are as follows—

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

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

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

2. Extent of variation

The subject land, zoned R2 Low Density Residential under the RLEP.

The proposed development involves the construction of three dwellings, including one freestanding house and two semi-detached houses. These types of dwellings are permissible uses within the R2 zone.

According to the RLEP, building height is defined as the vertical measurement from the existing ground level to the highest point of the building. However, in the case of this development, the existing levels are below the natural topography of the site due to excavation carried out for remedial action, as documented in **Appendix 5 - Site Remediation Validation Report**.

Therefore, compliance with the height standard control is assessed against two different height planes. One height plane is based on the existing disturbed levels (Figure 2), while the other height plane is extrapolated to reflect the natural level of the land prior to remediation actions.

As illustrated in **Figure 3**, when extrapolating the levels to simulate the natural land level, only very small portions of the development exceed the 9.5m building height development standard, specifically the roof features. However, the other diagram (**Figure 2**) based on the existing ground levels reveals that the building structures protrude above the standard height plane by a maximum of 600mm for both buildings. The proposed variation is specified based on the existing ground floor, as outlined in the table below.

Proposed Variations			
The LEP Standard 4.3 Height of buildings	The proposal	Proposed variation	Proposed variation as percentage
9.5m	10.1	0.6m	6.3%

*Architectural roof features and solar panels are excluded from Clause 4.6 matters of consideration. The solar panels are proposed above the roof to enhance sustainability. These building elements result in a minor building height exceedance, which is screened by roof features and will not be visible from the public domain. The architectural roof features are intentionally designed as vertical elements, serving a decorative purpose to aesthetically cover the roof, while the solar panels contribute to the overall visual appeal. It's important to note that these features will not be visible from the public domain.

3. Compliance with the development standard is deemed unreasonable or unnecessary

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by Clause 4.6(3)(a) of the RLEP.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (The Wehbe Case), Chief Judge of the LEC provided five ways in which it may be demonstrated that compliance with a development standard is unreasonable or unnecessary.

These include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granted consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone

The first test is relevant to the proposed development and has been satisfied below. The objectives of the development standard are successfully achieved, notwithstanding non-compliance with the standard.

objectives	Details of how the development satisfies the objective
(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	<p>Figure 4 shows the proposed development within its context, showcasing its seamless integration with neighbouring buildings in terms of size, scale, and appearance. The design is in harmony with the existing character of the locality and aligns with future development expectations, considering the varied mix of buildings anticipated for the desired future character of the locality, particularly within the R2 and R3 zones. Importantly, the section of the building that exceeds the maximum height is located in the middle of the site, where excavation occurred, ensuring it does not contribute to an increase in the height, bulk, or scale of the development beyond what is envisioned under the LEP and DCP controls.</p> <p>Additionally, no part of the height breach is visible from the public domain, and therefore, the proposed height variation has no impact on the streetscape and public spaces, as it remains unseen from ground level.</p>
(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	Not Applicable, as the site is not within a conservation area or in proximity to a heritage item.

<p>(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</p>	<p>Considering the development will result in a building with a similar height to its adjoining neighbours, there will not be any adverse impact on the amenity of adjoining properties, addressing concerns related to visual bulk, loss of privacy, overshadowing, and views. Appendix 21 - Shadow diagrams demonstrate that the neighbouring property receives sufficient solar exposure between 9 am and 3 pm in mid-winter. Despite the variation to the height standard, the proposal aligns with the intent and objectives of the shadow controls.</p> <p>The structures exceeding the building height are situated in the middle of the site, where excavation took place. This location ensures that the height variation does not contribute to any adverse visual bulk impacts. All side windows have a minimum sill height of 1.6m, and balconies are designed with privacy screens at the sides. Rear setbacks are 15.99m for the freestanding house and 18.97m for semi-detached buildings, mitigating any potential privacy concerns. Also, there are no significant views in the vicinity that would be adversely impacted or blocked.</p>
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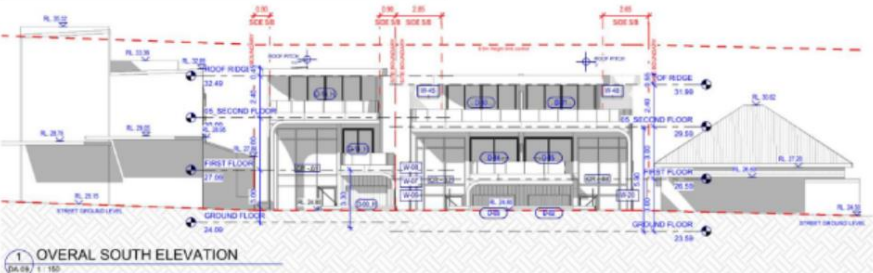


Figure 4: Visual representation of the proposed development integrated into the surroundings

4. Clause 4.6 (3)(b) There are sufficient environmental planning grounds to justify contravening the development standard

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The environmental planning grounds to justify the contravention of the height of buildings development standard and the statutory planning objectives achieved are set out below.

- The proposed development is consistent with the objectives of the R2 zone and the building height standard.
- Assessing height limits based on existing ground floor levels is not reasonable due to site excavation, resulting in current levels below the natural topography. The proposed DA involves earthworks to restore the ground surface to proposed levels close to the pre-remediation natural surface levels.
- The site is prone to 1 in 100-year flood events, necessitating the finish floor levels (FFLs) of the proposed buildings to be above specified levels, as outlined in the Appendix 4 - Flood Assessment Report. Reinstating the natural topography of the site is crucial.
- The development has been thoughtfully designed to align with the natural topography of the locality. The massing of the development is considerate of the site's slope towards the back, ensuring a harmonious integration with the scale and character of neighbouring buildings and the overall streetscape. The non-compliant built form above the height plane is a consequence of the previous disturbance of the site. If strict compliance with the height standard was enforced, it would lead to an inferior planning outcome as it wouldn't account for the unique characteristics and history of the site.
- Given the sloping nature of the land, a significant number of properties along Burnie street and Clovelly Road already have a three-storey street frontage to mitigate amenity impacts. This alignment with the proposal enhances visual consistency and cohesiveness within the area. It ensures that development height does not cause unreasonable impacts on neighbouring dwellings in terms of overshadowing, view loss, privacy, and visual amenity.

- The proposed height variation does not increase the intensity of the uses on the site, and the development complies with the maximum floor space ratio (FSR).
- The proposal successfully fulfills the following objectives of the EP&A Act and RBLPP:
 - 1.3(c) of the Act: To promote the orderly and economic use and development of land,
 - 1.3(g) of the Act: To promote good design and amenity of the built environment,
 - 1.2(f) of the RLEP (f): To facilitate sustainable population and housing growth.

Considering these reasons, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b). Therefore, contravening the development standard is considered justified.

5. Public interest/ the consent authority must keep a record of its assessment carried out under subclause (3) of Cl4.6 RLEP

In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

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

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

An assessment of the proposal against the objectives of the development standard is provided above (under point 3), and an assessment against the objectives of the zone is provided below:

Zone R2 Low Density Residential

Details of how the development satisfies each of the objectives of the R2 zone is provided in the table below:

objectives	Details of how the development satisfies the objective
<ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. 	The proposal successfully meets this objective by outlining the construction of three new houses, including a single dwelling and two semi-detached houses, addressing the housing needs of the community. This is achieved while maintaining a low density character.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of residents. 	Not Applicable
<ul style="list-style-type: none"> To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area. 	The proposed houses are compatible with the existing and desired future character of the locality.
<ul style="list-style-type: none"> To protect the amenity of residents. 	The proposal maintains the amenity of residents and neighbours.
<ul style="list-style-type: none"> To encourage housing affordability. 	Not Applicable
<ul style="list-style-type: none"> To enable small-scale business uses in existing commercial buildings. 	Not Applicable

In conclusion, the proposed development is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

The consent authority will document the assessment conducted under subclause (3) of Clause 4.6, outlining the considerations and findings related to the request for variation to the development standard. This documentation will provide a clear record of the evaluation process and the reasons supporting the decision regarding the requested flexibility.

6. The proposed non-compliance with the building height standard would not raise any matter of significance for State or Regional environmental planning (Repealed)

This section considers whether the contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no indication that contravening the development standard, as outlined in this application, would lead to adverse effects on planning matters of State or regional

significance. The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 20-002.

7. Conclusion

This submission formally requests a variation, pursuant to Clause 4.6 of the RBLEP, for the height of buildings development standards applicable to the site. The submission demonstrates the following:

- Unreasonable and Unnecessary Compliance: Compliance with the development standard is deemed unreasonable and unnecessary considering the specific circumstances of this development.
- Sufficient Environmental Planning Grounds: Adequate environmental planning grounds exist to justify the proposed contravention of the development standard.
- Objective Achievement and Consistency: The development aligns with the objectives of the development standard (Test 1 under Wehbe) and is in accordance with the objectives of the R2 Low Density Residential Zone.

On this basis, it is appropriate to exercise the flexibility provided by Clause 4.6 in the circumstances of this application.

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Appendix 3: Applicant's written request seeking to justify the contravention of the Floor Space Ratio development standard

1. Standard to be varied

The standard proposed to be varied is the Floor space ratio development standard, which is set out in Clause 4.4 and 4.4A of the RLEP as follows:

"4.4 Floor space ratio

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map."

The floor space ratio (FSR) for this site is determined by clause 4.4A, Exceptions to FSR, in Zones R2 and R3 of the RLEP. For Lot 2 DP 606041, where the lot size is greater than 300sqm and up to 450sqm, the maximum FSR is 0.75:1. In the case of Lot 4 Section B DP 6512, with a lot size exceeding 600sqm, the applicable FSR is 0.6:1.

The floor space ratio development standard is not excluded from the operation of Clause 4.6 of the RLEP.

"(1) The objectives of this clause are as follows—

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

2. Extent of variation

The subject Site is zoned R2 Low-Density Residential under the RLEP. The proposed development involves the construction of three dwellings, including one freestanding house and two semi-detached houses. These types of dwellings are permissible use within the R2 zone.

In accordance with Clause 4.5 of the RLEP, the calculation of floor space ratio (FSR) for buildings on the site is the ratio of the gross floor area (GFA) of all buildings to the site area. The permissible gross floor area (GFA) for the entire site is 695.7sqm, determined by the formula ((Lot 2 area 426sqm x 0.75) + (Lot 4B area 627sqm x 0.6) = 695.7sqm).

The proposed GFA is 694.8sqm, comprising a freestanding house with an area of 246.9sqm and semi-detached dwellings with a combined area of 447.9sqm (Proposed GFA = Freestanding 246.9 + Semi-detached Dwellings 447.9 = 694.8sqm). Therefore, the proposal complies with the FSR standards. However, as part of the application, boundary adjustment is proposed that changes these numerical calculations.

The proposed gross floor area of the Semi-detached houses comprises:

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Site Area	702.211sqm
Ground Floor	212.8sqm
First Floor	133sqm
Second Floor	102.1sqm
Total	447.9sqm

Proposed Variations				
	The LEP Standard 4.4A (3) Exceptions to floor space ratio— Zones R2 and R3	The proposal	Proposed variation	Proposed variation as a percentage
Lot 2 DP 606041	0.75:1	0.70:1	N/A	N/A
Lot 4 Section B DP 6512	0.6:1	0.63:1	447.9- 421.5=26.57sqm	3%

Clause 4.6 requests variation to the FSR standard as the FSR of proposed semi-detached dwellings (0.63:1) exceeds the applicable FSR 0.6:1.

Compliance with the development standard is deemed unreasonable or unnecessary.

In this section, it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case, as required by Clause 4.6(3)(a) of the RLEP.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 (The Wehbe Case), Chief Judge of the LEC provided five ways in which it may be demonstrated that compliance with a development standard is unreasonable or unnecessary.

These include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard
2. The underlying objective or purpose of the standard is not relevant to the development, and therefore, compliance is unnecessary
3. The underlying object or purpose would be defeated or thwarted if compliance was required, and therefore, compliance is unreasonable
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granted consents departing from the standard, and hence, compliance with the standard is unnecessary and unreasonable

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary. That is, the particular parcel of land should not have been included in the particular zone

The first test is relevant to the proposed development and has been satisfied below. The objectives of the development standard are successfully achieved, notwithstanding non-compliance with the standard.

objectives	Details of how the development satisfies the objective
(a) to ensure that the size and scale of development is compatible with the desired future character of the locality	Figure 4 shows the proposed development within its context, showcasing its seamless integration with neighbouring buildings in size, scale, and appearance. The design is in harmony with the existing character of the locality. It aligns with future development expectations, considering the varied mix of buildings anticipated for the desired future character of the locality, particularly within the R2 and R3 zones.
(b) to ensure that buildings are well articulated and respond to environmental and energy needs,	<p>The proposed semi-detached houses' primary living and habitable spaces are oriented towards the north and south, ensuring sufficient solar access to all habitable areas within both dwellings. Given the presence of a party wall, the design includes a courtyard, an open-plan primary living area on the ground floor, and voids on the first and second floors of each dwelling. These articulations are intended to facilitate effective cross-ventilation and maximise natural daylight throughout the homes.</p> <p>The compliance with BASIX and NatHERS Certificates further underscores the commitment to meeting and surpassing the targets set by the Building Sustainability Index and Nationwide House Energy Rating Scheme. Consequently, the proposed development not only aligns with but also exceeds the standards, addressing environmental and energy considerations in a commendable manner.</p>

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(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	Not Applicable, as the site is not within a conservation area or in proximity to a heritage item.
(d) to ensure that development does not adversely impact the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.	Considering the development will result in a building with a similar bulk and mass to its adjoining neighbours, there will not be any adverse impact on the amenity of adjoining properties, addressing concerns related to visual bulk, loss of privacy, overshadowing, and views. Appendix 21 - Shadow diagrams demonstrate that the neighbouring property receives sufficient solar exposure between 8 am and 4 pm mid-winter. Despite the variation to the FSR standard, the proposal aligns with the intent and objectives of the shadow controls.



Figure 4: Visual representation of the proposed development integrated into the surroundings

3. Clause 4.6 (3)(b) There are sufficient environmental planning grounds to justify contravening the development standard

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

The environmental planning grounds to justify the contravention of the floor space ratio standard and the statutory planning objectives achieved are set out below.

- The proposed development is consistent with the objectives of the R2 zone and the floor space ratio development standard.
- The proposed development complies with the site coverage, landscaped area, and setback provisions.
- The proposal GFA for the whole site complies with the FSR standards.
- Due to the sloping nature of the site, the construction of three 3-storey buildings is essential to mitigate the overshadowing impacts. Houses with three storeys typically entail more inefficient use of space for circulation compared to their two-storey counterparts.
- The proposed variation is minor but contributes significantly to improved space and amenities for future residents.
- There will be a negligible impact on the solar amenity received by the neighbouring properties due to the orientation and height of the buildings.
- The proposal successfully fulfils the following objectives of the EP&A Act and RLEP:
 - 1.3(c) of the Act: To promote the orderly and economic use and development of land,
 - 1.3(g) of the Act: To promote good design and amenity of the built environment,
 - 1.2(f) of the RLEP (f): To facilitate sustainable population and housing growth.

Considering these reasons, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b). Therefore, contravening the development standard is considered justified.

4. Public interest/ the consent authority must keep a record of its assessment carried out under subclause (3) of CI4.6 RLEP

In this section, it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

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

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

An assessment of the proposal against the objectives of the development standard is provided above (under point 3), and an assessment against the objectives of the zone is provided below:

Zone R2 Low Density Residential

Details of how the development satisfies each of the objectives of the R2 zone are provided in the table below:

objectives	Details of how the development satisfies the objective
<ul style="list-style-type: none">• To provide for the housing needs of the community within a low-density residential environment.	The proposal successfully meets this objective by outlining the construction of three new houses, including a single dwelling and two semi-detached houses, addressing the community's housing needs. This is achieved while maintaining a low-density character.
<ul style="list-style-type: none">• To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.	Not Applicable
<ul style="list-style-type: none">• To recognise the desirable elements of the existing streetscape and built form or, in	The proposed houses are compatible with the locality's existing and desired future character.

precincts undergoing transition, that contribute to the desired future character of the area.	
• To protect the amenity of residents.	The proposal maintains the amenity of residents and neighbours.
• To encourage housing affordability.	Not Applicable
• To enable small-scale business uses in existing commercial buildings.	Not Applicable

In conclusion, the proposed development is in the public interest because it is consistent with the objectives of the development standard and the zone's objectives.

The consent authority will document the assessment conducted under subclause (3) of Clause 4.6, outlining the considerations and findings related to the request for variation to the development standard. This documentation will provide a clear record of the evaluation process and the reasons supporting the decision regarding the requested flexibility.

5. The proposed non-compliance with the building height standard would not raise any matter of significance for State or Regional environmental planning (Repealed)

This section considers whether the contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence by clause 4.6(5).

There is no indication that contravening the development standard, as outlined in this application, would adversely affect planning matters of State or regional significance. The Secretary's concurrence can be assumed per Planning Circular PS 20-002.

6. Conclusion

This submission formally requests a variation, pursuant to Clause 4.6 of the RBLP, for the floor space ratio development standards applicable to the site. The submission demonstrates the following:

- **Unreasonable and Unnecessary Compliance:** Compliance with the development standard is deemed unreasonable and unnecessary considering the specific circumstances of this development.
- **Sufficient Environmental Planning Grounds:** adequate environmental planning grounds exist to justify the proposed contravention of the development standard.
- **Objective Achievement and Consistency:** The development aligns with the objectives of the development standard (Test 1 under Wehbe) and is in accordance with the objectives of the R2 Low-Density Residential Zone.

Appendix 4: DCP Compliance Table

4.1 Part C1 – Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 1,052m ²	
2.1	Minimum lot size		
	Minimum lot size LEP 2012 = 275m ²	350.5m ² (dwelling) 363.8m ² (east semi) 338.4m ² (west semi)	Yes
2.2	Lot frontage		
	Dwellings & semi-detached		
	Dwelling = 24m parent lot, 12m per dwelling Semi-detached = 15m parent lot, 7.5m per dwelling	9.45m (dwelling) 8.395m (semi)	No
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% Site area is measured on the overall site area (not proposed allotment areas)	Proposed = 445m ² (approx.) = 42%	Yes
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Proposed = 363m ² (approx.) = 34.5%	No
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Proposed = 6 x large trees at rear of site	Yes
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = > 6m x 6m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.6:1	0.749:1 (dwelling) 0.648:1 (east semi) 0.697:1 (west semi)	No
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 11.9m	No
	i) Habitable space above 1st floor level must be integrated into roofline	Proposed = 3 storey height	No

DCP Clause	Controls	Proposal	Compliance																								
	ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height and street frontage	Proposed = 2.7 ceiling height at GF and Level 1, 2.4m ceiling height at Level 2																									
3.3	Setbacks																										
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	Proposed (dwelling) = 3.69m - 8.47m Proposed (semis) = 4.63m - 14.48m	Yes																								
3.3.2	Side setbacks <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th> </tr> <tr> <th>Existing primary frontage width</th> <th>Building heights 0m to 4.5m</th> <th>Building heights >4.5m to 7m</th> <th>Building heights >7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td>0.9m</td> <td>0.9m</td> <td>0.9m + (building height - 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td>0.9m</td> <td>$0.9m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.5m + 2 \times (\text{building height} - 7m)$</td> </tr> <tr> <td>12m and above</td> <td>1.2m</td> <td>$1.2m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.8m + 2 \times (\text{building height} - 7m)$</td> </tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	Proposed (dwelling) <ul style="list-style-type: none"> • 0m - 0.9m at GF Level • 0m - 0.9m at Level 1 • 0.9m at Level 2 Proposed (semis) <ul style="list-style-type: none"> • 0.9m at GF Level • 0.9m at Level 1 • 0.9m at Level 2 	No
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
Less than 6m	Merit assessment																										
6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)																								
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$																								
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$																								
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts 	Control = 8m (min) Proposed (dwelling) = 7.8m Proposed (semis) = 12.54m	No																								
4	Building design																										
4.1	General																										
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m 	Refer to discussion at Key Issues section of this report.	No, refer Key Issues																								

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> encourage innovative design balconies appropriately sized <p>Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension).</p>		
4.2	New semi-detached and dual occupancy (attached) dwellings		
	<ul style="list-style-type: none"> i) Architectural design must respect and enhance character of streetscape ii) Front facade designed to soften visual dominance of parking facilities: <ul style="list-style-type: none"> Balconies above garages Windows/ doorways on front elevation so garage entries are not sole façade elements Recess garage entries below cantilevered elements iii) Predominant built form positioned towards shared boundary to reduce visual bulk iv) Main entrance recessed maximum 2m behind the front facade alignment v) Single car width garage to primary street vi) For corner allotment, each dwelling should independently address a street frontage vii) Maximise landscape planting and deep soil area viii) Incorporate PV rooftop solar and battery storage ix) Dwellings are encouraged to be 100% electric (no natural gas) 	Refer to discussion at Key Issues section of this report.	No, refer Key Issues
4.6	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone 	The proposal comprises excessive areas of rendered masonry and glazing. The proposed buildings lack articulation as they do not incorporate a suitable mix of materials and finishes.	No
4.7	Earthworks		
	<ul style="list-style-type: none"> i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design 	<p>The proposal involves significant cut and fill works. Earthworks are proposed within 900mm of the side and rear boundaries.</p> <p>The proposed built form does not respond to the topography of the site and results in exposed under-croft areas.</p>	No

DCP Clause	Controls	Proposal	Compliance
	viii) Minimise height and extent of any exposed under-croft areas.		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	North-facing living room windows and POS areas likely to receive at least three (3) hours direct sunlight. NB: north point on shadow diagrams is incorrect – accuracy of diagrams not verified.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	North-facing living room windows and POS areas likely to receive at least three (3) hours direct sunlight. NB: north point on shadow diagrams is incorrect – accuracy of diagrams not verified.	Yes
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls 	Internal habitable spaces will achieve adequate natural lighting and ventilation.	Yes

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DCP Clause	Controls	Proposal	Compliance
	ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) Living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>		
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	Refer to discussion at Key Issues section of this report.	No, refer Key Issues
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	Refer to discussion at Key Issues section of this report.	No, refer Key Issues
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposal is likely to result in adverse acoustic impacts associated with side courtyards, raised pool/deck areas, front balcony areas, and rear balcony areas.	No
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and	Dwelling entries are oriented to the front elevation. Habitable room windows are provided to the front elevation for passive surveillance of the	Yes

DCP Clause	Controls	Proposal	Compliance
	landscaping does not to obstruct casual surveillance (maintain safe access)	street.	
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	Surrounding properties are not afforded iconic or significant views. However, existing views and vistas from neighbouring dwellings and the public domain will be obstructed.	No
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	Proposed (dwelling) = 1 x single driveway Proposed (semis) = 1 x single driveway each Minimal landscaping provided in front yard area. Excessive impermeable surfaces. Refer to discussion by Council's Development Engineer at Appendix 1.	No
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing.	Proposed (dwelling) = nil side setback	No
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	Refer to discussion by Council's Development Engineer at Appendix 1.	No
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage	Proposed = 3m width single garage for each dwelling.	Yes

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DCP Clause	Controls	Proposal	Compliance
	iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)		
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	Unable to assess – front fence material not detailed on submitted plans.	Unable to assess
7.2	Front Fencing		
	i) 1200mm max. (solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.	Proposed = 1.8m high fencing. Insufficient detail included on plans to confirm if fencing is suitably open.	No
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	Proposed = 1.8m high Colourbond fencing	Yes
7.5	Swimming pools and Spas		

DCP Clause	Controls	Proposal	Compliance
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). vi) Incorporate screening or planting for privacy, unless need to retain view corridors. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	Proposed swimming pools are located at the rear of the site. Elevated pool and deck areas not supported due to visual privacy impacts. The proposal does not include sufficient screening or planting.	No
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	Unable to assess – not shown on submitted plans.	Unable to assess
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Unable to assess – not shown on submitted plans.	Unable to assess

Responsible officer: Julia Warren, Senior Environmental Planning Officer

File Reference: DA/131/2024

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Development Application Report No. D49/24

Subject: 42 Wallace Street, Kingsford (DA/408/2023)

Executive Summary

Proposal:	Alterations and additions including first floor addition, installation of swimming pool and associated landscaping (Heritage item).
Ward:	West Ward
Applicant:	The Trustee for the Amersee Trust
Owner:	Daniel Cartwright & Alison Wu
Cost of works:	\$508,905.50
Reason for referral:	Demolition of a Heritage Item

Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 408/2023 for alterations and additions including first floor addition, installation of swimming pool and associated landscaping at No. 42 Wallace Street, Kingsford, for the following reasons:

- 1) The proposal does not comply with the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, as it is likely to have adverse impacts on the built environment in terms of heritage.
- 2) The proposal is inconsistent with the relevant objectives and provisions under Clause 5.10 Heritage Conservation of the Randwick Local Environmental Plan 2012. The proposed development will have unacceptable adverse impacts on the fabric of the existing Heritage Item.
- 3) The proposal is inconsistent with the relevant objectives and controls under Part B2 – Heritage of the Randwick Development Control Plan 2013 as it will result in a loss of significant existing/original building fabric comprising the fireplace and ceilings.

Attachment/s:

Nil

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1. Executive summary

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

The proposal seeks development consent for alterations and additions to an existing dwelling house, including the construction of a first floor addition and the installation of a swimming pool and associated landscaping.

The site contains an interwar Californian bungalow, which is listed as a heritage item (I161) in Schedule 5 of Randwick Local Environmental Plan (RLEP) 2012. The site adjoins a flat building at No. 44 Wallace Street which is also listed as a Heritage Item under RLEP. The site is not located in a Heritage Conservation Area (HCA).

The application was referred to Hector Abrahams Architects to undertake a Heritage Assessment on behalf of Council. Concerns were raised in relation to the impacts of the proposed works on the significance of the dwelling and investigation of alternative design solutions were recommended for implementation. The applicant was provided with a copy of the heritage consultant’s detailed comments and recommendations and subsequently afforded two opportunities to address the issues raised.

In response to the heritage issues raised by Council’s heritage consultant, the applicant submitted amended plans and an updated Heritage Impact Statement (HIS). In summary, the amendments to the design resulted in the first floor addition being relocated a further 1.5m to the rear (away from the street), altered the configuration of the footprint (wider at the rear and narrower at the front), made internal changes to the layout and retained the existing chimney.

Upon review of the amended plans, Council's Heritage Planner advised that the external heritage issues had been resolved in terms of the visibility of the first floor addition within the streetscape, however, the internal aspects in relation to the loss of significant existing/original building fabric had not been adequately addressed in the updated HIS. Council's Heritage Planner advised that the amended proposal is inconsistent with the heritage objectives and controls in the RLEP and Randwick Development Control Plan (RDCP) 2013 and is not supported from a heritage perspective.

The applicant has been afforded sufficient opportunity to address the heritage issues through design amendments, but the amended proposal fails to adequately address the loss of significant existing/original building fabric. The application is therefore recommended for refusal.

2. Site Description and Locality

The subject site is known as 42 Wallace Street, Kingsford and is legally described as Lot B in DP 322938. The site is regular in shape with a side boundary depth of 33.53m, has a 12.19m frontage to Wallace Street and a site area of 408.8m².

The site contains an Interwar Californian Bungalow dwelling house which is listed as a Heritage Item (I161) in Schedule 5 of Randwick Local Environmental Plan (RLEP) 2012. The single storey elevated brick dwelling with terracotta tile hip roofs and a deep front verandah is 3m above the footpath level. The dwelling contains 3 bedrooms, a living area, a bathroom, a kitchen and laundry and a dining room at the rear. There is paved terrace at the rear with a sloping grassed area to the rear boundary with 2 trees and a single brick garage adjoining the street frontage.

The immediate area is highly characterised by late modern dwellings and Californian Bungalows, many of which are elevated on the northern side of the street, like the subject dwelling. Almost all dwellings in the immediate area are situated on similarly sized lots running north-south.

The adjoining property to the east at 44 Wallace Street contains a 4-storey heritage listed residential flat building. The adjoining property to the west at 40 Wallace Street contains a 2 storey dwelling house. The first floor addition of 40 Wallace Street, which is highly unsympathetic to the built form of the existing dwelling, was approved under a Complying Development Certificate by a Private Certifier (CDC/285/2018). To the rear (north) is the adjacent dwelling house at 59 Rainbow Street.

Refer to **Figures 1 and 2**.

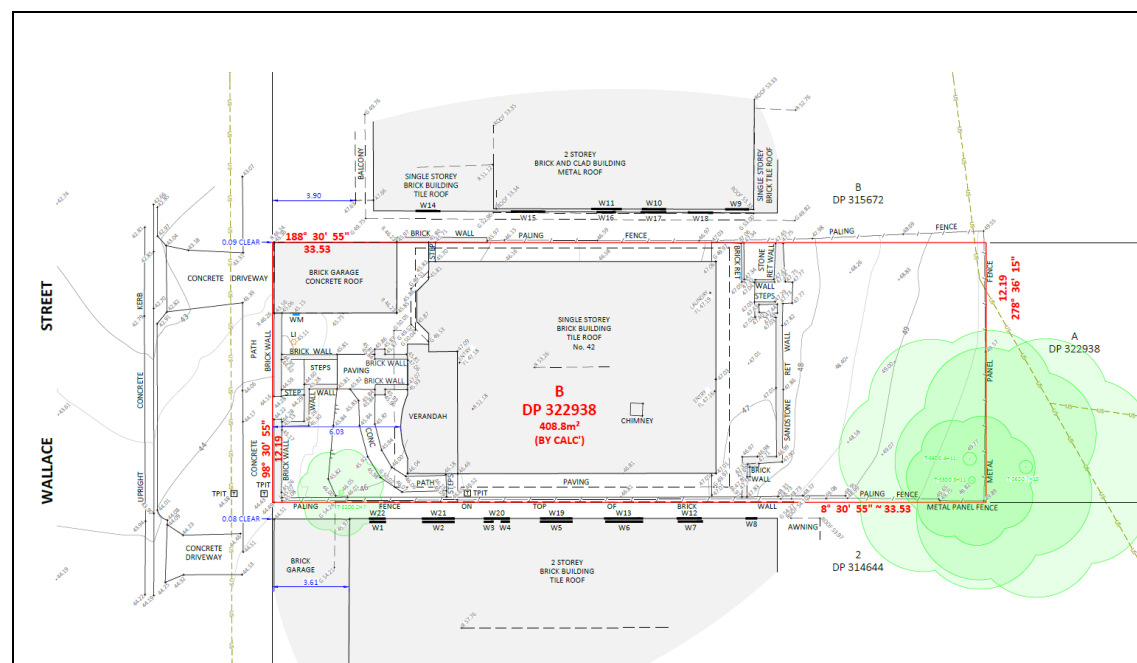


Figure 1 – Survey Plan showing the existing configuration of the site.



Figure 2 – Existing dwelling on the site viewed from the street.

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records did not reveal any recent or relevant applications for the site.

4. Background to current DA

On 1 December 2023, Council issued a request for additional information (RFI) raising heritage concerns with the visibility of the proposed second storey addition within the streetscape. A copy of the heritage consultant's written advice detailing the heritage issues both internal and external and recommended alternative design solutions was provided to the applicant.

On 13 February 2024, the applicant submitted amended plans (Issue B dated 13 February 2024), including:

- Increased setback of the first floor addition by 1,050mm to the north (away from the street).
- Reduction in the the rear setback by 580mm (closer to the rear boundary).
- Minor adjustments to the internal layout at the first floor.
- Realignment of the northeastern corner of the kitchen to match the existing dwelling at ground floor.
- Updated HIS, dated 9 February 2024, prepared by Elizabeth Gibson.

On 5 March 2024, Council's Heritage Planner advised the amended proposal had not adequately responded to the heritage issues raised by Council's external heritage consultant and the amended proposal was therefore still inconsistent with the RLEP and RDCP.

On 8 March 2024, Council issued a second RFI advising that the amended proposal has not adequately responded to the original heritage issues raised. A table outlining the non-compliances with the heritage objectives in RLEP and detailed controls in RDCP was issued to the applicant.

On 29 March 2024, the applicant submitted further amended plans (Issue C dated 28 March 2024), including the following changes to the first floor addition:

- Increased setback to the north (away from the street) by 1,500mm.
- Reduction in the roof/gutter pitching point by 120mm and main ridge by 380mm.
- Reduction in the width by 1,540mm at the front (400mm western side and 1,140mm eastern side).
- Increased width at the rear by 800mm to the east and 500mm to the west.
- Retention of the existing chimney.

On 14 May 2024, Council's Heritage Planner reviewed the amended plans and advised that the external heritage issues in terms of the visibility of the first floor addition within the streetscape had been satisfactorily resolved, but the loss of significant internal existing/original building fabric have not been adequately addressed in the updated HIS. Council's Heritage Planner also advised that the amended proposal was deemed to be inconsistent with the heritage objectives and controls in RLEP and RDCP and therefore was not supported from a heritage perspective. The detailed comments provided by Council's Heritage Planner are in **Appendix 1** of this report.

5. Proposal

The proposal seeks development consent for alterations and additions, including a first floor addition, installation of a swimming pool and associated landscaping. The proposed works are detailed in the table below.

Level	Proposed Works
Garage Level (street)	<ul style="list-style-type: none">• Widen the existing garage by 480mm utilising a portion of the existing front fence/ brick retaining wall.• Provision of a new balustrade for safety on the top of the existing garage as this area is easily accessible.
Ground Floor:	<ul style="list-style-type: none">• Demolition of a portion of the dwelling at the rear.• Construction of a new open plan living area at the rear.• Construction of a new stair to first floor level.• Internal changes to the existing bathroom.• Creation of an outdoor living area with swimming pool and associated landscaping.
First Floor	<ul style="list-style-type: none">• Construction of a new level with 2 new bedrooms, ensuite and bathroom.

Extracts of the amended plans are provided in **Figures 1 to 4** (Issue C, dated 28 March 2024).

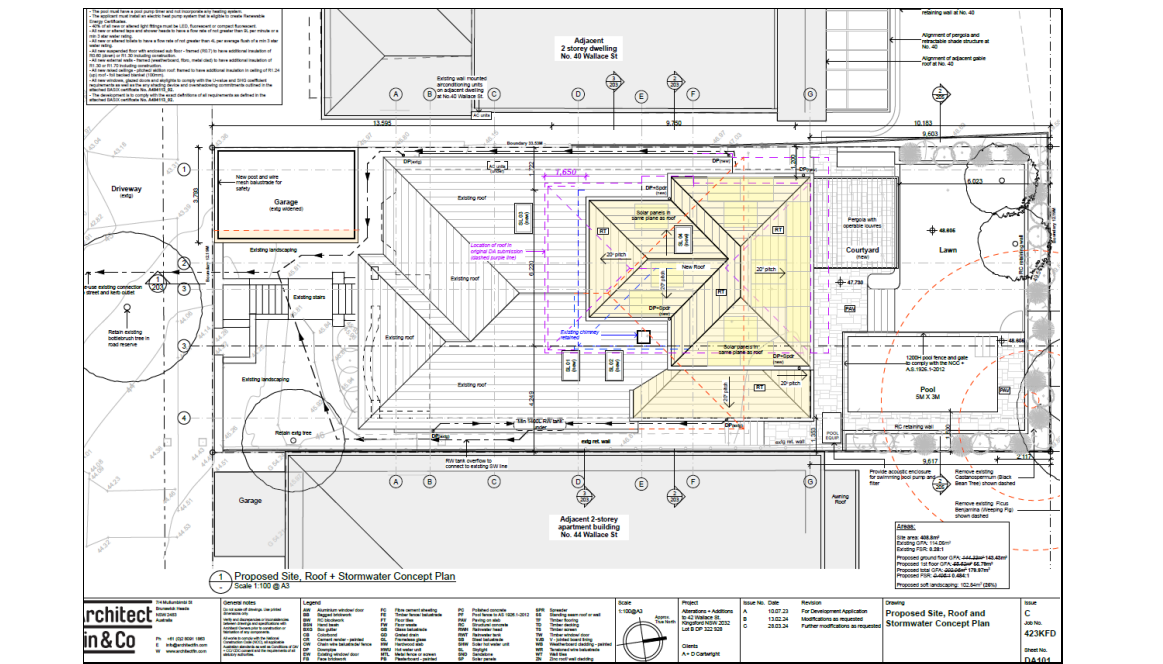
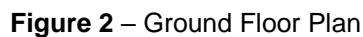


Figure 1 – Site Plan

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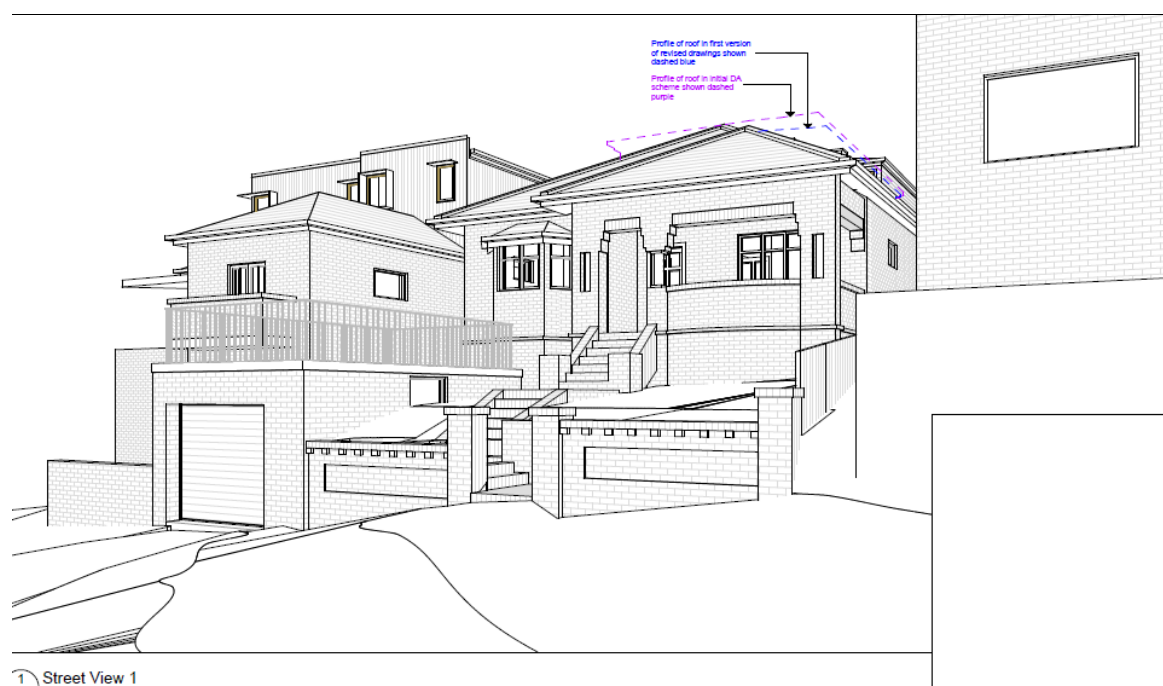


Figure 4 – Streetscape perspective

6. Notification

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

- 44 Wallace Street, Kingsford

Issue	Comment
The proposal will significantly impact the natural light supply and the wellbeing of current and future tenants.	The proposed development would not result in any unreasonable overshadowing impacts to the adjoining properties. Refer to the Key Issues section of this report.

6.1. Renotification

Randwick Community Engagement Strategy states that if the amendments to an application have a lesser or the same effect as the original application then re-notification is not required. In this circumstance, the amended proposal was not publicly re-notified as it fails to properly address the heritage issues raised by Council and is not supported by Council's Heritage Planner.

7. Relevant Environment Planning Instruments

7.1. SEPP (Building Sustainability Index: BASIX) 2004

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

7.2. SEPP (Biodiversity and Conservation) 2021

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

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and

(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

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

7.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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 residential accommodations and as such is unlikely to contain any contamination. The nature and location of the proposed development involving alterations and additions to an existing dwelling house are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

7.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned Residential R3 Medium Density under RLEP 2012, and the proposal is permissible with consent.

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.484:1 (GFA=179.97m ²)	Yes
Cl 4.3: Building height (max)	9.5m	7.29m	Yes

7.4.1. Clause 5.10 - Heritage Conservation

The site is listed as a Heritage Item (I161) in Schedule 5 of RLEP 2012. The site adjoins a residential flat building at No 44 Wallace Street, which is also listed as a Heritage Item. The heritage aspects are discussed in the Key Issues section of this report. Detailed comments provided by Council's Heritage Planner are provided in the Referrals section in **Appendix 1** of this report.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in Section 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 does not satisfy the heritage objectives and controls of Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(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 will have an adverse impact on the heritage significance of the existing dwelling on the site.</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. However, the impact of the proposed alterations to the heritage significance of the existing dwelling have not been properly addressed and the site is not considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submission have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone as it will have an adverse impact on the heritage significance of the existing dwelling house, which is one of seven Interwar Bungalows heritage listed in Kingsford. Accordingly, the proposal is not considered to be in the public interest.

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9.1. Discussion of key issues

Heritage

The site contains an Interwar Californian Bungalow dwelling house which was constructed circa 1934. The site is listed as a Heritage Item (I161) in Schedule 5 of RLEP 2012. The State Heritage Inventory (SHI) provides the following description of the dwelling:

“Very good example of Late Modern style. Unusual feature is large balcony with barley twist colonette and decorations on end piers. Double hipped roof. Front hip over large porch. More or less unaltered. Bay window beside porch. All windows with small leadlight section at top. Original glass door. Original fence and gardens with steps.”

The application is accompanied by a HIS, prepared by Elizabeth Gibson. The HIS identifies the heritage significance of the building and considers the impact of the proposed works upon this significance.

Council’s heritage consultant reviewed the HIS and raised concerns with the impact on the heritage significance of the dwelling and recommended the applicant consider three alternative design solutions including:

- (1) the setting back of the first floor addition a further 1.5m; or
- (2) a second storey extending from the northwestern corner of the house to create a wing; or
- (3) an upper floor extension from the middle of the house towards the garden.

The applicant pursued the first option by setting the addition back to reduce visibility from the view corridors across the street. Options 2 and 3 were discounted on the basis they are not deemed viable for the owners due to the loss of private open space, reduced solar access and landscaped area. In addition, the provision of a second storey within the existing roof space was also deemed not feasible without destruction of the ceilings to the primary rooms due to restricted head heights, and a rear addition lower than the main roof was also discounted due to the slope of the land at the rear.

As outlined in Section 4 of this report, the proposal was amended on two occasions in response to the heritage issues raised by Council. In summary, the amendments to the design resulted in the first floor addition being relocated a further 1.5m to the rear (away from the street), a minor reduction in overall height, adjustments to the configuration of the footprint (wider at the rear and narrower at the front), internal changes to the layout and retention of an existing chimney.

The updated HIS contends the amended proposal retains the contributory features of the building and the integrity of the interior through the retention of the plan arrangement and the original fabric and details. It also contends that the additions would not dominate the significant heritage fabric or the presentation of the building, resulting in minimal visual impact. The updated HIS concludes the proposed alterations and additions support the original residential use and retain the heritage significance of the building and site.

Council’s Heritage Planner provided the following comments in relation to the amended proposal:

“After review of the revised plans and amended HIS, it is advised that the revised proposal, essentially, has addressed the heritage concerns external to the proposed building as raised in Hector Abraham’s earlier referral comments dated November 2023. However, internally, the amended proposal has not adequately responded to the issues identified in the same Hector Abrahams referral. The amended proposal therefore is still inconsistent with the Randwick LEP and DCP.”

The above comments were accompanied by a table outlining the specific aspects of the amended proposal deemed to be in contravention to the heritage objectives and controls in RDCP (refer to the Referral in **Appendix 1** of this report).

Council’s Heritage Planner provided the following recommendation:

“The amended development proposal is not supported from a heritage perspective and the development application is recommended for refusal for the following reasons.”

The applicant has been afforded sufficient opportunity to address the heritage issues through design amendments, but the amended proposal fails to adequately address the loss of significant existing/original building fabric, namely the fireplace and ceilings at the rear of the dwelling. On that basis, the proposal is not supported from a heritage perspective.

Overshadowing

The application is accompanied by shadow diagrams that illustrate the shadow impacts generated by the proposal at the worst case scenario during midwinter.

Concerns in relation to overshadowing and loss of internal amenity were raised by the owner of the adjoining residential flat building (RFB) at 44 Wallace Street on behalf of the occupant of the ground level apartment. The affected apartment has a living and kitchen window facing the subject site.

Part C2 Section 5.1 of RDCP 2013 establishes solar access controls pertaining to medium density development that require living areas of neighbouring dwellings to receive a minimum of 3 hours direct sunlight to a part of the window at midwinter.

The Shadow Diagrams submitted with the amended proposal show that the subject windows receive approximately 4 hours of sunlight at midwinter in the existing situation. The proposed Shadow Diagrams show that the affected windows would receive direct sunlight, between 11:30am and 2:00pm, equating to approximately 2.5 hours at midwinter (a reduction of about 1.5 hours), which does not comply with the minimum 3 hour requirement.

The requirements for RFBs in Chapter 4 of the Housing SEPP and the Apartment Design Guide (ADG) do not strictly apply because the RFB is a maximum of two storeys. Notwithstanding, it is reasonable to consider the design criteria in the ADG, which stipulate living rooms should receive a minimum of 2 hours direct sunlight at midwinter. On that basis, the proposal is generally consistent with the ADG in terms of sunlight to habitable rooms.

In addition, the affected apartment has a north facing balcony and an alternative source of daylight through a north facing window serving a dining and kitchen area along the rear elevation. The amended proposal is therefore acceptable in terms of overshadowing.

10. Conclusion

That the application for alterations and additions including first floor addition, installation of swimming pool and associated landscaping be refused for the following reasons:

- i. The proposal does not comply with the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, as it is likely to have adverse impacts on the built environment in terms of heritage.
- ii. The proposal does not comply with the objectives and provisions under Clause 5.10 (Heritage Conservation) under Randwick Local Environmental Plan 2012 as the proposed development will have unacceptable adverse impacts on the fabric of the existing Heritage Item.
- iii. The proposal is inconsistent with the Randwick Development Control Plan 2013 - Heritage B2 section 2.2, 2.5 and 2.7 objectives and controls as it will result in a loss of significant existing/original building fabric comprising the fireplace and ceilings.

Appendix 1: Referrals

1. External referral comments:

The originally lodged proposal was referred to an external heritage consultant Hector Abrahams Architects for assessment on behalf of Council. The report is provided below:

*Heritage Assessment of DA/408/2023
42 Wallace Street*

November 2023

42 Wallace Street Kingsford Heritage Assessment of DA/408/2023



Version 1.1 issued to Randwick Council
1 November 2023

Introduction

This report has been prepared for Randwick Council by Hector Abrahams Architects. The purpose is to assess the impact of the works proposed under the Development Application DA4082023 for 42 Wallace Street, Kingsford.

HAA has examined the property via an external site visit and internally via available photographs provided in the HIS and online.

This report will summarise the proposed works and outline the Statement of Significance. It will then provide a review of the Heritage Impact Statement by Elizabeth Gibson before assessing the proposed works against the Randwick LEP 2012 and Randwick DCP 2013. The report will conclude with a conclusion regarding consent and recommendations.

Summary of Proposed Works

The works proposed are those in architectural drawing by Architect Fin & Co. issued 10 July 2023.

- Addition of a partial second storey
- Partial demolition of the roof
- Rear extension and reconfiguration of the rear of the house to create an open plan living, kitchen dining space
- Reconfiguration of bedroom 3 and bathroom
- Upgrading of bathroom
- Extension of the garage and new concrete roof slab
- New balustrade to garage roof
- New rear courtyard and pergola
- Reconfiguration of lawn
- New planting
- New swimming pool

Significance Statement

The following description has been extracted from the State Heritage Inventory. The description is found to be adequate to assess significance and therefore for the purposes of assessing this Development Application it serves as the Statement of significance for 42 Wallace Street.

Very good example of Late Modern style. Unusual feature is large balcony with barley twist colonette and decorations on end piers. Double hipped roof. Front hip over large porch. More or less unaltered. Bay window beside porch. All windows with small leadlight section at top. Original glass door. Original fence and gardens with steps.

It is also relevant that 42 Wallace Street is one of approximately seven interwar houses in Kingsford listed as items of Environmental Heritage in the Randwick LEP. It is therefore considered to be representative of interwar housing in an area which is defined by this style of housing. This is also part of its significance.

Review of Statement of Heritage Impact by Elizabeth Gibson

The following review of the Statement of Heritage Impact follows the same structure as the report by Ms Gibson. It will first review the history, site and streetscape analysis, analysis of style, assessment of heritage significance and assessment of impact followed by concluding remarks by the authors of this report.

History

The Heritage Impact Statement (HIS) provides a well-researched detailed history of the area and 42 Wallace Street.

Site and Streetscape Analysis

The streetscape analysis is inadequate as it does not comply with the controls of the DCP. It focuses on scale and setback and does not identify common elements. See assessment below for details.

The site analysis is thorough and detailed and includes a photographic description of 42 Wallace Street.

Analysis of Style

Gibson questions the style, "late modern", which is identified in the State Heritage Inventory and concludes that 42 Wallace Street is an "asymmetrical variant of the Interwar Bungalow." This conclusion is based on the definition of an 'Interwar Bungalow' from Scott Robertson and Noni Boyd's study *Interwar Housing Styles* (2008). In our opinion, this is considered a reasonable definition and 42 Wallace Street fits the definition.

Assessment of Heritage Significance

The assessment of significance is supported by good thorough research and is found to be agreeable.

Assessment of Impact

The assessment of impact addresses the Randwick LEP 2012. In our view it argues that the setback minimises the visual impact from the public domain. It will be substantially visible from across the street. See below assessment for details.

It maintains that the significance of the place is conserved by retention of the: front fence, brick steps from street, verandah form and detail, bay window, front door and windows facing street, face brick finishes, terracotta tiles to front planes of roof and hipped roof form with broad eaves. It does not address the impact on other significant elements nor the impact to integrity due to the loss of chimney and fireplace. See below assessment for details.

The assessment against Randwick DCP 2013 addresses the relevant sections for a heritage item. It also addresses section 4.9.4 *Guidelines for change* which relates to North Randwick Heritage Conservation Area and is not applicable to 42 Wallace Street. The assessment maintains there will be minimal visual impact from the public domain but from evidence provided it appears there will be a visual impact from the partial second storey addition and wire mesh fence.

The HIS does not adequately address the impact to integrity from changes to the floor plan and demolition of the chimney, fireplace and rear retaining place. It does not address the removal of trees in the rear garden. See below assessment for details.

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Conclusion

The submitted HIS concludes that the following features amount to its heritage significance:

- Front fence
- Brick steps from street
- Verandah form and detail
- Bay window
- Front door and windows facing street
- Face brick finishes
- Terracotta tiles to front planes of roof
- Hipped roof form with broad eaves

In our view our view there are two components to the place's significance identified in the State Heritage Inventory, aesthetic values and integrity. The features identified in the HIS contribute to the aesthetic value. Other elements contributing to the aesthetic significance include:

- Single storey block form and scale
- Pattern and arrangement of the hipped roofs
- Garage
- Brick piers
- Elevated sloped lawn

The integrity of the house is a result of the few changes to the external and internal elements and plan. In addition to the features and elements listed above the following contribute to the place's integrity:

- Chimney and fire place
- Plan form
- Raised rear garden and stone retaining wall
- Joinery
- Internal stepped archway
- Leadlight windows
- Floorboards
- Decorative cornices

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Review of proposal against Randwick LEP 2012

Subsection	Assessment	Complies
(f) Objectives The objectives of this clause are as follow		
(a) to conserve the environmental heritage of Randwick,	The place is one of approximately 7 interwar houses listed in Kingsford. The proposed works will compromise the aesthetic value of this representative bungalow because the partial second storey addition will result in loss of integrity of the form of the house.	Does not comply
(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,	The proposed works will have a negative impact of the heritage significance of the place. The proposed works will be readily visible from across the street detracting from the form, scale and materiality of the existing bungalow. A materiality of the proposed balustrade will detract from the character of the front landscape which is defined by the solid brick walls. The HIS does not adequately address the impact to integrity from the alterations to the plan form, demolition of the chimney and fireplace and demolition of rear retaining wall.	Does not comply.
(c) to conserve archaeological sites,	Archaeological potential is not addressed in the HIS.	Not applicable
(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	Aboriginal objects and Aboriginal places of heritage significance are not addressed in the HIS.	Not applicable

Review of proposal against Randwick DCP 2013

Control	Assessment	Complies
2.2 Design and Character		
i) Development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area (as detailed in the statements of significance and key characteristics outlined in this section of the DCP).	The HIS does not adequately demonstrate how the proposed works respects the heritage values. It does not address: <ul style="list-style-type: none"> Common elements in the streetscape analysis Impact on integrity in regards to the chimney and fireplace, 	Does not comply

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	floorplan and rear retaining wall.	
ii) Common elements and features of the streetscape are to be identified in a streetscape analysis and incorporated into the design (e.g. view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations).	A streetscape analysis is provided in the HIS but it does not correctly identify the view corridor from across the street (south side). It provides some analysis of the built form namely scale and setback. No other common elements are identified.	Does not comply
iii) New development should be consistent with important horizontal lines of buildings in the streetscape, in particular ground floor levels and eaves lines, where appropriate.	The house is near the crest of a hill. The proposed second story is consistent with the second storeys of neighbouring buildings.	Complies
iv) Large blank areas of brick or rendered walls should be avoided. Where this is not possible in the design, contrasting building materials and treatments must be used to break up the expanse of wall.	There are no large blank areas of brick or rendered wall in the proposal.	Complies
v) Street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to minimise impact on the streetscape.	<p>Partial Second Storey Addition</p> <p>The proposed second storey addition is setback approximately 8m from the front elevation, 1.5m from the west, 3.5m from the east and 1.5m from the rear.</p> <p>There will be minimal visual impact on the side elevations because the house is setback and raised above the street level. It will also be screened by the neighbouring buildings and vegetation.</p> <p>The HIS provides a views analysis which indicates the addition will not be visible from the south side of the street. HAA has examined this analysis (see Street View 2) which indicates only parts of the roof and window would be visible. It appears that this analysis is taken from the road, but most of the elevation will be visible from the footpath on the south side of the road.</p> <p>The view will be significantly changed because the partial second storey will</p>	Partially complies

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	<p>alter the form and scale of the bungalow.</p> <p>When standing in front of the house on the northern side of the road there will be minimal visibility of the proposed additions.</p> <p>Balustrade A fence is proposed on the roof of the garage for safety as it is easily accessible from the front lawn. The proposed fence is chain wire mesh. The HIS identifies that this is based on a similar approach at 32 and 34 Wallace Street. However, the balustrade at 32 and 34 Wallace Street are white and blends into the white render in the background. Wire mesh balustrade at 42 Wallace Street is not compatible with the character of the house which is of heavier character defined by the brown bricks.</p>	
<p>vi) The design of any proposed additions or alterations must complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred.</p>	<p>External The roof form of the proposed addition is hipped and although this reproduces the form its position does not relate the pattern of the roof. The existing pattern is defined by two asymmetrical off centred hipped roofs.</p> <p>Additionally, the scale from the front elevation at its current setback means it is a substantial addition which alters the form and scale of the front elevation and impacts its aesthetic value and integrity.</p> <p>The rear extension will alter the character of the rear elevation. This elevation is not significant and does not contribute to the aesthetic value of the place.</p> <p>The materiality of the addition is distinguishable as new work and its impact will be discussed in detail</p>	Partially complies

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	<p>under 2.6 <i>Materials, Finishes and Colour Schemes.</i></p> <p>Internal The rear plan form will be altered as the existing kitchen, breakfast/study, laundry and WP will be demolished to form an open plan space. This will also result in the demolition of a fireplace. The plan form of bedroom three and bathroom will also be rearranged. The HIS should address the impact of these changes.</p> <p>Although there will be substantial changes to the rear plan form the majority of the floorplan will be retained minimising the impact to integrity.</p>	
vii) All new work and additions must respect the proportions of major elements of significant existing fabric including doors, windows, openings and verandas.	<p>The front elevation window on the proposed second storey is similar in proportion to the existing windows on the façade.</p> <p>The windows on the side elevations of the proposed second storey differ in proportion. The proposed windows are slim single paned horizontal windows compared to existing windows which are generally large rectangles with three panes. An exception is a single small one paned window to bedroom 5. The impact of the slim horizontal windows is negligible as they are located to the side and appropriate for privacy.</p>	Partially complies
2.3 Scale and Form		
i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.	The addition will be readily visible from the street with the walls and roof competing with the existing form and scale.	Does not comply
ii) Attic style additions may be permissible, but there should be no visible alteration to the front of previously unaltered buildings. Front dormer windows are especially discouraged where a building itself is	Not applicable	Not applicable

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a heritage item, or part of a relatively unaltered semi-detached pair or row.		
iii) Dormer windows and skylights must not be located to street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style of the building.	Proposed skylights are located on the side elevation of the existing roof and proposed roof. They are minor additions, will not be visible from the street and have no visual impact. There are no proposed dormer windows.	Complies
iv) Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings.	The setback of the second storey addition minimises its impact on the form and massing of the existing building. Although it is setback it is seen from across the road and will alter the massing, form and scale of the front elevation. The proposed addition will require the partial demolition of the principal roof but the proposed hipped roof form of the second storey addition minimises this impact.	Partially complies
v) Additions to heritage items must not contain any major or prominent design elements which compete with the architectural features or detailing of the existing building.	There are no design elements which compete with existing features and detailing.	Complies
vi) Where single storey rear additions are proposed to dwelling houses, the addition must not compromise the integrity of the main roof and is to be lower in scale and secondary to it.	The rear of the house will be extended in addition to the second storey addition. The addition will require partial demolition of the principal roof and will not be lower in scale.	Does not comply.
vii) Upper floor additions to the main roof of any single storey dwelling house may be acceptable if contained wholly within the existing roof space without change to the roof pitch or eaves height.	The second storey addition will not be contained within the existing roof space.	Does not comply
viii) Upper floor additions to the rear of any single storey dwelling house should preferably use pavilion-type forms, with a lower scale linking structure between the original building and any double storey addition.	Not applicable	Not applicable
ix) If a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be	No evidence has been provided that shows a pavilion type addition is unsuitable.	Does not comply.

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acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.		
2.4 Siting and setbacks		
i) Development must conform to the predominant front setbacks in the streetscape.	There are no changes to the setback from the street of the principal building.	Complies
ii) Development must respect side setbacks and rear alignments or setbacks of surrounding development	The proposal respects the side setbacks.	Complies
iii) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features.	<p>There is not impact on the character of the front landscape. The existing garage to the front will be extended but this will not alter the form and character of the front garden.</p> <p>The rear of the house will be extended into the garden. An important feature of the garden is the lawn which is on a higher level to the courtyard. This will be retained and the courtyard replaced. A pool will alter the form of the garden but the significant features will remain.</p>	Complies
2.5 Detailing		
i) Only detailing which is known to have been original to your building is acceptable. Do not add what was never there	Two barley twist columns are to be reinstated on the existing verandah. The missing barley twist columns are evidenced in a historical photograph (source State Heritage Inventory).	Complies
ii) Retain and repair original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations. Original leadlight and coloured glass panes should be retained.	There are no changes to decorative elements on the principal elevations.	Complies
iii) Where original windows, doors and façade detailing have been removed and replaced with modern materials, consideration should be given to reconstructing original features.	The existing façade has a high degree of integrity with original windows, doors and detailing and do not need to be replaced with reconstructed original features.	Complies
iv) Authentic reconstruction is encouraged. Decorative elements must not be introduced unless documentary or physical evidence indicates the decorative elements previously existed. Undertake thorough research before attempting	A historical photograph on the State Heritage Register shows that barley twist columns were originally located in the niches of the verandah. The proposal shows these are to be reconstructed based on this photographic evidence.	Complies

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to reconstruct lost detail and elements.		
v) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors.	<p>New exterior doors are proposed to the rear elevation. They are large three pane doors but do not impact the significance of the place and will not be located on the principal building nor a significant elevation.</p> <p>Proposed windows on the front and rear elevations are similar in size, position and proportion to original windows. The windows on the side elevations of the proposed second storey differ in proportion. The proposed windows are slim single paned horizontal windows compared to existing windows which are generally large rectangles with three panes. An exception is a single small one paned window to bedroom 5. The impact of the slim horizontal windows is negligible as they are located to the side and appropriate for privacy.</p>	Partially complies
vi) Alterations and additions should adopt a level of detailing which complements the heritage fabric and should (in general) be less elaborate than the original.	The existing building is a simple design with some decorative features. The proposed additions are also of a simple design and do not have decorative features.	Complies
2.6 Materials, Finishes and Colour Schemes		
i) Materials for pathways and driveways must be consistent with the character of the heritage item or heritage conservation area.	<p>Existing path to the front garden is to be retained. The side paths are to be altered. The eastern path is to be replaced with gravel and a section of the western path is to be replaced with non-combustible walkway</p> <p>There is no impact to the heritage significance from these alterations</p>	Complies
ii) Changes to materials (including roofs and walls) on elevations visible from a public place are not favoured. Original face brickwork must not be rendered, bagged or painted. The removal of external brickwork skin is not supported.	<p>Existing face brick is not proposed to be altered.</p> <p>The additions are proposed to be weatherboard painted dark grey with Colourbond basalt grey roof and will be visible from the public domain. The visibility varies and is most prominent from across the street. The dark colours of the proposed</p>	Partially complies

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	additions will mitigate the dominance of the additions.	
iii) Matching materials must be used in repairing the fabric of external surfaces. In the case of new face brickwork, the colour and texture of the brick, the type of jointing and mortar colour should be carefully matched.	Not applicable. There are no repairs and no new face brick work.	Not applicable
iv) New or replacement roof materials must match existing materials. Alternative materials may be considered appropriate to the architectural style of the building and the streetscape context, and must be submitted for approval.	The new roof will be Colourbond basalt grey. It is not consistent with the house nor the predominant materiality of the street scape.	Does not comply
v) Alterations and additions must use materials and colours similar to, or compatible with, the original material or colours.	The dark colour scheme is sympathetic to the existing dark brown brick. The proposed charcoal timber doors and windows is not sympathetic to existing white painted timber joinery which was representative of the period.	Partially complies
2.7 Roofs and Chimneys		
i) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations.	Not applicable.	Not applicable
ii) Roofs must not be repitched or have their eaves line raised to allow for the provision of attic rooms.	Not applicable.	Not applicable
iii) Chimneys must be retained.	<p>The existing chimney will be demolished for the addition of the partial second storey. The fireplace will also be demolished as part of the reconfiguration of the rear rooms on the ground floor to create an open plan kitchen, dining living space.</p> <p>There are two components to the significance of 42 Wallace Street, they are its aesthetic qualities and its integrity. The chimney is located at the rear of the house and due to the house's high elevation from the street the chimney is not visible and therefore does not contribute to the places aesthetic value.</p>	Does not comply

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	The chimney and fireplace do contribute to the integrity of the house which will be compromised by their demolition.	
iv) Roofs of new development are to be consistent to the type of roof (i.e. gabled, hipped), pitch, eaves and ridge height which are predominant in the heritage conservation area.	The form of the new roof is consistent with the existing roof. The new roof will be hipped but a flatter pitch to reduce the scale of the addition.	Complies
2.9 Garages, Carports, Carspaces and Driveways		
ix) Buildings housing original stables, coach houses and interwar motor garages should be retained and conserved wherever possible.	The original garage is to be retained. The concrete slab is to be replaced and the garage widened. This will not have an impact of its heritage significance nor the significance of the front landscape.	Partially complies
2.10 Fences		
(i) New and replacement front fences must not obscure building facades. High solid front fences are not appropriate.	Not applicable.	Not applicable
(ii) New fence heights and form must be appropriate to the character of the heritage item, or to the heritage conservation area.	Not applicable	Not applicable
(iv) Side fencing forward of the building line must be simple with a level of detail and of materials and height compatible with the heritage item, contributory building or heritage conservation area.	Not applicable.	Not applicable
(v) Side and rear boundary fences should be preferably of traditional timber construction or otherwise of masonry construction. Colorbond metal fences are not appropriate.	Not applicable.	Not applicable
(vi) Retain, repair or reconstruct original fences and retaining walls where possible.	Front and side retaining walls will be retained but the rear retaining wall is to be demolished to extend the house. The HIS does not assess this impact.	Partially complies.
(vii) Where an original fence has been lost, new fencing should try to match the original style.	Not applicable.	Not applicable
2.11 Gardens, Garden Elements and Swimming Pools		
(i) Significant trees and landscape elements such as pathways, garden beds and structures must be retained.	There are no significant trees. There are no changes to significant landscape elements in the front	Partially complies

	garden. A retaining wall will be demolished in the rear for the extension of the house but there is not impact to the places significance as the elevated lawn will be retained.	
(ii) Large areas of hard paving are to be minimised.	New paving area is appropriate.	Complies
(iii) Garden and ancillary structures must be appropriate to primary buildings in terms of scale, style and materials.	The proposed pergola will be adjacent the proposed extension and is appropriate.	Complies
(iv) Swimming pools must be located at the rear of the property and where possible should retain important trees and areas of soft landscaping. Swimming pools must not result in significant changes to ground levels on the site.	The swimming pool is located at the rear. Two trees will be removed for its installation but these are non-significant. There are no changes to ground levels for the installation of the pool.	Complies
2.14 Services and New Technologies		
(i) Air exhaust or ventilation systems, skylights, air conditioning systems, solar energy panels, TV antennae and satellite dishes should not be visible on the main elevation of the building or attached to chimneys where they will be obvious. Services and equipment should be installed at the rear, within the roof space or flush with the roof cladding and at the same pitch. They are to be of modest size and not prominent from the street.	New skylights are not visible from the public domain.	Complies
(ii) Essential changes to cater for electrical or telecommunications wiring, plumbing or other services should be limited to what is essential to permit the new use to proceed.	Changes to cater for electrical or telecommunications wiring, plumbing or other services are not addressed in HIS.	Does not comply
(iii) Rainwater tanks are to be located at the rear or side of the dwelling and suitably screened. They should not be obvious from the street.	A rain tank is to be located on the eastern side of the house, due to vegetation and the elevation of the house from the street it will not be visible from the public domain.	Complies

Conclusion of review

The proposed works do not comply with a number the controls of the Randwick Development Control Plan 2013. The main issue is the second storey addition visible from the street that does compromise the aesthetic values and integrity of 42 Wallace Street, which is one of approximately seven interwar houses listed in Kingsford.

The proposed works are substantial alterations and additions. First it needs to be confirmed that floor space is available within the FSR and Primary Open Areas. If so, then alternative solutions need to be demonstrated.

On information available to us consent for Development Application 408/2023 is not recommended.

Possible alternative solutions that could be considered are as follows

- **Option 1A Further setback of existing proposal:** Consideration should be given to pushing the existing partial demolition back approximately 1.5m so that it is flush with the rear elevation. This would likely reduce the extent of visibility from the view corridor across the street.
- **Option 2 Western wing:** Consideration should be given to the second storey extending from the north western corner of the house to create a wing.
- **Option 3 Central Wing:** Consideration should be given to an upper floor extension from the middle of the house towards the garden.

If either scheme results in additions that are not readily visible and do not compete with the form, scale and pattern of the existing bungalow then they are considered appropriate.



Figure 1 Diagram showing approximate position of alternative solutions. Diagram is not to scale. Source Nearmap with HAA overlays.

Additional recommendations include:

- Tiled roof rather than Colourbond to better relate to the existing character of the house and streetscape.
- Palisade or timber frame with wire mesh fence.

2. Internal referral comments:

2.1. Heritage Planner

On 14 May 2024, Council's Heritage Planner provided the following comments in response to the latest amended plans (Rev C)

(note: the reference to the earlier version of the HIS, dated 9 February, under the heading 'Proposal' below is incorrect. Council's Heritage Planner advises the below comments are based on the updated HIS, dated 28 March 2024)

The Site

The site is located at 42 Wallace Street, Kingsford. The existing building is described in the inventory as follows:

"Very good example of Late Modern style. Unusual feature is large balcony with barley twist colonette and decorations on end piers. Double hipped roof. Front hip over large porch. More or less unaltered. Bay window beside porch. All windows with small leadlight section at top. Original glass door. Original fence and gardens with steps."

Proposal

Amended plans prepared by Architect Fin & Co.; an amended Heritage Impact Statement (D05213538) dated 9 February 2024 prepared by Elizabeth Gibson; and an amended SEE have been received. The SEE states that the changes involve the following:

- *Moved the proposed first floor addition away from the street by 1500mm and reduced the eaves for an effective increase of 1650mm in the setback of the gutter and roof from the front boundary. This is further than was originally suggested by Hector Abrahams.*
- *Dropped the gutter/ roof pitching point by a further 120mm.*
- *Dropped the roof ridge by a further 220mm (peak) and 380mm (main ridge).*
- *Reduced the width of the first floor addition at the front by 1540mm total - 400mm (west side) and + 1140mm (east side).*
- *Retained the existing chimney.*
- *Widened the first floor addition at the rear (out of view) to accommodate the loss of floor space at the front.*

Controls

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

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

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

Comment

After review of the revised plans and amended HIS, it is advised that the revised proposal, essentially, has addressed the heritage concerns external to the proposed building as raised in Hector Abraham's earlier referral comments dated November 2023. However, internally, the amended proposal has not adequately responded to the issues identified in the same Hector Abrahams referral. The amended proposal therefore is still inconsistent with the Randwick LEP and DCP (see table below).

The table below is extracted from Hector Abraham's referral comment and has been applied to the amended plans which shows that the amended proposal is still inconsistent with the Randwick LEP and DCP as follows:

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<i>Randwick LEP – Objectives</i>		
<i>Subsection</i>	<i>Assessment</i>	<i>Complies</i>
<i>(a) to conserve the environmental heritage of Randwick,</i>	<p><i>The place is one of approximately 7 interwar houses listed in Kingsford. The amended proposal proposed works will compromise the aesthetic value of this representative bungalow because the partial second storey addition will result in loss of integrity of the form of the house.</i></p> <p><i>The amended HIS advises that “While the place is one of approximately 7 Interwar houses listed in Kingsford, it is one of many Interwar houses in Kingsford, and is a representative example”. This advice is considered reasonable and acceptable. The revised scheme has been amended by increasing the setback from the street by 1500mm to ensure the additions will have minimal visual impact from the south footpath in line with the Hector Abraham advice.</i></p> <p><i>Accordingly, the proposed works as revised, will have a minimal and acceptable impact on the aesthetic value and integrity of the form of the representative bungalow.</i></p>	<i>Consistent with LEP</i>
<i>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i>	<p><i>The amended plans propose first floor additions to be set back 1500mm as required by Hector Abraham Architects such that the additions are now not readily visible from across the street.</i></p> <p><i>The balustrade has been modified from the originally proposed pipe rail and wire mesh to a palisade fence as required by Hector Abraham Architects and Council.</i></p> <p><i>However, the amended HIS does not adequately address the impact to integrity from the alterations to the plan form, demolition of the chimney and fireplace and demolition of rear retaining wall.</i></p>	<i>Partially consistent with LEP</i>
<i>Randwick DCP</i>		
<i>2.2 Design and Character</i>		
<i>i) Development must demonstrate how it respects the heritage values of the heritage item or the heritage conservation area (as detailed in the statements of significance and key characteristics outlined in this section of the DCP).</i>	<p><i>The amended HIS has in part adequately demonstrate how the proposed works respects the heritage values in that it has been updated to address common elements (view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations. (Refer p31 of amended HIS)</i></p> <p><i>However, the impact on integrity in regards to the fireplace, floorplan and ceilings have not been addressed in the amended plans.</i></p>	<i>Partially consistent with DCP</i>
<i>ii) Common elements and features of the streetscape are to be identified in a streetscape</i>	<i>The streetscape analysis in the HIS has been amended to adequately demonstrate how the proposed works respects the heritage by addressing common elements (view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations (Refer p31) Additionally, four view corridors identified by Council’s</i>	<i>Consistent with DCP</i>

analysis and incorporated into the design (e.g. view corridors, built form, fencing styles, extent of soft landscaping, significant trees and driveway locations).	Heritage Officer have been incorporated into the HIS (Refer p31-33) Adequate details of the built form including scale and setback has been provided including common elements in the streetscape.	
vi) The design of any proposed additions or alterations must complement the existing building in its scale, form and detailing. However, it should be possible to distinguish the new work from the old, on close inspection, so that old and new are not confused or the boundaries/junctions blurred.	<u>External</u> The revised asymmetrical off-centred hipped roof addition has been further setback in accordance with HAA recommendations, and to retain the chimney, such that the aesthetic value of the front elevation is respected and retained. The roof form of the proposed addition is hipped and therefore reproduces and relates to the pattern of the existing roof. <u>Internal</u> The rear plan form will be altered as the existing kitchen, breakfast/study, laundry and WP will be demolished to form an open plan space. This will also result in the demolition of a fireplace.	External proposed works are consistent with DCP Internal proposed works are inconsistent with the DCP
2.3 Scale and Form		
i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.	The second storey addition has been further setback to ensure it will not be readily visible from the street. It does not compete with the existing form and scale.	Consistent with DCP
iv) Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings.	The second storey addition has been further setback to ensure it will not be readily visible from the street. It does not compete with the existing form and scale.	Consistent with DCP
vi) Where single storey rear additions are proposed to dwelling houses,	The rear of the house will be extended in addition to the second storey addition. The addition will require partial demolition of the principal roof and will not be lower in scale.	Inconsistent with DCP

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<i>the addition must not compromise the integrity of the main roof and is to be lower in scale and secondary to it.</i>		
<i>vii) Upper floor additions to the main roof of any single storey dwelling house may be acceptable if contained wholly within the existing roof space without change to the roof pitch or eaves height.</i>	<i>The second storey addition will not be contained within the existing roof space and the proposal will result in the destruction of heritage fabric comprising the existing ceilings.</i>	<i>Inconsistent with DCP</i>
<i>ix) If a pavilion-type form is not suitable or desirable in the location, an upper floor addition may be acceptable, set well to the rear of the building to minimise impact on the main roof and to minimise streetscape visibility.</i>	<i>The applicant advises in the amended HIS that a rear pavilion addition is neither suitable nor desirable due to the size of the lot and the planning issues that this would present. The proposed upper floor addition is set well to the rear of the existing building.</i>	<i>Consistent with DCP</i>
2.5 Detailing		
<i>v) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors.</i>	<p><i>The applicant advises in the amended HIS large rear doors will not be publicly visible and as noted by HAA above, they are located to the rear elevation which is not a significant elevation, nor is it an original elevation. They are appropriate for solar access.</i></p> <p><i>The applicant further advises that the proposed windows on the front and rear elevations are similar in size, position and proportion to original windows. The windows on the side elevations of the proposed second storey differ in proportion. The proposed windows are slim single paned horizontal windows compared to existing windows which are generally large rectangles with three panes. An exception is a single small one paned window to bedroom 5. The impact of the slim horizontal windows is negligible Partially complies Statement of Heritage Impact as they are located to the side and appropriate for privacy.</i></p> <p><i>The side windows will not be publicly visible and as noted by HAA above, the impact of the slim windows is negligible and appropriate for privacy.</i></p>	<i>Partially complies with the DCP.</i>

	<i>New exterior doors are proposed to the rear elevation. They are large three pane doors but do not impact the significance of the place and will not be located on the principal building nor a significant elevation.</i>	
2.7 Roofs and Chimney		
<i>iii) Chimneys must be retained.</i>	<p><i>The amended HIS advises that the existing chimney will be demolished for the addition of the partial second storey. The fireplace will also be demolished as part of the reconfiguration of the rear rooms on the ground floor to create an open plan kitchen, dining living space.</i></p> <p><i>There are two components to the significance of 42 Wallace Street, they are its aesthetic qualities and its integrity. The chimney is located at the rear of the house and due to the house's high elevation from the street the chimney is not visible and therefore does not contribute to the places aesthetic value.</i></p> <p><i>The amended HIS advises that the chimney and fireplace do contribute to the integrity of the house which will be compromised by their demolition. Notwithstanding this, the proposal has been revised to retain the rear brick chimney.</i></p>	<p><i>Partially consistent in that the existing chimney will be retained.</i></p> <p><i>Inconsistent with DCP in that the fireplace will be demolished.</i></p>
2.14 Services and New Technologies		
<i>(ii) Essential changes to cater for electrical or telecommunications wiring, plumbing or other services should be limited to what is essential to permit the new use to proceed.</i>	<i>The amended HIS advises that essential changes to cater for electrical or telecommunications wiring, plumbing or other services are not addressed in HIS. No changes are proposed to the electrical and telecommunications services in the primary rooms. The HIS also advises that required replumbing and electrical upgrades to the kitchen, laundry and bathroom areas is acceptable as these rooms have already been altered and have a low level of integrity and significance.</i>	<i>Consistent with DCP</i>

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Recommendation

The amended development proposal is not supported from a heritage perspective and the development application is recommended for refusal for the following reasons:

- *Randwick Local Environmental Plan 2012 – the relevant objectives and provisions under Clause 5.10 (Heritage Conservation). The proposal is inconsistent with these objectives and provisions as the proposed development will have unacceptable adverse impacts on the fabric of the existing heritage item.*
- *The proposed internal alterations relating to the fireplace and ceiling are inconsistent with the Randwick DCP Heritage B2 section 2.2, 2.5 and 2.7 objectives and controls*
 - *The development proposal will result in a loss of significant existing/original building fabric comprising the fireplace and ceilings.*
- *Pursuant to section 4.18(1)(b) of the EP&A Act, the proposal is likely to have adverse impacts on the following aspects of the environment: heritage.*

2.2. Development Engineer

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

Undergrounding of power lines to site

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

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

The subject is located within 15m of a power pole on the same side of the street hence the above clause is applicable however it is noted that the proposed works are located towards the rear and there are no alterations or additions proposed at the front of the dwelling where the existing electricity supply connects. It is therefore considered a nexus cannot be established between the council resolution and the proposed works and subsequently the condition has not been recommended in this instance.

Tree Management Comments

Inspection was undertaken through Google Street View on Wednesday 22nd November 2023, with pictures of all vegetation found at TRIM D04999384.

On Council's Wallace Street verge, to the east of the existing vehicle crossing, centrally across the width of this site is a mature, 5m tall Callistemon viminalis (Bottlebrush, T1), which despite being topped beneath the overhead wires, displays good health and fair condition, is protected by the DCP, and is also part of a group planting in this section which provides a contribution to the streetscape.

While the plans show the footprint of the garage being expanded slightly, the existing vehicle crossing will be maintained in its current position along the western site boundary, so while this tree should not be directly impacted by these works, protection measures and a bond still need to be imposed in recognition that all materials will need to be brought in across this frontage.

The larger White Cedar uphill to its east, in front of no.44 is sited well clear of the site and any works, so despite its western aspect overhanging close to T1 described above, it should not be impacted.

There is no established vegetation within the front yard so can all be removed as part of these works where needed, including the small Camelia halfway along the eastern boundary.

Moving to the rear setback of this site, in the upper terrace level, right in the northeast site corner are two co-dominant trees, being from west to east, a mature, 9m x 9m Ficus benjamina (Weeping Fig, T2) then an 8m tall Castanospermum australe (Black Bean Tree, T3), which are both non-endemic native species.

Despite being protected by the DCP and performing a screening/privacy function between this area of private open space and neighbouring sites to the north, T2 is regarded as undesirable due to a combination of its large size at maturity and their invasive and aggressive root system, as evidenced by the expansive roots that can already be observed at surface level, and likely 'self-seeded' due to its position right on the fence line, with T3 also noted as being in poor condition given that both of its vertical leaders comprise re-growth from a previously cut stump, so are categorised as poorly formed and attached epicormic growth.

While currently surrounded by undisturbed deep soil, the plans show the northern wall of the pool being constructed at a setback of 1900mm from the rear boundary, which would provide a minimal offset of only 1000mm from their trunks, which encroaches both of their SRZ's, with the paved surrounds to then extend further to the north, in direct conflict with both trees.

The Section Plans, sheets DD203 & 205 then also show that in order to maximise both the accessibility and useability of the private open space, existing ground levels which rise gradually

from south to north will be lowered/levelled by between 900-1100mm, and a new retaining wall constructed parallel with the rear/northern boundary.

Neither tree could remain if any of these works proceeded as shown given the amount of roots that would be lost which are critical for their health and stability, with a re-design to achieve a greater offset not to be pursued in this case as ultimately, neither are identified as significant examples of their respective species, with their suitability for retention already reduced for the reasons listed above, even irrespective of these works, and on this basis, consent has been granted for their removal as shown and sought, subject to two replacement trees being installed over the western half of the rear yard, which should provide sufficient compensation in the near future.

Immediately to their north, wholly in the rear setback of the adjoining private property at 59 Rainbow Street is a mature, 12m tall Eucalyptus botryoides (Bangalay, T4) of good health and fair condition, which is protected by the DCP, with both the applicant and Council having a common law responsibility to ensure it is not affected in any way by these works.

When scaled off the Tree Removal Plan (sheet DA105), the outside edge of its trunk is 1500mm from the common boundary, with the new retaining wall to be offset around 2800mm, which is just beyond its SRZ, with the northern wall of the pool to then be around 4000mm away (both measured from the centre of its trunk).

The Arborist has calculated that the pool/surrounds/retaining wall will result in a 14% incursion of its TPZ, which is categorised as 'major' in AS4970-2009: Protection of trees on development sites; however, Clause 3.3.4 also states that the presence of existing or past structures and obstacles that may have limited/affected root growth must also be considered.

In this regard, the Arborist notes that the ground level where the tree is growing is slightly higher than the subject site, with the co-joined root plates of T1-2 (but mostly T1) likely to have restricted the normal radial root spread of T4 into this part of the development site, with all of these factors to assist in minimising potential impacts, and on this basis, should reduce the TPZ encroachment to more acceptable levels, in the minor category of 10% or less.

On this basis, as well as the fact that works are limited to one side of its root plate only, it is deemed feasible to proceed with the works in this case, with site specific protection conditions imposed to ensure the appropriate level of care is taken throughout works.

All other vegetation throughout the rear of this development site is small and insignificant, so no objections are raised to their removal where needed.

Appendix 2: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	
2	Site planning		
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	156m ² 38%	Yes
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) 301 to 450 sqm = 25% iii) 451 to 600 sqm = 30% iv) 601 sqm or above = 35% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Retain existing or replace mature native trees viii) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. ix) Locating paved areas, underground services away from root zones.	102.84m ² 25%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	6m x 6m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	0.484:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	7.29m	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	6.8m	Yes
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	No change to the existing front setback.	Yes
3.3.2	Side setbacks: Semi-Detached Dwellings: • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels	Ground Western boundary 1.2m Eastern	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>Dwellings:</p> <ul style="list-style-type: none"> Frontage less than 9m = 900mm Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	<p><i>boundary</i> 1.35m <u>First Floor</u> <i>Western boundary</i> 1.2m <i>Eastern boundary</i> 3.4m</p>	
3.3.3	<p>Rear setbacks</p> <ul style="list-style-type: none"> i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	9.6m	Yes
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design 	<p>The proposed first floor addition is suitably setback to minimise its visual impact within the streetscape to an acceptable level.</p>	Yes
4.5	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and 	<p>No concerns were raised by Council's Heritage Planner in relation to the proposed colours, materials and finishes.</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	No significant excavation is proposed other than for retaining and the construction of a swimming pool in the rear yard.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The proposal will receive a minimum 3 hours direct sunlight to the north facing living area at midwinter.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and 	The amended proposal will not result in any unreasonable overshadowing impacts to the adjoining properties. Refer to the Key Issues section of this report.	Yes

DCP Clause	Controls	Proposal	Compliance
	adjoining allotments. <ul style="list-style-type: none"> Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	The amended proposal is adequate in terms of natural ventilation and daylight access.	Yes
5.3	Visual Privacy		
	Windows		
	i) proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). ii) orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	The first floor addition includes two new bedroom windows facing the adjoining property to the west at 40 Wallace Street. These windows are suitably setback to the boundary and do not pose a significant privacy risk.	Yes
5.4	Acoustic Privacy		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> Locate noise-generating areas and quiet areas adjacent to each other. Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposal would not result in any adverse acoustic impacts to the adjoining properties.	Yes
5.5	Safety and Security		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry.	The existing front entry will be retained.	Yes

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access) 		
5.6	View Sharing		
	<ul style="list-style-type: none"> i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) retaining existing views from the living areas are a priority over low use rooms iii) retaining views for the public domain takes priority over views for the private properties iv) fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used) 	The proposal would not result in any undue view impacts to the adjoining properties.	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	<ul style="list-style-type: none"> i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces) 	<p>The existing brick garage will be retained at the street front and upgraded to enable its continuing use.</p> <p>It is proposed to increase the width by 50mm to meet current standards.</p> <p>The additional width has been achieved with the retention of the brick pier which is an integral part of the fence. The garage roof is easily accessible, and a balustrade is proposed to provide safety and compliance.</p>	Yes

DCP Clause	Controls	Proposal	Compliance
		No objection was raised by Council's Development Engineer.	
6.2	Parking Facilities forward of front façade alignment (if other options not available)		
	i) The following may be considered: <ul style="list-style-type: none"> - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> - There is no alternative, feasible location for accommodating car parking; - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls) 	The proposed modified garage is acceptable from a streetscape perspective.	Yes
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing 	No change to the existing western side boundary setback.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	No change to the vehicular crossover.	Yes
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of detached garages v) recess garage door 200mm to 300mm	No concerns were raised by Council's Development Engineer.	Yes

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DCP Clause	Controls	Proposal	Compliance
	behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) minimum clearance 2.2m AS2890.1		
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	The proposed pool will be largely below existing ground and adequate landscape setbacks provided to the side and rear boundary.	Yes

Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/408/2023

Development Application Report No. D50/24

Subject: Road reserve adjacent to 13 Maroubra Road, Maroubra
(DA/539/2022)



Executive Summary

Proposal:	Installation of a telecommunications facility (payphone) with associated third-party digital signage.
Ward:	Central Ward
Applicant:	Urbis Pty Ltd
Owner:	Randwick City Council
Cost of works:	\$26,376.00
Reason for referral:	The landowner is Council.

Recommendation

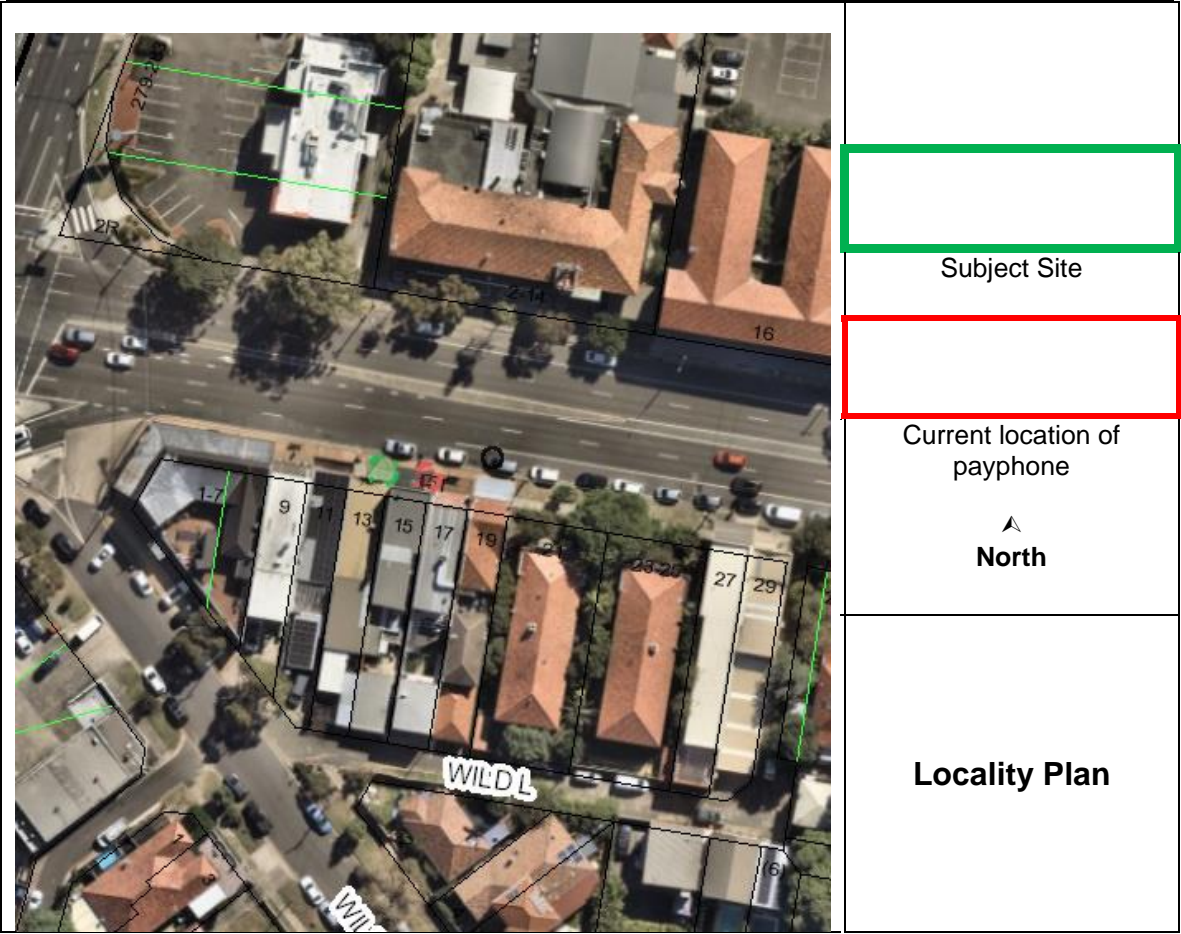
- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/539/2022 for installation of a telecommunications facility (payphone) with associated third-party digital signage, on the road reserve adjacent to No. 13 Maroubra Road, Maroubra subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/539/2022 - Near 13 Maroubra Rd
 MAROUBRA NSW 2035

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is located on the footpath for which the landowner is Council.

The proposal seeks development consent for the installation and use of a telecommunications facility (payphone) with associated third-party digital signage on the public footpath adjacent to 13 Maroubra Road, Maroubra. The proposal forms part of Telstra’s Smart Media Network initiative, which seeks to upgrade and replace existing assets. The proposal seeks to remove the existing payphone at 15T Maroubra Rd to replace it with a new payphone (with associated signage) located 6m to the west of the existing location.

The proposed structure is defined as a telecommunications facility and incorporates third party advertising on electronic display screens (32-inch screen in the front of the phone booth and 75-inch at the back of the phone booth).

It is noted that on 20 November 2020, the Federal Court of Australia determined that Telstra’s Smart Media Network payphones, which were previously exempt from the requirement for development consent, do not qualify as being a ‘low impact facility’ under the Telecommunications Act 1997. As such, a Development Application (DA) is required for the construction and use of the telecommunication facility (payphone) and associated installation of digital signage.

The key issues associated with the proposal relate to pedestrian and traffic safety, light nuisance, and streetscape character. Subject to conditions, the proposed payphone structure will maintain reasonable levels of safety for pedestrians and traffic. The signage will also comply with relevant Australian standards for illumination and will not be inconsistent with the streetscape.

The proposal is recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is located on the public footpath adjacent to 13 Maroubra Road.

The site is zoned E1 Local Centre with nearby low-density residential zone to the east further along Maroubra Road. Development adjoining the site comprises shops and shop top housing and dwelling houses.

The proposal seeks to remove the existing payphone at the site adjacent to 15 & 17 Maroubra Road and replace it with a new payphone located 6m to the west adjacent to 13 Maroubra Road (refer Figure 1).

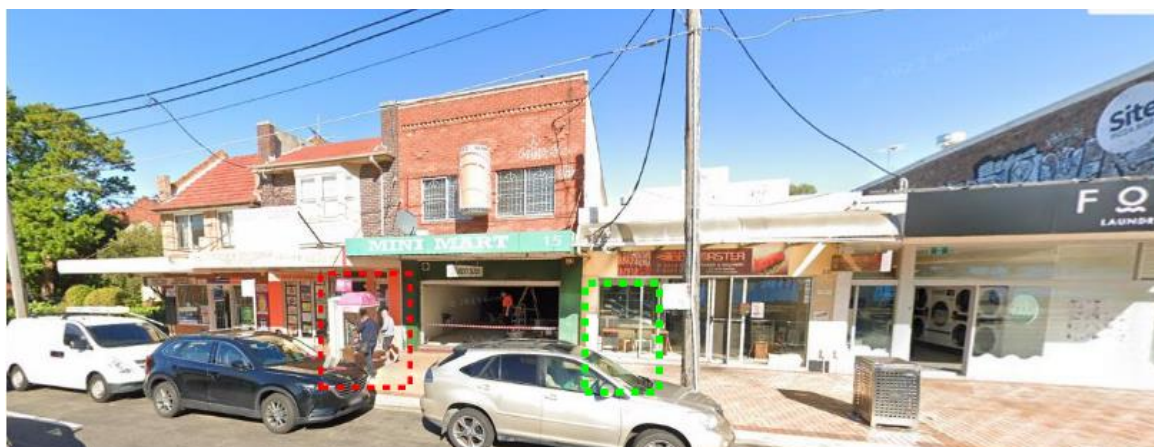


Figure 1: Shows existing payphone (red outline) and new westerly location of payphone (green outline).

3. Relevant history

Development Application – DA/846/2005

On 05 May 2006, Council granted consent under Development Application No. DA/846/2005 for the use of the existing payphone at the subject site for third party advertising. At the time of approval, the payphone was considered a 'low impact facility'.

Federal Court Decision

On 20 November 2020, the Federal Court of Australia (Telstra Corporation Limited v Melbourne City Council [2021] HCASL 82) determined that Telstra's new Smart City Payphones, which were previously exempt from the requirement for development consent, do not qualify as 'low impact facilities' under the Telecommunications Act 1997. As a result, all existing and proposed new payphones require development consent for its use as a telecommunication facility with associated signage.

Pre Lodgement – PL/23/2021

A Pre Lodgement meeting was held with the Applicant on 11 May 2021 in relation to Telstra payphone assets at various locations across the Randwick LGA (refer PL/23/2021). The meeting notes advised the Applicant to lodge development applications to obtain the required approvals for the installation and use of the telecommunication facilities, inclusive of signage. Council advised that each application will be assessed on its merits having regards to:

- The siting of the telecommunications infrastructure should be demonstrated to be in line with best practice guidelines;
- An independent accredited safety audit report should be submitted as part of the development application to demonstrate that the siting of the structure does not pose a potential hazard to traffic safety;
- The proposal should demonstrate a satisfactory visual impact on the streetscape (with particular regard to any heritage conservation area), and not result in light spill; and

- The siting of the proposal should not give rise to footpath congestion and should maintain sufficient clearance for pedestrian traffic.

4. Proposal

The proposal seeks development consent for installation and use of a payphone on the public footpath adjacent to 13 Maroubra Road (see Figure 2) relocated 6m west from a pre-existing payphone located adjacent to No. 15 & 17 Maroubra Road.

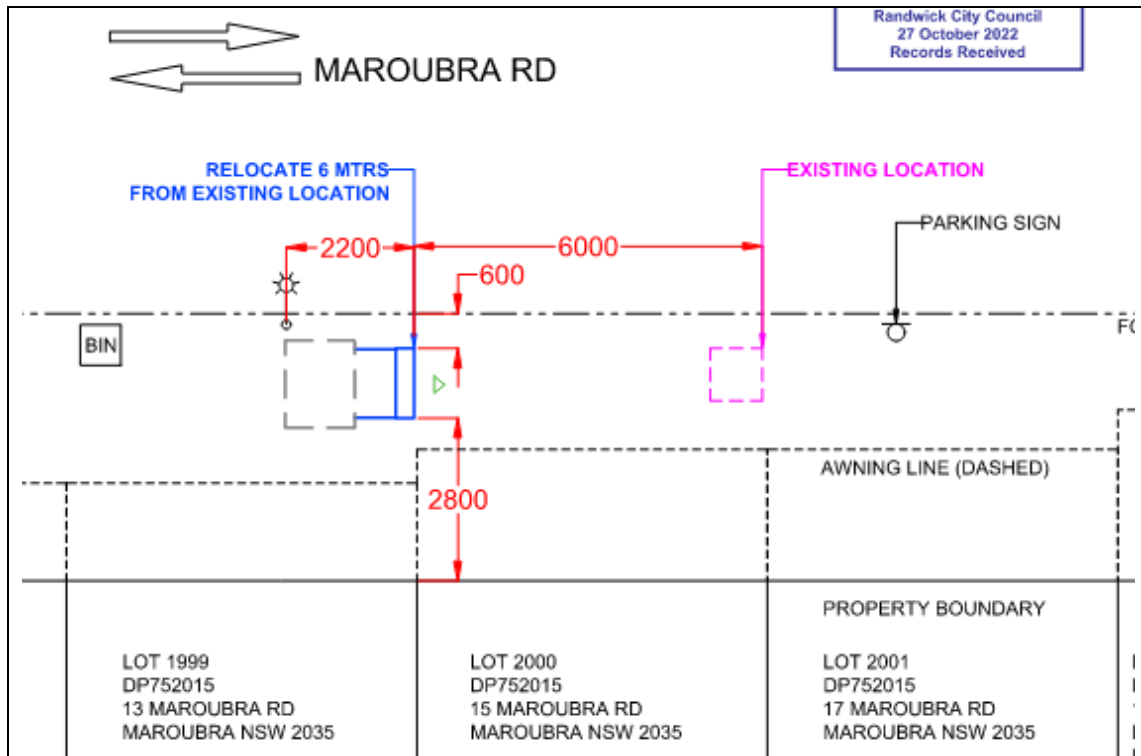


Figure 2: Existing and proposed location of payphone (backboard faces east).

The payphone is defined as a telecommunications facility and incorporates third party advertising on electronic display screens (32-inch screen in the front of the phone booth and 75-inch at the back of the phone booth). A photomontage of the proposed payphone structure is provided at Figure 3.

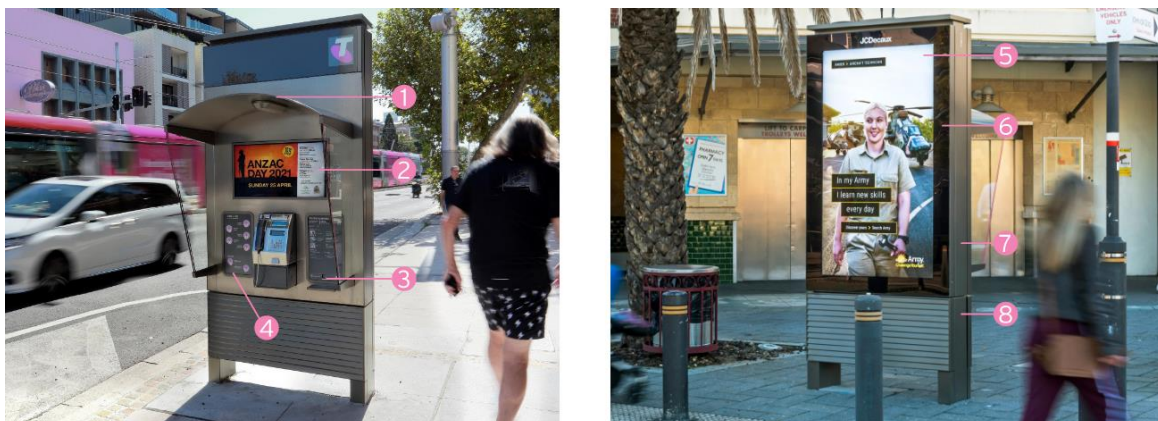


Figure 3: Generic photomontage of proposed payphone structure (Source: Applicant)

The proposed payphone structure (see Figure 4) is 2.727m in height, 1.2m in width, 0.321m in depth. The front of the proposed payphone includes a 32-inch digital screen above the phone to be used for third party advertising. The rear of the proposed payphone includes a 75-inch digital screen to be used for third party advertising. The advertising screen will display multiple adverts, with six (6) adverts occurring per minute.

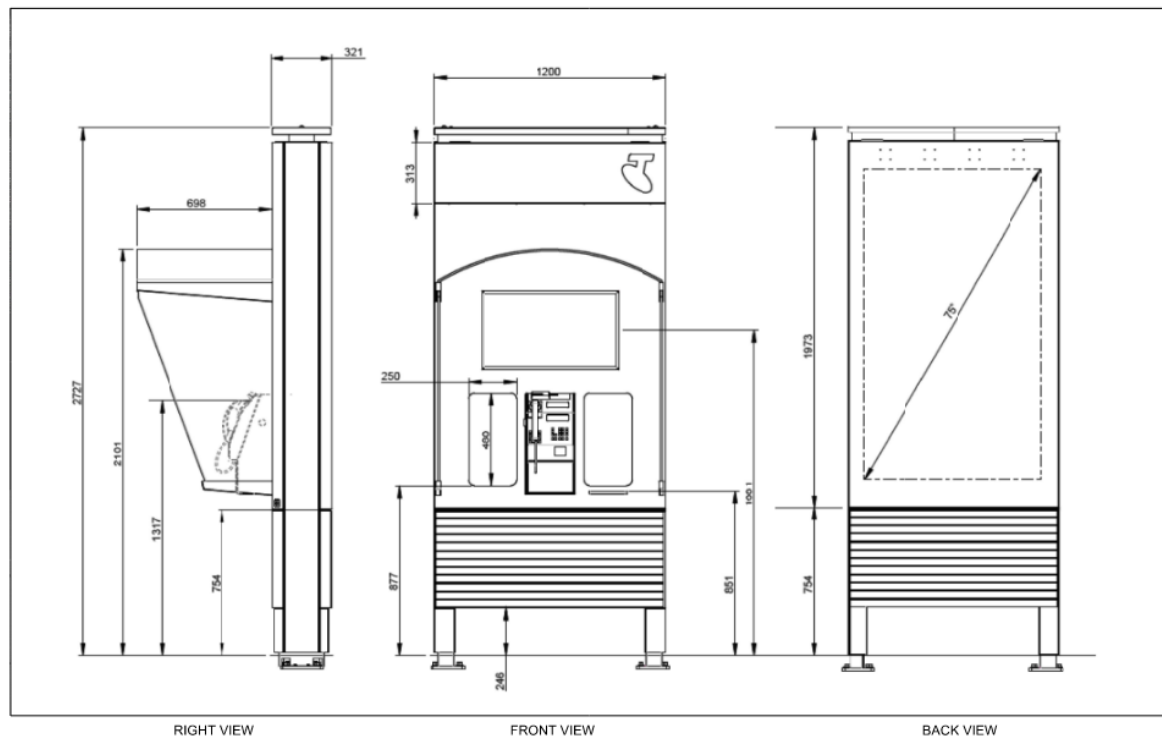


Figure 4: elevations of payphone structure and digital advertising board in back view.

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 legislation

6.1. Telecommunications Act 1997

On 20 November 2020, the Federal Court of Australia determined that Telstra's Smart Media Network payphones, which were previously exempt from the requirement for development consent, do not qualify as being a 'low impact facility' under the Telecommunications Act 1997. As such, a Development Application (DA) is required for the construction and use of the telecommunication facility (payphone) and associated installation of digital signage.

7. Relevant Environment Planning Instruments

7.1. SEPP (Transport and Infrastructure) 2021

Chapter 2 of the Transport and Infrastructure SEPP seeks to facilitate the effective delivery of infrastructure across the state.

Pursuant to Clause 2.143 of the SEPP, development for the purpose of telecommunication facilities (i.e. payphones) may be carried out by any person with consent on any land. Pursuant to subclause 2.143(2), the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Planning Secretary.

Having regard to the *NSW Telecommunications Facilities Guideline, Including Broadband* (published by Department of Planning and Environment, dated October 2022), the proposed telecommunications facility meets the following principles:

- The payphone is designed and sited such that it does not result in visual clutter noting it replaces a previous payphone (advertising board);
- The payphone is co-located on the part of the footpath where other structures such as bins, signage, seating, and the like are usually located;
- The design, installation, and operation of the payphone will comply with relevant health standards for exposure to radio emissions; and
- Suitable conditions are included to ensure that the installation and operation of the payphone will minimise disturbance and risk, and maximise compliance with relevant guidelines and Australian Standards.

7.2. SEPP (Industry and Employment) 2021

Chapter 3 of the Industry and Employment SEPP seeks to ensure that signage, including advertising, is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

The signage falls within the definition of ‘advertisement’, which is defined by the SEPP as follows:

Advertisement means signage to which Section 3.3 applies and includes any advertising structure for the advertisement.

Advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Pursuant to section 3.11, the consent authority must not grant consent to an application to display an advertisement unless the advertisement is consistent with the objectives of Chapter 3 and has been assessed as acceptable in relation to the assessment criteria in Schedule 5 (see assessment tables below).

An assessment against the relevant objects and criteria is provided in the tables below.

Industry & Employment SEPP – Chapter 3	Compliance
(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.	<p>The proposed signage is compatible with the desired amenity and visual character of the locality. The site is located within a local centre in Maroubra, which is characterised by commercial uses and signage.</p> <p>The payphone structure will display the proposed signage and is of a high-quality design and finish. Suitable conditions are included to ensure that the payphone structure will maintain reasonable levels of safety for pedestrians and traffic and to ensure the signage will comply with relevant Australian standards for illumination.</p>

Industry & Employment SEPP – Schedule 5	Comment
Character of the area	
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 proposal is compatible with the existing character of the Local centre and surrounding E1 zoned land.

Industry & Employment SEPP – Schedule 5		Comment
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 other than that they are generally located at ground level with some advertising and building identification signage at awning and first floor level. It is not considered the subject design would be in contrast with the immediate locality.
Special areas		
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?		The signage does not detract from the amenity or visual quality of the Local Centre and surrounding E1 zoned land.
Views and vistas		
Does the proposal obscure or compromise important views?		The proposed signage will not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?		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 proposal does not affect the viewing rights of other advertisers.
Streetscape, setting or landscape		
Are the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?		The signage is compatible with the scale and proportions of the surrounding streetscape, setting, and landscape.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?		The proposal does not have an adverse impact on the visual interest of the streetscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?		The proposal does not create any undue clutter and is limited to a sole signage emplacement.
Does the proposal screen unsightliness?		The proposal does not create any undue unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?		The proposal does not protrude above buildings.
Does the proposal require ongoing vegetation management?		The proposal does not require ongoing vegetation management.
Site and building		
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 proposal is located on the footpath area and is not attached to any building.

Industry & Employment SEPP – Schedule 5		Comment
Does the proposal respect important features of the site or building, or both?		The proposal is located on the footpath area and is not attached to any building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?		The proposal is located on the footpath area and is not attached to any building.
Associated devices and logos with advertisements and advertising structures		
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 signage is well integrated with the payphone structure.
Illumination		
Would illumination result in unacceptable glare?		Complies, subject to conditions.
Would illumination affect safety for pedestrians, vehicles or aircraft?		Complies, subject to conditions.
Would illumination detract from the amenity of any residence or other form of accommodation?		Complies, subject to conditions.
Can the intensity of the illumination be adjusted, if necessary?		Complies, subject to conditions.
Is the illumination subject to a curfew?		Complies, subject to conditions.
Safety		
Would the proposal reduce the safety for any public road?		The proposal will not affect the safety of Maroubra Road, subject to conditions and has been reviewed by Council's Integrated Transport team.
Would the proposal reduce the safety for pedestrians or bicyclists?		The proposal will not affect the safety of pedestrians or cyclists, subject to conditions.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?		The proposal does not obscure sightlines from public areas.

7.3. SEPP (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

The site is not identified in Council's records as being contaminated and there is no specific evidence to indicate that the site is contaminated. In this regard, the site is considered suitable for the proposed development.

7.4. Randwick Local Environmental Plan (RLEP) 2012

The site is zoned E1 Local Centre under Randwick Local Environmental Plan (RLEP) 2012. The proposal, being for a telecommunication facility (payphone) with associated signage, is permissible

in the E1 zone. Council is satisfied that the proposal is not inconsistent with the objectives of the E2 zone, which include:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*
- *To support a diverse, safe and inclusive day and night-time economy.*

The payphone and associated signage will strengthen the role of this Maroubra Commercial Centre and provide a form of social infrastructure for the local community.

It is considered that the proposed third-party advertising is similar to other advertising found on commercial premises within the adjacent E1 zone. In this regard, the proposal is consistent with the prevailing character of the area and will not adversely affect the amenity of nearby development. The proposed location of the payphone provides suitable clear zones for pedestrian foot traffic. Suitable conditions are included to ensure a high level of accessibility and amenity for pedestrians and vehicles and to preserve a safe public domain.

It is noted that the subject site is located in proximity to R2 Low Density Residential zoned land, where signage is generally not permissible unless related to building and business identification. Notwithstanding, the development is separated from the residential zone further than the existing payphone and will not detract from the character of the nearby residential zone. The digital signage is not within a direct line of sight from adjacent dwellings and the residential character of the immediate locality is already substantially compromised by the arterial nature of Maroubra Road.

Council is also satisfied that the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity, and other planning principles relating to the efficient and timely development of land.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	Refer to Section 7 of this report.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to Appendix 2.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	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.

9.1. Key Issues

Pedestrian and Traffic Safety

Council's Asset Engineer, and Integrated Transport team have reviewed the proposal and raise no concerns regarding pedestrian and traffic safety, subject to suitable conditions.

It is noted that the proposal provides a 2.8m clearway between the payphone structure and adjacent property boundary to facilitate pedestrian access.

Illumination Impacts

The illuminated signage is located on the front and back of the payphone structure and is oriented towards the east-west Maroubra Road corridor, separated by a parking lane and away from the residential properties located towards the east and north-east. Suitable separation of between 60-80m is provided between the payphone location and nearby residential zoned properties.

The digital signage is not within a direct line of sight from adjacent dwellings and the residential character of the adjoining locality is already substantially compromised by the arterial nature of Maroubra Road.

Notwithstanding, suitable conditions are included to minimise light nuisance impacts to nearby residential properties, as outlined below:

- The digital signage must be designed and located so as to minimise light spill beyond the property boundary or cause a public nuisance.
- The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
- The digital signage must comply with the relevant provisions of *AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting*.
- Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.

Streetscape Character

It is considered that the proposed third-party advertising is similar to other advertising found on commercial premises within the Local Centre and along Maroubra Road. The streetscape character of the immediate locality is already substantially compromised by the arterial nature of Maroubra Road. In this regard, the proposal is consistent with the prevailing character of the area and will not adversely affect the amenity of nearby development.

10. Conclusion

That the application to undertake the installation of a telecommunications facility (payphone) with associated third-party digital signage near 13 Maroubra Road, Maroubra be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within RLEP 2012 and the relevant requirements of RDCP 2013.
- The proposal is consistent with the relevant objectives of the Industry and Employment SEPP and the Transport and Infrastructure SEPP.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the existing and desired future character of the locality.
- The development does not detract from the visual quality of the public domain or streetscape.
- The payphones will provide a form of social infrastructure for the local community.
- Subject to conditions, the digital advertising incorporated into the payphone structure will be appropriately managed to minimise illumination impacts and ensure pedestrian and traffic safety.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for Installation of a telecommunications facility (payphone) with associated third-party digital signage at the above site.

This report is based on the following plans and documentation:

- Plans by JCDecaux Rev B dated 21/10/2022;
- Statement of Environmental Effects by Urbis dated October 2022
- Assessment of Transport Guidelines stamped 27th October 2022
- Assessment against Randwick DCP stamped 27th October 2022

General Comments

There are no objections to the development from Development Engineering. Pedestrian access and safety will not be compromised as a result of the proposal.

Landscape Comments

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

1.2. Asset Engineer

No issue with trees, bin location, lighting, adequate footpath pedestrian width, no conflict with Maroubra Junction Masterplan (subject to conditions being included – standard panel lighting).

1.3. Property Officer

No concerns raised, subject to conditions.

1.4. Integrated Transport Officer

The Integrated Transport Department raises no objection to this application.

Appendix 2: DCP Compliance Table**2.1 Part F2 – Outdoor Advertising and Signage**

DCP Clause	Control	Proposal	Compliance
2	General Design and siting		
	(i) Signage should recognise the legitimate needs for directional advice, business identification and promotion.	The signage will display content that is un-related to the service being provided by Telstra. The third-party nature of the signage is not dissimilar to advertising found on other structures such as bus shelters, toilets and bins and will provide revenue for the maintenance of the payphone.	Yes
	(ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development.	The signage is compatible with surrounding development in the Commercial Centre and surrounding E1 zoned land.	Yes
	(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 proposal is located on the footpath area and is not attached to any building.	Yes
	(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 proposal is located on the footpath area and is not attached to any building.	Yes
	v) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	N/A	N/A
	(vi) Signage shall be displayed in English but may include a translation in another language.	Complies, subject to condition.	Yes
	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.	N/A	N/A
	viii) Outdoor advertising attached to vehicles or trailers which are parked for advertising purposes will not be permitted.	N/A	N/A
	(ix) Signage must not be flashing or animated. Note: Flashing or animated signs include mechanical moving signs, moving LED signs, video/television screens, projected laser advertising and other flashing, intermittently illuminated or sequenced lighting signs.	Complies, subject to condition.	Yes
3	Signage Based on land use zones		

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DCP Clause	Control	Proposal	Compliance
	Special Purpose Zones		
	i) Signage must not be flashing or animated	Complies, subject to condition.	Yes
	ii) Signage must be designed and located so that it forms an integral part of the building or land upon which it is situated.	The signage is well integrated with the payphone structure.	Yes
	iii) The number of signs should be kept to a minimum. Where possible signs should be grouped together. Avoid a proliferation of advertising material.	The payphone structure includes two (2) digital signage panels only.	Yes

2.2 Part F4 – Telecommunications and Radiocommunications

Part F4 of RDCP 2013 applies to telecommunications and radiocommunications facilities and their supporting infrastructure and ancillary development under the *Telecommunications Act 1997*. Section 5 contains guidelines for the siting, design, and installation of telecommunications and radiocommunications facilities that require development consent. Council is satisfied that the proposed development is generally consistent with the guidelines included at Section 5.

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/539/2022

Development Consent Conditions (Commercial)



D50/24

Folder /DA No:	DA/539/2022
Property:	Near 13 Maroubra Rd MAROUBRA NSW 2035
Proposal:	Installation of a telecommunications facility (payphone) with associated third-party digital signage.
Recommendation:	Approval

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Cab ID: 02934914X2 (site plan)– Issue B	JCDecaux	21/10/2022	27 October 2022
Dwg. TEL-001 (Elevations)	JCDecaux	7 June 2018	27 October 2022

Consent Requirements

- This Development Consent is valid for fifteen (15) years from the date listed on the consent and shall expire after this time.
- The existing phone booth and associated signage must be removed from Maroubra Road prior to the operation of the proposed phone booth.
- A minimum **2.8m** wide section of footpath is to remain unimpeded for pedestrian use.

Contractual Agreement

- Prior to the installation of the advertising panels, the advertiser shall enter into a contract with Council relating to the advertising panel to be displayed on each public phone booth. The agreement shall contain conditions relating to the payment of an annual fee, the fee is to be paid in advance and shall be set as a percentage of the advertiser's charge out rate for the advertising panel.

At the beginning of the agreement and at the end of each calendar year, the advertiser shall notify Council of its intended charge out figure to enable Council invoicing to be prepared accordingly.

Prior to the installation of the advertising panels the applicant shall meet all costs associated for Council to have the subject agreement created.

Emergency Messaging System

6. The signage operator shall provide detailed information and training for NSW Police and Council in relation the Emergency Messaging System outlined in the submitted Statement of Environmental Effects. This information/training must be provided at no cost to NSW Police or Council.

Telecommunications Act 1997

7. This consent does not relieve the applicant from any responsibility under the Telecommunications (Low-impact Facilities) Determination 2018, made pursuant to the *Telecommunications Act 1997*.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

Security Deposit

9. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance the *Environmental Planning and Assessment Act 1979*:

- \$2000.00 - Damage / Civil Works Security Deposit

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

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

Building Code of Australia & Relevant Standards

10. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 69 of the *Environmental Planning and Assessment Regulation 2021*, it is a

prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).

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

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

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

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

Building Certification & Associated Requirements

11. 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.

Dilapidation Reports

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

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

Construction Site Management Plan

13. 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.

Public Liability

14. 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.

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

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

Building & Demolition Work Requirements

18. 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)	<ul style="list-style-type: none"> • Monday to Friday - 7.00am to 5.00pm • Saturday - 8.00am to 5.00pm

below)	<ul style="list-style-type: none"> • Sunday & public holidays - No work permitted
Excavations within rock, sawing of rock, use of jack-hammers, driven-type piling or the like	<ul style="list-style-type: none"> • Monday to Friday - 8.00am to 3.00pm (maximum) • As may be further limited in Noise & Vibration Management Plan • Saturday - No work permitted • Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> • Monday to Saturday - No time limits (subject to work not being audible in any residential dwelling or commercial/industrial tenancy or building) • Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Construction Noise

19. 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 in accordance with the conditions of consent.

Temporary Site Fencing

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

- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
- Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.
- Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
- Site access gates must open inwards and not onto Council land.

Notes:

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

- A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.

Site Management

21. 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.
 - Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.
 - 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.
 - A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Complaints Register

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

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

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

Road Occupancy Licence

23. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Maroubra Road during construction activities.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

24. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council's Infrastructure, Vehicular Crossings, street verge

25. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
26. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

OPERATIONAL CONDITIONS

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

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

Advertising and Signage

27. The signage shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards.
28. Dwell times between displays shall be no shorter than 10 seconds.

29. The number of advertisements displayed on the digital screen must not exceed six (6) per minute.
30. The transition time between different static digital advertisements displayed on the digital LED screens must be no longer than 0.1 seconds.
31. The images displayed on the signage must not contain/use:
 - Flashing or flickering lights or content.
 - Animated displays, moving parts or simulated movement.
 - Complex displays that hold a driver's attention beyond "glance appreciation".
 - Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber, or green circles, octagons, crosses, triangles, and words such as 'stop' or 'halt'.
 - A method of illumination that distracts or dazzles; and
 - Dominant use of colours red or green.
32. Signage shall be displayed in English but may include a translation in another language.
33. The digital signage shall be maintained, cleaned regularly and kept in safe working order at all times to maintain pedestrian and vehicular safety. Any damage to the signs shall be rectified within a timely manner.
- Illumination**
34. The digital signage must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
35. The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
36. The digital signage must comply with the relevant provisions of *AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting*.
37. Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.
- Electronic Log**
38. An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council to allow a review of the sign's activity for any reason, including where a complaint has been made.

Development Application Report No. D51/24

Subject: 280T Clovelly Road, Coogee (DA/530/2022)


Executive Summary

Proposal:	Installation of a telecommunications facility (payphone) with associated third-party digital signage.
Ward:	North Ward
Applicant:	Urbis Pty Ltd
Owner:	Randwick City Council
Cost of works:	\$26,376.00
Reason for referral:	The landowner is Council.

Recommendation

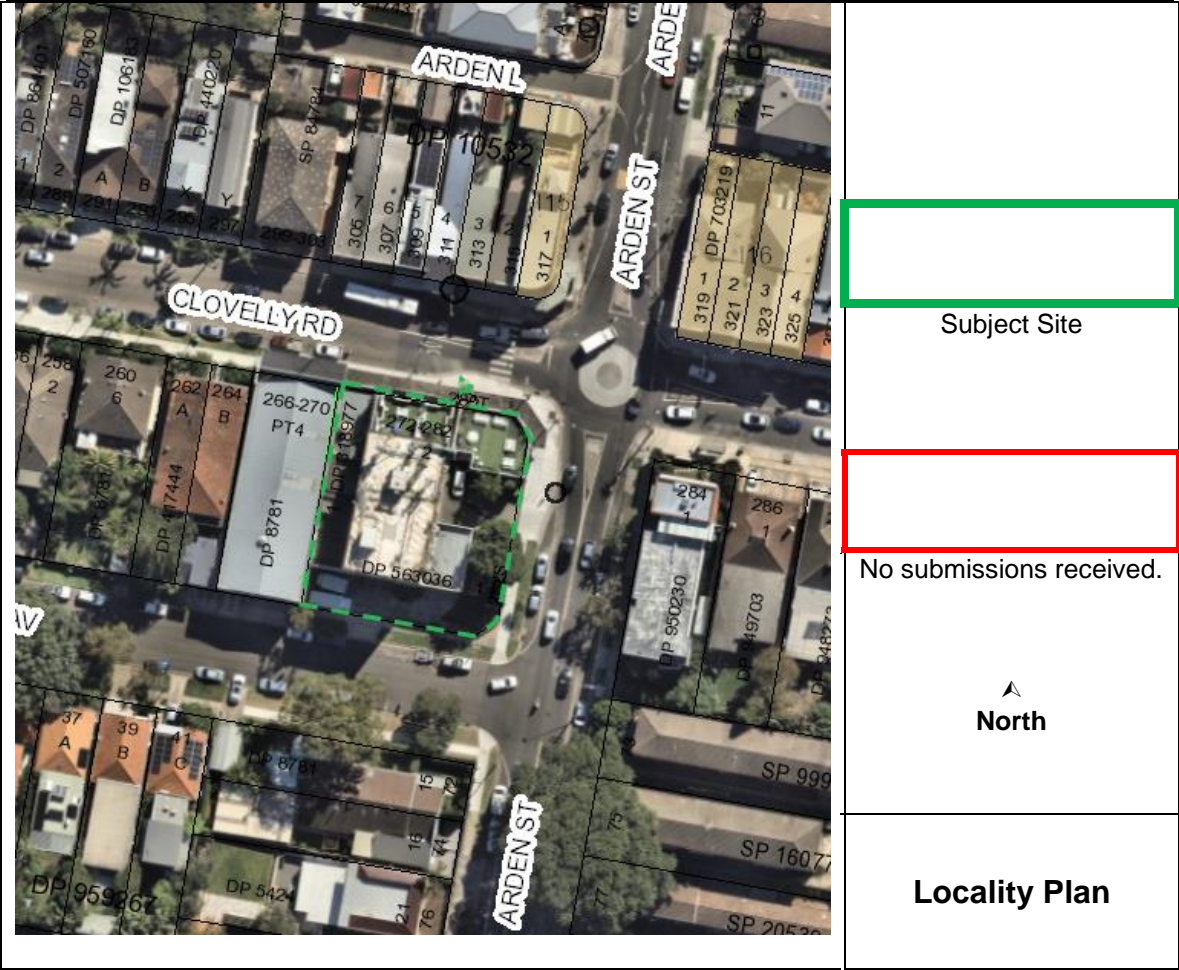
- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/530/2022 for Installation of a telecommunications facility (payphone) with associated third-party digital signage, at No. 280T Clovelly Road, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (commercial) - DA/530/2022 - Near 272-282 Clovelly Road, COOGEE NSW 2034

D51/24

D51/24



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is located on the footpath for which the landowner is Council.

The proposal seeks development consent for the installation and use of a telecommunications facility (payphone) with associated third-party digital signage on the public footpath at 280T Clovelly Road, Coogee. The proposal forms part of Telstra’s Smart Media Network initiative which seeks to upgrade and replace existing assets. The proposal seeks to remove the existing payphone and replace it with a new payphone (with associated signage). The proposed payphone is slightly wider and taller than the pre-existing payphone.

The proposed structure is defined as a telecommunications facility and incorporates third party advertising on electronic display screens (32-inch screen in the front of the phone booth and 75-inch at the back of the phone booth).

It is noted that on 20 November 2020, the Federal Court of Australia determined that Telstra’s Smart Media Network payphones, which were previously exempt from the requirement for development consent, do not qualify as being a ‘low impact facility’ under the Telecommunications Act 1997. As such, a Development Application (DA) is required for the construction and use of the telecommunication facility (payphone) and associated installation of digital signage.

The key issues associated with the proposal relate to pedestrian and traffic safety, light nuisance, and streetscape character. Subject to conditions, the proposed payphone structure will maintain reasonable levels of safety for pedestrians and traffic. The signage will also comply with relevant Australian standards for illumination and will not be inconsistent with the streetscape.

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

2. Site Description and Locality

The subject site is located on the public footpath adjacent to 272-282 Clovelly Road.

The site is zoned E1 Local Centre with nearby low and medium density residential zones to the west and east further along Clovelly Road. Development adjoining the site comprises shops and shop top housing and dwelling houses, boarding houses and flat buildings further beyond.

The proposal seeks to remove the existing payphone at the site replace it with a new payphone (refer Figure 1).

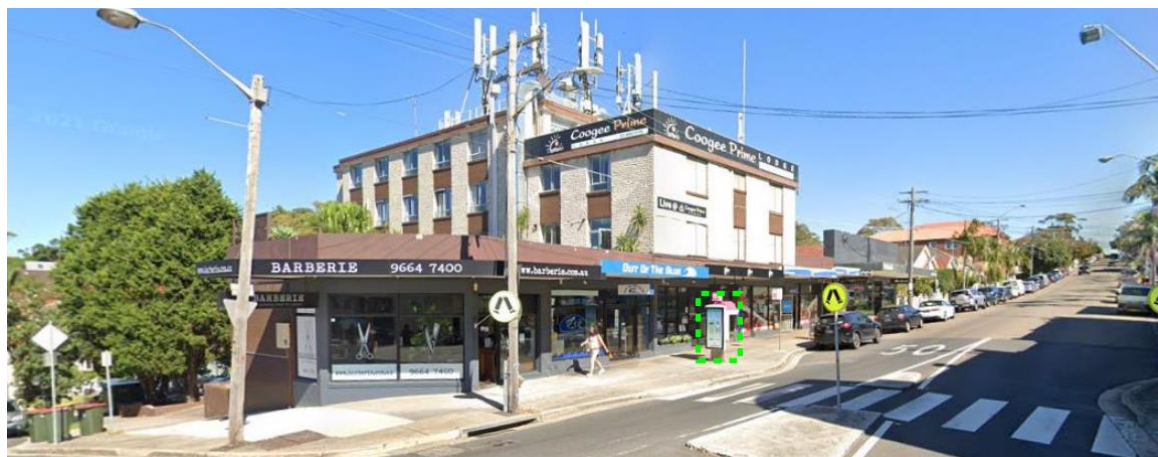


Figure 1: Shows the existing payphone (green outline) on the footpath of the existing development at 272-282 Clovelly Road.

3. Relevant history

Development Application – DA/836/2018

On 15 May 2019, Council granted consent under Development Application No. DA/836/2018 for the use of the existing payphone at the subject site for third party advertising. At the time of approval, the payphone was considered a 'low impact facility'. This consent was subsequently modified by way of three (3) modification applications.

Federal Court Decision

On 20 November 2020, the Federal Court of Australia (Telstra Corporation Limited v Melbourne City Council [2021] HCASL 82) determined that Telstra's new Smart City Payphones, which were previously exempt from the requirement for development consent, do not qualify as 'low impact facilities' under the Telecommunications Act 1997. As a result, all existing and proposed new payphones require development consent for its use as a telecommunication facility with associated signage.

Pre Lodgement – PL/23/2021

A Pre Lodgement meeting was held with the Applicant on 11 May 2021 in relation to Telstra payphone assets at various locations across the Randwick LGA (refer PL/23/2021). The meeting notes advised the Applicant to lodge development applications to obtain the required approvals for the installation and use of the telecommunication facilities, inclusive of signage. Council advised that each application will be assessed on its merits having regards to:

- The siting of the telecommunications infrastructure should be demonstrated to be in line with best practice guidelines;

- An independent accredited safety audit report should be submitted as part of the development application to demonstrate that the siting of the structure does not pose a potential hazard to traffic safety;
- The proposal should demonstrate a satisfactory visual impact on the streetscape (with particular regard to any heritage conservation area), and not result in light spill; and
- The siting of the proposal should not give rise to footpath congestion and should maintain sufficient clearance for pedestrian traffic.

4. Proposal

The proposal seeks development consent for installation and use of a payphone at No. 280T Clovelly Road, Coogee, on the public footpath adjacent to 272-282 Clovelly Road, Coogee (refer Figure 2). The payphone is defined as a telecommunications facility and incorporates third party advertising on electronic display screens. A photomontage of the proposed payphone structure is provided at Figure 3.

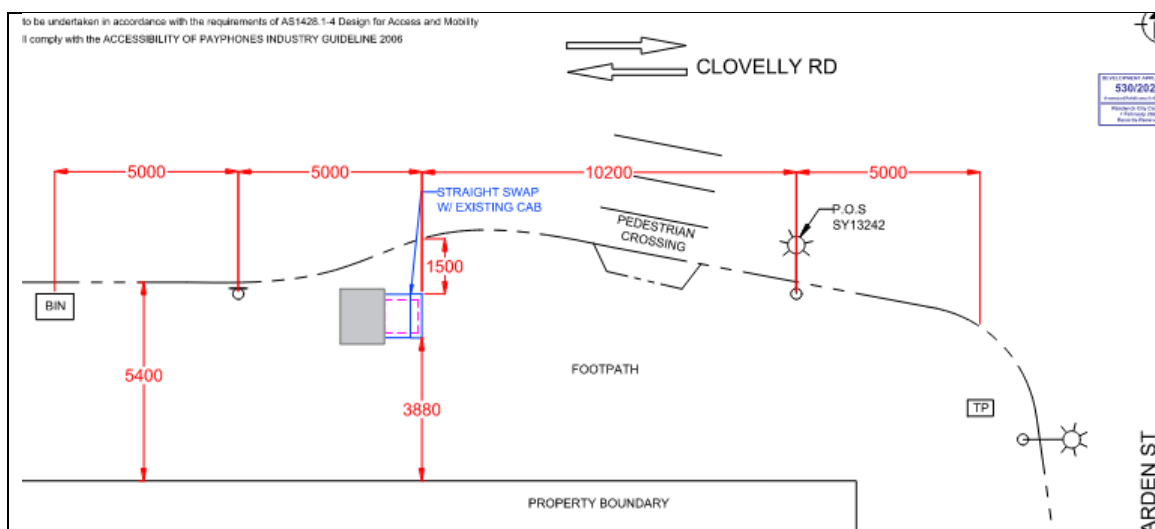


Figure 2: Site plan showing location of existing (pink dashed line) and proposed payphone (blue line). Please note dimensions shown in the above plan are incorrect noting that the clear way between the payphone and property boundary of shopfronts at No. 272-282 Clovelly Road measures 2.5m.

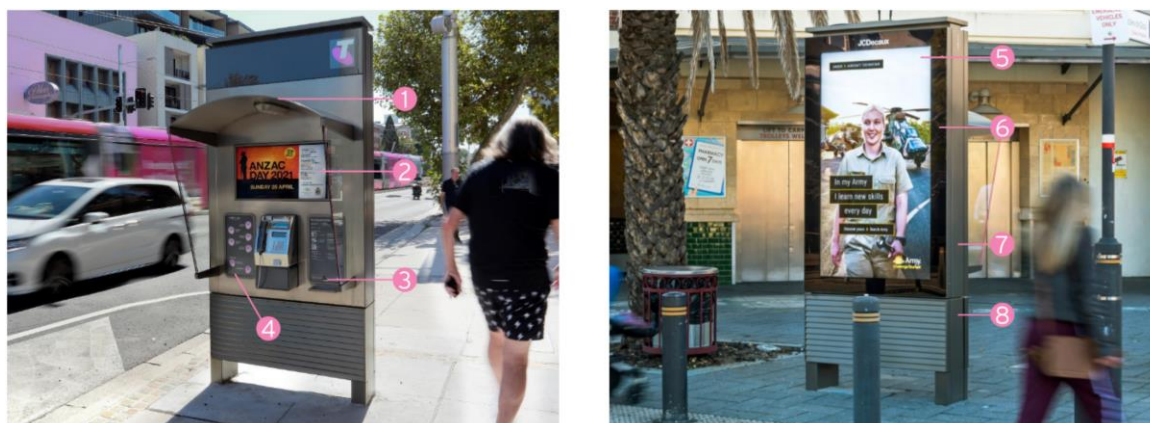


Figure 3: Photomontage of proposed payphone structure (Source: Applicant)

The proposed payphone structure (see Figure 4) is 2.727m in height, 1.2m in width, 0.321m in depth. The front of the proposed payphone includes a 32-inch digital screen above the phone to be used for third party advertising. The rear of the proposed payphone includes a 75-inch digital screen to be used for third party advertising. The advertising screen will display multiple adverts, with six (6) adverts occurring per minute.

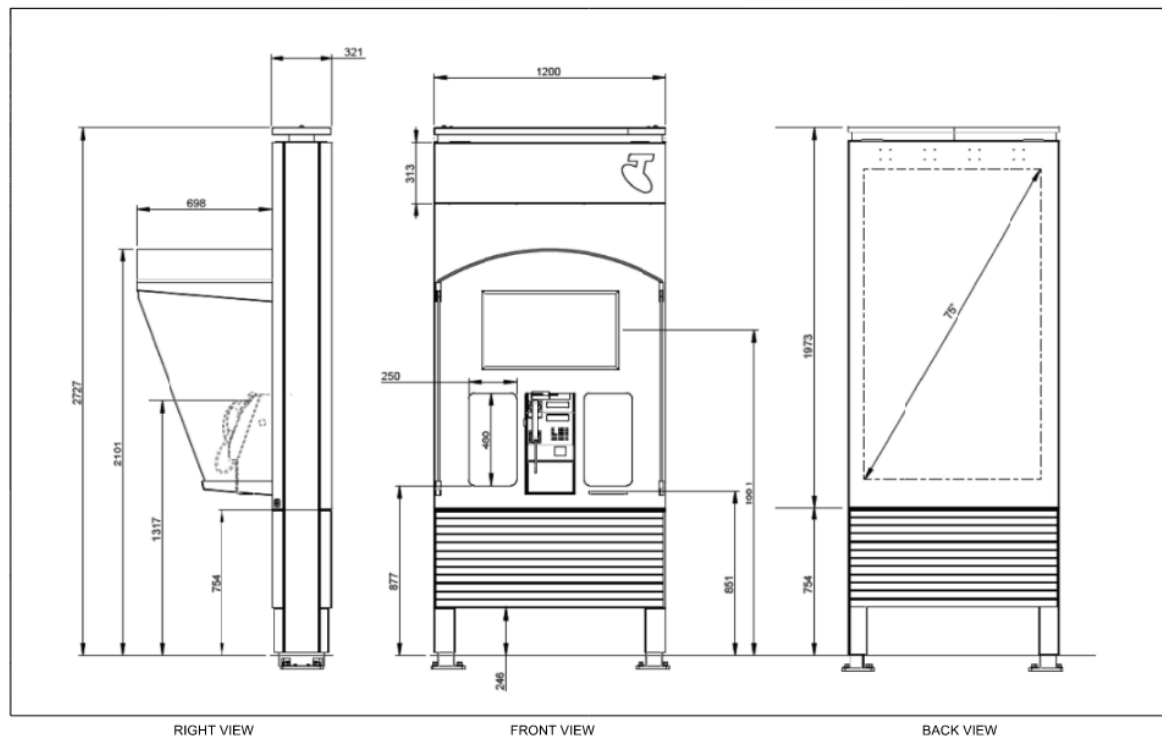


Figure 4: elevations of payphone structure and digital advertising board in back view.

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 Legislation

6.1. Telecommunications Act 1997

On 20 November 2020, the Federal Court of Australia determined that Telstra's Smart Media Network payphones, which were previously exempt from the requirement for development consent, do not qualify as being a 'low impact facility' under the Telecommunications Act 1997. As such, a Development Application (DA) is required for the construction and use of the telecommunication facility (payphone) and associated installation of digital signage.

7. Relevant Environment Planning Instruments

7.1. SEPP (Transport and Infrastructure) 2021

Chapter 2 of the Transport and Infrastructure SEPP seeks to facilitate the effective delivery of infrastructure across the state.

Pursuant to Clause 2.143 of the SEPP, development for the purpose of telecommunication facilities (i.e. payphones) may be carried out by any person with consent on any land. Pursuant to subclause 2.143(2), the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Planning Secretary.

Having regard to the *NSW Telecommunications Facilities Guideline, Including Broadband* (published by Department of Planning and Environment, dated October 2022), the proposed telecommunications facility meets the following principles:

- The payphone is designed and sited such that it does not result in visual clutter;

- The payphone is co-located on the part of the footpath where other structures such as bins, signage, seating, and the like are usually located;
- The design, installation, and operation of the payphone will comply with relevant health standards for exposure to radio emissions; and
- Suitable conditions are included to ensure that the installation and operation of the payphone will minimise disturbance and risk, and maximise compliance with relevant guidelines and Australian Standards.

7.2. SEPP (Industry and Employment) 2021

Chapter 3 of the Industry and Employment SEPP seeks to ensure that signage, including advertising, is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish.

The signage falls within the definition of ‘advertisement’, which is defined by the SEPP as follows:

Advertisement means signage to which Section 3.3 applies and includes any advertising structure for the advertisement.

Advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Pursuant to section 3.11, the consent authority must not grant consent to an application to display an advertisement unless the advertisement is consistent with the objectives of Chapter 3 and has been assessed as acceptable in relation to the assessment criteria in Schedule 5.

An assessment against the relevant objects and criteria is provided in the tables below.

Industry & Employment SEPP – Chapter 3	Compliance
(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.	<p>The proposed signage is compatible with the desired amenity and visual character of the locality. The site is located directly adjacent to the Local Commercial Centre, which is characterised by commercial uses and signage.</p> <p>The payphone structure will display the proposed signage and is of a high-quality design and finish. Suitable conditions are included to ensure that the payphone structure will maintain reasonable levels of safety for pedestrians and traffic and to ensure the signage will comply with relevant Australian standards for illumination.</p>

Industry & Employment SEPP – Schedule 5	Comment
Character of the area	
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 proposal is compatible with the existing character of the local Commercial Centre and surrounding E1 zoned land.

Industry & Employment SEPP – Schedule 5		Comment
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; however it is not considered the subject design would be in contrast with the immediate locality.
Special areas		
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?		The signage does not detract from the amenity or visual quality of the Commercial Local Centre and surrounding E1 zoned land.
Views and vistas		
Does the proposal obscure or compromise important views?		The proposed signage will not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?		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 proposal does not affect the viewing rights of other advertisers.
Streetscape, setting or landscape		
Are the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?		The signage is compatible with the scale and proportions of the surrounding streetscape, setting, and landscape.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?		The proposal does not have an adverse impact on the visual interest of the streetscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?		The proposal does not create any undue clutter and is limited to a sole signage emplacement.
Does the proposal screen unsightliness?		The proposal does not create any undue unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?		The proposal does not protrude above buildings.
Does the proposal require ongoing vegetation management?		The proposal does not require ongoing vegetation management.
Site and building		
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 proposal is located on the footpath area and is not attached to any building.

Industry & Employment SEPP – Schedule 5		Comment
Does the proposal respect important features of the site or building, or both?		The proposal is located on the footpath area and is not attached to any building.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?		The proposal is located on the footpath area and is not attached to any building.
Associated devices and logos with advertisements and advertising structures		
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 signage is well integrated with the payphone structure.
Illumination		
Would illumination result in unacceptable glare?		Complies, subject to conditions.
Would illumination affect safety for pedestrians, vehicles or aircraft?		Complies, subject to conditions.
Would illumination detract from the amenity of any residence or other form of accommodation?		Complies, subject to conditions.
Can the intensity of the illumination be adjusted, if necessary?		Complies, subject to conditions.
Is the illumination subject to a curfew?		Complies, subject to conditions.
Safety		
Would the proposal reduce the safety for any public road?		The proposal will not affect the safety of Clovelly Road, subject to conditions and has been reviewed by Council's Integrated Transport team.
Would the proposal reduce the safety for pedestrians or bicyclists?		The proposal will not affect the safety of pedestrians or cyclists, subject to conditions.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?		The proposal does not obscure sightlines from public areas.

7.3. SEPP (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

The site is not identified in Council's records as being contaminated and there is no specific evidence to indicate that the site is contaminated. In this regard, the site is considered suitable for the proposed development.

7.4. Randwick Local Environmental Plan (RLEP) 2012

The site is zoned E1 Local Centre under Randwick Local Environmental Plan (RLEP) 2012. The proposal, being for a telecommunication facility (payphone) with associated signage, is permissible

in the E1 zone. Council is satisfied that the proposal is not inconsistent with the objectives of the E1 zone, which include:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.*
- *To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.*
- *To facilitate a safe public domain.*
- *To support a diverse, safe and inclusive day and night-time economy.*

The payphone and associated signage will strengthen the role of this Local Coogee Commercial Centre and provide a form of social infrastructure for the local community.

It is considered that the proposed third-party advertising is similar to other advertising found on commercial premises within the adjacent E1 zone. In this regard, the proposal is consistent with the prevailing character of the area and will not adversely affect the amenity of nearby development. The proposed location of the payphone provides suitable clear zones for pedestrian foot traffic. Suitable conditions are included to ensure a high level of accessibility and amenity for pedestrians and vehicles and to ensure a safe public domain.

It is noted that the subject site is located in proximity to R2 Low and R3 Medium Density Residential zoned lands, where signage is generally not permissible unless related to building and business identification. Notwithstanding, the development is separated from the residential zones and will not detract from the character of the nearby residential zone. The digital signage is not within a direct line of sight from adjacent dwellings and the residential character of the immediate locality is already substantially compromised by the arterial nature of Clovelly Road.

Council is also satisfied that the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity, and other planning principles relating to the efficient and timely development of land.

Heritage Conservation – Clause 5.10

The site is not listed under Schedule 5 of RLEP 2012 as being a heritage item or being located within a heritage conservation area. However, heritage items ("317, 319, 321, 323, and 325 Clovelly Road") are in proximity to the subject site.

The proposed works will not impact the heritage significance of the heritage items and therefore the proposal is consistent with clause 5.10. Refer to discussion by Council's Heritage Officer at Appendix 1 of this report.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

The DCP provisions are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant

successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument	Refer to Section 7 of this report.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to Appendix 2.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	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.

9.1. Key Issues

Pedestrian and Traffic Safety

Council's Asset Engineer, Development Engineer and Integrated Transport team have reviewed the proposal and raise no concerns regarding pedestrian and traffic safety, subject to suitable conditions.

In accordance with Council's requirements, a 2.5m clearway will be provided between the payphone structure and adjacent property boundary to facilitate pedestrian access.

Illumination Impacts

The illuminated signage is located on the front and back of the payphone structure and is oriented towards the east-west Clovelly Road corridor, away from the residential properties located beyond the E1 Commercial Local Centre zone. Suitable separation of over 30m is provided between the payphone location and nearby residential zoned properties on the opposite side of Clovelly Road to the west and towards the east along Clovelly Road.

The digital signage is not within a direct line of sight from adjacent dwellings and the residential character of the immediate locality is already substantially compromised by the arterial nature of Clovelly Road.

Notwithstanding, suitable conditions are included to minimise light nuisance impacts to nearby residential properties, as outlined below:

- The digital signage must be designed and located so as to minimise light spill beyond the property boundary or cause a public nuisance.
- The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
- The digital signage must comply with the relevant provisions of *AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting*.
- Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.

Streetscape Character

It is considered that the proposed third-party advertising is similar to other advertising found on commercial premises within the Local Centre and along Clovelly Road. The streetscape character of the immediate locality is already substantially compromised by the arterial nature of Clovelly Road. In this regard, the proposal is consistent with the prevailing character of the area and will not adversely affect the amenity of nearby development.

10. Conclusion

That the application to undertake the installation of a telecommunications facility (payphone) with associated third-party digital signage at No. 280T Clovelly Road, Randwick, be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within RLEP 2012 and the relevant requirements of RDCP 2013.
- The proposal is consistent with the relevant objectives of the Industry and Employment SEPP and the Transport and Infrastructure SEPP.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the existing and desired future character of the locality.
- The development does not detract from the visual quality of the public domain or streetscape.
- The payphones will provide a form of social infrastructure for the local community; and

Subject to conditions, the digital advertising incorporated into the payphone structure will be appropriately managed to minimise illumination impacts and ensure pedestrian and traffic safety.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The site is a very contained footprint on public footpath land, adjacent to numbers 272-282 Clovelly Road Coogee, and close to its intersection with Arden Street. The centre of Clovelly Road is the suburban boundary between Clovelly and Coogee. Thus, while the subject site of the proposal is in Coogee, the relevant heritage items that are noted below are listed as being in Clovelly. This immediate precinct is a busy commercial and residential hub.

The footprint introduction/impact of the proposal is approximately 1m² and is simply for an upgraded replacement of an existing payphone unit in approximately the same location.

The site, on the public walkway adjacent to 272-282 Clovelly Road is not identified as a heritage item or located within a Heritage Conservation Area (HCA). However, the proposal is in the immediate vicinity of several individual heritage items, which are locally listed. These form an important combined heritage presentation of two to three storey *Art Deco* buildings on the opposite side of Clovelly Road (in the suburb of Clovelly) and within 25 metres of the proposal. They include numbers 317 Clovelly Road (Pohills Corner), and 319-325 Clovelly Road (Walders Corner, a commercial and residential Group). They are listed as Heritage Items 15 and 16 in Schedule 5 of the Randwick Local Environmental Plan (RLEP).

Background

In May 2021, *Urbis* met with Council to discuss the proposed *Telstra* payphone and associated digital signage proposals across the Randwick Local Government Authority (LGA) - (Reference PL/23/2021 Meeting Date of 11 May 2021)

Council has provided advice. Predominantly positive feedback from Council means that *JCDecaux* are keen to progress the project as a whole within the Local Government Area. The DA proposal at 272-282 Clovelly Road, Clovelly is part of this larger scheme.

Proposal

The proposal is for the upgraded replacement of an existing payphone and will not be adding any substantially changed structure to the streetscape. The structure has a double anchor and small footprint, but also includes an advertising panel on the obverse side. The proposal in detail involves:

- The removal of the existing low-impact facility payphone at approximately the same location
- Construction and use of the subject site for a telecommunication facility, including digital screens for both business identification signage (standard telephone services content) and advertising (third-party)
- The payphone structure measures 1,200mm wide, 2,727mm tall and 321mm deep.
- Third party advertising integrated into the payphone structure, consisting of a 32-inch digital screen to the front of the structure, above the phone, and a 75-inch digital screen to the rear of the structure.

Submission

For the purposes of this proposal the Development Application is accompanied by the following documents:

- Detailed drawings by *Decaux Australia Pty Ltd*, dated as 7 June 2018 (Received by Council 24 October 2022)
- A professionally prepared detailed and well-illustrated Statement of Environmental Effects (SEE), and also containing detailed drawings, by *URBIS Pty Ltd*, Prepared for JCDECAUX October 2022 (Received by Council 24 October 2022)
- Relevant assessment studies for visual corridors, streetscape, significant built elements, as well as vehicular and pedestrian movement (Received by Council 24 October 2022)
- A schedule of materials colours and finishes (Received by Council 24 October 2022)

Controls

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

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

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

Comments

The subject site is not located at a site with heritage significance. However, as noted above, there are several locally listed heritage items within the close vicinity, on the opposite side of Clovelly Road and in the suburb of Clovelly.

- The proposal, however, is simply for a replacement and upgrade of an existing similar structure.
- The physical size – height and footprint - of the proposed structure is deemed to be minimal.
- The incorporated low light advertising with inbuilt light adjustment sensor is also deemed to be minimal.

From a heritage perspective therefore, it is unlikely that the proposal would have any substantial impact upon view corridors or listed built elements in the vicinity of this busy precinct, or upon vehicular and pedestrian traffic.

1.2. Development Engineer

An application has been received for Installation of a telecommunications facility (payphone) with associated third-party digital signage at the above site.

This report is based on the following plans and documentation:

- Plans by JCDecaux Rev C dated 23/08/2022.
- Statement of Environmental Effects by Urbis dated October 2022
- Traffic and Pedestrian Safety Reviews by Bitzios Consulting dated 16th September 2022

General Comments

There are no objections to the development from Development Engineering. Pedestrian access and safety will not be compromised as a result of the proposal.

Landscape Comments

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

1.3. Assets Engineer

No objections are raised by Council's Assets Engineer for the following reasons:

- It is only incremental width increase of smartphone there are no objections to the proposal.
- No street trees, doesn't inhibit pedestrian movement, no conflict of parking (kerbside setback)

1.4. Integrated Traffic Engineer

The Integrated Transport Department raises no objection to this application.

1.5. Property Officer

No concerns raised, subject to conditions.

Appendix 2: DCP Compliance Table**2.1 Part F2 – Outdoor Advertising and Signage**

DCP Clause	Control	Proposal	Compliance
2	General Design and siting		
	(i) Signage should recognise the legitimate needs for directional advice, business identification and promotion.	The signage will display content that is un-related to the service being provided by Telstra. The third-party nature of the signage is not dissimilar to advertising found on other structures such as bus shelters, toilets and bins and will provide revenue for the maintenance of the payphone.	Yes
	(ii) Signage must complement and be compatible with the development on which it is situated and with adjoining development.	The signage is compatible with surrounding development in the Commercial Centre and surrounding E1 zoned land.	Yes
	(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 proposal is located on the footpath area and is not attached to any building.	Yes
	(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 proposal is located on the footpath area and is not attached to any building.	Yes
	v) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	N/A	N/A
	(vi) Signage shall be displayed in English but may include a translation in another language.	Complies, subject to condition.	Yes
	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.	N/A	N/A
	viii) Outdoor advertising attached to vehicles or trailers which are parked for advertising purposes will not be permitted.	N/A	N/A
	(ix) Signage must not be flashing or animated. Note: Flashing or animated signs include mechanical moving signs, moving LED signs, video/television screens, projected laser advertising and other flashing, intermittently illuminated or sequenced lighting signs.	Complies, subject to condition.	Yes
3	Signage Based on land use zones		

D51/24

D51/24

DCP Clause	Control	Proposal	Compliance
	Special Purpose Zones		
	i) Signage must not be flashing or animated	Complies, subject to condition.	Yes
	ii) Signage must be designed and located so that it forms an integral part of the building or land upon which it is situated.	The signage is well integrated with the payphone structure.	Yes
	iii) The number of signs should be kept to a minimum. Where possible signs should be grouped together. Avoid a proliferation of advertising material.	The payphone structure includes two (2) digital signage panels only.	Yes

2.2 Part F4 – Telecommunications and Radiocommunications

Part F4 of RDCP 2013 applies to telecommunications and radiocommunications facilities and their supporting infrastructure and ancillary development under the *Telecommunications Act 1997*. Section 5 contains guidelines for the siting, design, and installation of telecommunications and radiocommunications facilities that require development consent. Council is satisfied that the proposed development is generally consistent with the guidelines included at Section 5.

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/530/2022

Development Consent Conditions (Commercial)



D51/24

Folder /DA No:	DA/530/2022
Property:	280T Clovelly Road, Coogee
Proposal:	Installation of a telecommunications facility (payphone) with associated third-party digital signage.
Recommendation:	Approval

GENERAL CONDITIONS

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

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

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Cab ID: 02966524X2* (site plan)	JCDcaux	03/05/2018	7 February 2023
Dwg. TEL-001 (Elevations)	JCDcaux	7 June 2018	24 October 2022

*site plan shall be amended in Construction Certificate details to correct dimensions of the kerbside depth, payphone kerbside setback (minimum of 600mm) and 2.5m minimum pedestrian clear way between the Payphone structure and shopfront.

Consent Requirements

2. This Development Consent is valid for fifteen (15) years from the date listed on the consent and shall expire after this time.
3. A minimum **2.5m** wide section of footpath (clear way) is to remain unimpeded for pedestrian use.

Contractual Agreement

4. Prior to the installation of the advertising panels, the advertiser shall enter into a contract with Council relating to the advertising panel to be displayed on each public phone booth. The agreement shall contain conditions relating to the payment of an annual fee, the fee is to be paid in advance and shall be set as a percentage of the advertiser's charge out rate for the advertising panel.

At the beginning of the agreement and at the end of each calendar year, the advertiser shall notify Council of its intended charge out figure to enable Council invoicing to be prepared accordingly.

Prior to the installation of the advertising panels the applicant shall meet all costs associated for Council to have the subject agreement created.

5. **Emergency Messaging System**
The signage operator shall provide detailed information and training for NSW Police and Council in relation the Emergency Messaging System outlined in the submitted Statement of Environmental Effects. This information/training must be provided at no cost to NSW Police or Council.
6. **Telecommunications Act 1997**
This consent does not relieve the applicant from any responsibility under the Telecommunications (Low-impact Facilities) Determination 2018, made pursuant to the *Telecommunications Act 1997*.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

7. **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.

8. **Security Deposit**
The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance the *Environmental Planning and Assessment Act 1979*:

- \$2000.00 - Damage / Civil Works Security Deposit

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

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

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

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

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

Building Code of Australia & Relevant Standards

9. 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

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

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

Building Certification & Associated Requirements

10. 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.

Dilapidation Reports

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

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

Construction Site Management Plan

12. 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 stockpiles

- 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.

Public Liability

13. 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.

Public Utilities

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

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

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

Site Signage

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

Building & Demolition Work Requirements

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

Activity	Permitted working hours
----------	-------------------------

All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> Monday to Friday - 7.00am to 5.00pm Saturday - 8.00am to 5.00pm Sunday & public holidays - No work permitted
Excavations within rock, sawing of rock, use of jack-hammers, driven-type piling or the like	<ul style="list-style-type: none"> Monday to Friday - 8.00am to 3.00pm (maximum) As may be further limited in Noise & Vibration Management Plan Saturday - No work permitted Sunday & public holidays - No work permitted
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> Monday to Saturday - No time limits (subject to work not being audible in any residential dwelling or commercial/industrial tenancy or building) Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

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

Construction Noise

18. 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 in accordance with the conditions of consent.

Temporary Site Fencing

19. Temporary site safety fencing or site hoarding must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works, in accordance with the SafeWork guidelines and the following requirements:
- Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
 - Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
 - All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.
 - Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
 - Site access gates must open inwards and not onto Council land.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

Site Management

20. 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.
- Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.
- 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.
- A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Complaints Register

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

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

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

Road Occupancy Licence

22. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Clovelly Road during construction activities.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Occupation Certificate Requirements

23. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council's Infrastructure, Vehicular Crossings, street verge

24. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
25. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
 - b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
 - c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

OPERATIONAL CONDITIONS

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

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

Advertising and Signage

26. The signage shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards.

27. Dwell times between displays shall be no shorter than 10 seconds.
 28. The number of advertisements displayed on the digital screen must not exceed six (6) per minute.
 29. The transition time between different static digital advertisements displayed on the digital LED screens must be no longer than 0.1 seconds.
 30. The images displayed on the signage must not contain/use:
 - Flashing or flickering lights or content.
 - Animated displays, moving parts or simulated movement.
 - Complex displays that hold a driver's attention beyond "glance appreciation".
 - Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber, or green circles, octagons, crosses, triangles, and words such as 'stop' or 'halt'.
 - A method of illumination that distracts or dazzles; and
 - Dominant use of colours red or green.
 31. Signage shall be displayed in English but may include a translation in another language.
 32. The digital signage shall be maintained, cleaned regularly and kept in safe working order at all times to maintain pedestrian and vehicular safety. Any damage to the signs shall be rectified within a timely manner.
- Illumination**
33. The digital signage must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
 34. The digital signage must not result in unacceptable glare or adversely impact the safety of pedestrians, residents or vehicular traffic.
 35. The digital signage must comply with the relevant provisions of *AS 4282 – 1997 Australian Standard – Control of the obtrusive effects of outdoor lighting*.
 36. Visible light reflectivity from the digital signage and payphone structure shall not exceed 20 per cent and shall be designed to minimise glare.
- Electronic Log**
37. An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council to allow a review of the sign's activity for any reason, including where a complaint has been made.

Development Application Report No. D52/24

Subject: 19 Mermaid Avenue, Maroubra (DA/14/2024)


Executive Summary

Proposal:	Alterations and additions to existing dwelling house including rear extension, re-configuration of pool and surrounding terrace, and associated landscaping works.
Ward:	Central Ward
Applicant:	Mr D J Sullivan and Mrs S L Sullivan
Owner:	Notch Design Stuido Pty Ltd
Cost of works:	\$2,121,680.00
Reason for referral:	The development contravenes the development standard for building height maximum by more than 10%

Recommendation

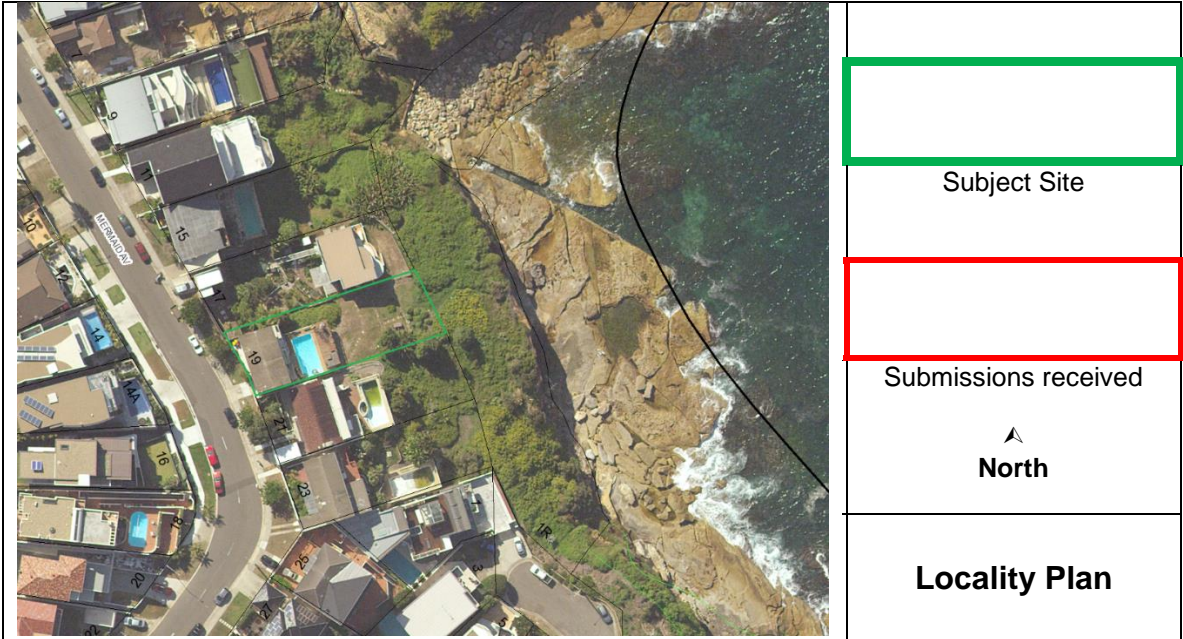
- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the Height of Building development standard in Clause 4.3 of Randwick Local Environmental Plan 2012.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/14/2024 for alterations and additions to the existing dwelling house including rear extension, re-configuration of pool and surrounding terrace, and associated landscaping works at No. 19 Mermaid Avenue, Maroubra, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/14/2024 - 19 Mermaid Avenue, MAROUBRA NSW 2035 - DEV - Randwick City Council

D52/24

D52/24



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) for determination as the proposed development contravenes the development standard for Height of Buildings contained in Randwick LEP 2012 by more than 10%.

The proposal seeks development consent for alterations and additions to the existing dwelling house including rear extension, reconfiguration of pool and surrounding terrace, and associated landscaping works.

The key issues associated with the proposal relate to the variation to the height of buildings development standard, overall bulk and scale of development and non-compliance with side setbacks.

The applicant has submitted written requests to vary the standards under Clause 4.6, which are considered to be well-founded as the overall bulk, scale and built form of the development is considered to be compatible in character with other development in the immediate streetscape and will not result in any unreasonable amenity impacts (with regards to solar access, views and subject to a condition for the incorporation of privacy mitigation measures) upon adjoining and surrounding properties or streetscape, subject to the recommendations within the report.

The proposal is recommended for approval subject to non-standard conditions that require privacy measures to be implemented to the northern side of the lower ground floor terrace deck.

2. Site Description and Locality

The subject site is known as 19 Mermaid Avenue, Maroubra and is legally described as Lot 10 in DP 12218. The site is located on the eastern side of Mermaid Avenue, with Malabar Road to the west and Liguria Street to the north. The subject site is a regular shaped lot with a total site area of 682m².

The site has a frontage width of 15.54m to Mermaid Avenue and to the eastern rear boundary the site width is 15.48m. The site has a depth of 43.89m to the northern and southern side boundaries and has a fall of approximately 19m from the highest point in the street/west frontage to the lower end at the rear/eastern boundary.

The site does not contain any significant vegetation and is located on the cliff line above Lurline Bay. The site currently contains a detached part 1 and part 3 storey residential dwelling with rear terrace and swimming pool.

Immediately to the north of the site is No.17 Mermaid Avenue. This property includes a single storey garage at the front of the site with the main pedestrian entry to the dwelling. The primary dwelling is essentially detached from the garage structure and sited further down the site. The dwelling is two storey's and includes a flat roof. Access to the dwelling from the front is provided by an open style elevated walkway. The main area of open space for this dwelling is centrally located.

No. 21 Mermaid Avenue to the south of the subject site is a three storey dwelling house which includes an elevated terrace and swimming pool structure at the rear. Part of the rear upper level terrace (northern portion) has been enclosed.

A site inspection revealed that there is construction work occurring at various properties in the street, the area is undergoing transition, whereby older housing stock is being demolished and replaced with larger, contemporary style dwellings. The locality is characterised by low density residential development comprising of a variety of dwelling houses of varying scales and forms however recently constructed homes on the western side of the street are typically 4 storeys in form. Properties further to the north of the subject site (No.15, 13, 11, 9 Mermaid Avenue) consist of three to five storey dwelling houses as viewed from the interface of Lurline Bay.



Figure 1: The subject site as viewed from Mermaid Avenue



Figure 2: Rear of existing dwelling as viewed from pool terrace



Figure 3: The rear yard of subject site and ocean view of Lurline Bay beyond

3. Relevant history

DA/958/2016 was approved at the Ordinary Council Meeting on 28 March 2017 for demolition of existing dwelling, construction of a 4 level dwelling with garage and car lift to front, swimming pool to rear and associated works. The application was approved with a variation to Height of Building development Standard in the LEP.

It should be noted that the 2016 consent is still valid as it was meant to lapse on 28 March 2022 but extended till 28 March 2024 due to State government's response to COVID.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling house including rear extension, reconfiguration of pool and surrounding terrace, and associated landscaping works.

The proposal comprises the following works:

- Additions to rear of the existing dwelling to add 59.92m² of floor space, across each of the following levels:
 - Entry floor – 18.52m²
 - Mid Ground floor – 17.65m²
 - Lower Ground floor – 23.75m²
- New layout of rear of dwelling including new stairs, recessed balcony and enclosed outdoor living area and associated internal reconfiguration through the dwelling.
- New glazing to rear additions and upgrading glazing to front and side elevations.
- New front door and garage door.
- New Colorbond roof and skylights.
- Modifications to rear terrace including new cabana, surfaces, fencing and alterations to swimming pool and steps.
- New hard and soft landscaping works to the rear and side setbacks, which include a range of trees, shrubs and groundcovers (9 x Banksia Integrifolia, 14 x Coastal Tea Tree and 7 x New Zealand Christmas Bush).

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and SEPP (Sustainable Buildings) 2022. The submitted BASIX Certificate includes a BASIX materials index which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

6.2. SEPP (Biodiversity and Conservation) 2021

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

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

The proposed development involves the removal of vegetation. There is no significant tree removal on the site. Council's Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal and landscaping treatments, subject to the imposition of conditions which requires the landscape plans to be amended and street trees to be protected during construction (refer to Referrals section below). As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 2 - 'Coastal management'

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

The subject site is within the coastal zone and is also identified on the Resilience and Hazards SEPP map as 'coastal environment area' and 'coastal use area'.

Before granting development consent on any land within the coastal zone the consent authority must be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on that land or other land. It is noted at this stage Council does not have any certified coastal management programs which require consideration.

Clause 2.10 applies to development on land within the coastal environment area

- 1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - b) *coastal environmental values and natural coastal processes,*
 - c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - f) *Aboriginal cultural heritage, practices and places,*
 - g) *the use of the surf zone.*
- 2) *Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—*
 - a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
 - b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The subject site is identified as being land within the "coastal environment area" on the Resilience and Hazards SEPP (Coastal Management) 2018 - maps. This requires the consent authority to consider certain factors before development consent is granted. These factors include the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment; coastal environmental values and natural coastal processes; the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)); marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms; existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability; Aboriginal cultural heritage, practices and places and the use of the surf zone.

These factors have been considered in the assessment of this application.

In response to Clause 2.10 of Division 2 – Coastal environment area, the proposal will not impede public access to the foreshore or use of the surf zone, or impact ecological or coastal environmental values.

In response to Division 5 – General, the proposal will not increase coastal hazards and the alterations are limited to the rear of the dwelling and is maintaining the existing ground levels, which minimises the impact on the coastal foreshore.

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

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

The site is identified as being land within the “coastal use area” on the Resilience and Hazards SEPP (Coastal Management) 2018 - map. This requires the consent authority to consider certain factors and be satisfied of certain requirements before development consent is granted.

Specifically the consent authority must consider whether the proposed development is likely to cause an adverse impact on existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability; overshadowing, wind funneling and the loss of views from public places to foreshores; the visual amenity and scenic qualities of the coast, including coastal headlands; Aboriginal cultural heritage, practices and places, and cultural and built environment heritage.

These factors have been considered in the assessment of this application. The proposal will not impede access to the foreshore or impact views from public places to the foreshore, or the scenic qualities of the coast given that the proposal is of adequate height and materials.

The proposed built form is contextually appropriate and the height, bulk and scale of the development is compatible with other dwelling houses and built form in the immediate neighbourhood. The proposed alterations and additions relate to the topography and its context to ensure the bulk and scale is adequately distributed and to minimise its impact on the visual amenity and scenic qualities of the coast.

Chapter 4 – Remediation of land

SEPP (Resilience and Hazards) 2021 came into effect on 1 March 2022 and consolidated the previous Coastal Management, Remediation of Land and Hazardous and Offensive Development SEPPs as Chapters 2, 3 and 4 within the new SEPP. The remediation of land provisions within Chapter 4 are relevant in this instance.

Chapter 4, Section 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on land and whether the site is suitable for residential development.

The applicant has outlined that the land use and residential nature of the site is not proposed to change. Historically, the site has been used for residential purposes. Furthermore, the subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject of an audit statement. Accordingly, nothing restricts Council, under the SEPP from consenting to the carrying out of development subject to the appropriate conditions of consent.

In this regard it is considered that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.6:1 (or GFA of 409.2m ²)	0.392:1 (or GFA of 260.57m ²)	Yes
CI 4.3: Building height (max)	9.5m	The maximum height of the building is 11.545m from the natural ground line to the top of the roof.	No. Refer to Clause 4.6 - Exceptions to development standards under Section 7 below.

6.4.1. Clause 4.6 - Exceptions to development standards

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

6.4.2. Clause 6.7 Foreshore scenic protection area

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

6.7 Foreshore scenic protection area

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

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

- D52/24
- (2) This clause applies to land identified as “Foreshore scenic protection area” on the [Foreshore Scenic Protection Area Map](#).

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

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

The proposed development will have an aesthetic appearance that will not be detrimental to the visual qualities and amenity of the foreshore. The proposed building bulk, scale and height responds satisfactorily to surrounding topography and will contribute to the scenic quality of the coastal foreshore and integrate effectively with existing development within the foreshore area.

The proposal meets the relevant objectives outlined for Foreshore scenic protection areas under Clause 6.7 of the RLEP 2012.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the Height of Buildings development standard contained within the Randwick Local Environmental Plan 2012 (RLEP 2012):

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.3: Building height (max)	9.5m	11.545m	2.045m	21.53%

The proposed maximum building height on the site is 11.545m which represents a variation of 2.045m from the numerical height of building standard in the LEP. The variation is limited to the northern side elevation where the site drops significantly as shown in Figure 4 below. The southern side elevation complies with the development standard as the existing ground level is at higher topography.

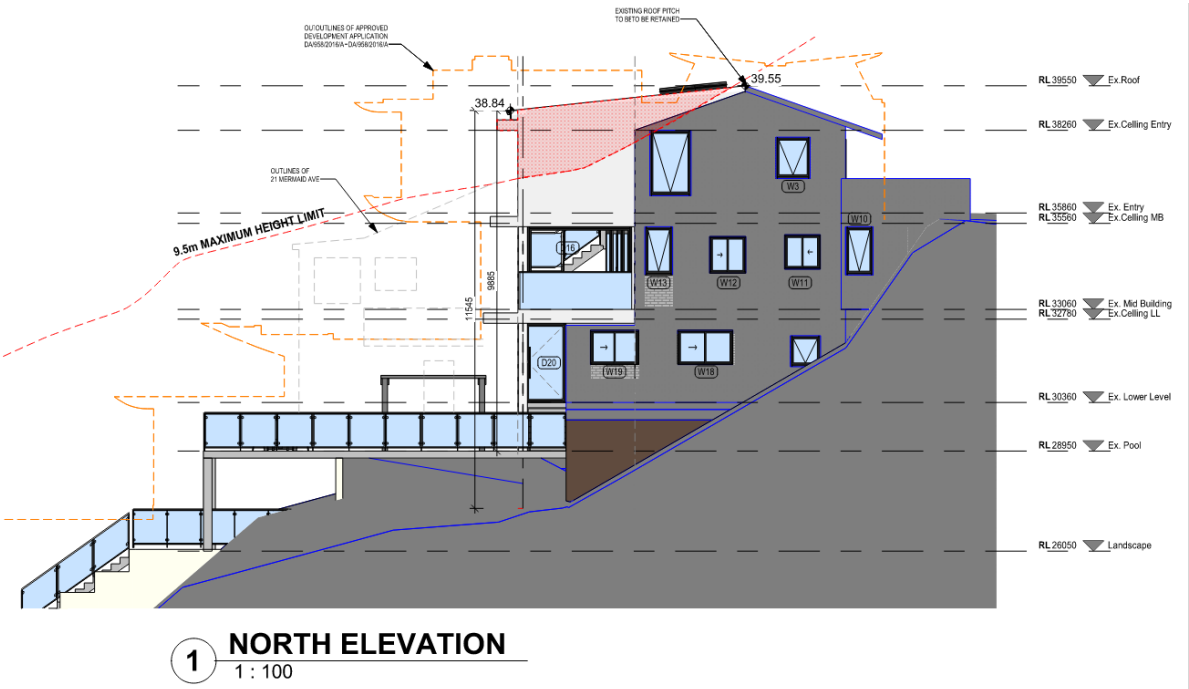


Figure 4: Northern side elevation showing area of non-compliant building height in red. The outline of the approved development shown in orange dash line.

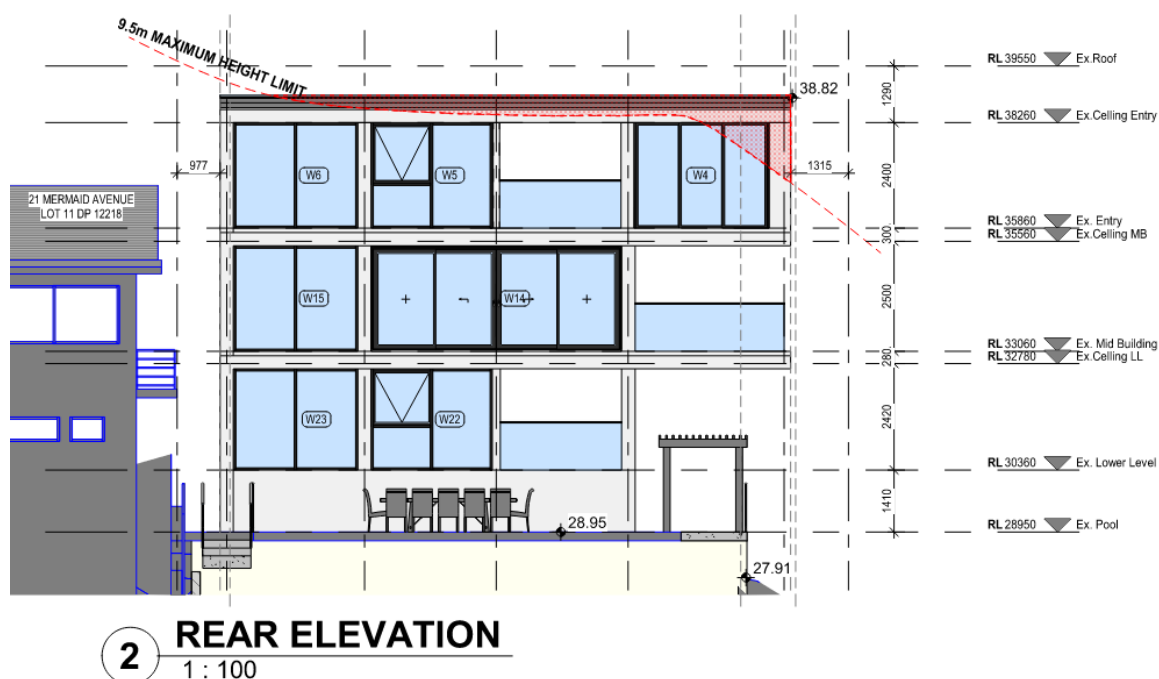


Figure 5: Rear eastern elevation showing area of area of non-compliant building height hashed in red.

The NSW Department of Planning and Environment (DPE) made amendments to clause 4.6 of the Standard Instrument which commenced on 1 November 2023. The changes aim to simplify clause 4.6 and provide certainty about when and how development standards can be varied.

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

3. *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard*

Pursuant to section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*, a development application for development that proposes to contravene a development standard must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3).

As part of the clause 4.6 reform the requirement to obtain the Planning Secretary's concurrence for a variation to a development standard was removed from the provisions of clause 4.6, and therefore the concurrence of the Planning Secretary is no longer required. Furthermore, clause 4.6 of the Standard Instrument no longer requires the consent authority to be satisfied that the proposed development shall be in the public interest and consistent with the zone objectives as consideration of these matters are required under sections 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979*, and clause 2.3 of RLEP 2012 accordingly.

Clause 4.6(3) establishes the preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where

he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

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

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

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

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

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

Additionally, in *WZSydney Pty Ltd v Ku-ring-gai Municipal Council* [2023] NSWLEC 1065, Commissioner Dickson at [78] notes that the avoidance of impacts may constitute sufficient environmental planning grounds "as it promotes "good design and amenity of the built environment", one of the objectives of the EPA Act." However, the lack of impact must be specific to the non-compliance to justify the breach (*WZSydney Pty Ltd* at [78]).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of a development standard. The assessment and consideration of the applicant's request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

7.1. Exception to the Height of Buildings development standard (CI 4.3)

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

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

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

The objectives of the Height of Building standard are set out in Clause 4.3 (2) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the extent of height variation is far less than that approved by Council under DA/958/2016 and the approved FSR and built form extended well beyond the proposed extent of built form under this application.

The height variation is limited to small portions of the roof form and northern side elevation and where the height variation occurs at its greatest is largely due to the substantial fall of the land as shown in Figure 4 & 5 above. The southern side elevation complies with the Height of Building development standard in the LEP.

The streetscape elevation in Figure 6 below demonstrates the proposed dwelling will remain single storey when viewed from the public domain, which indicates any additional bulk and scale impacts associated with the variation will not be visible from the streetscape. Therefore, the proposed development despite not complying with the Height of Building development standard in the LEP will retain the streetscape character along this part of Mermaid Avenue and will continue to be compatible with the desired future character of the locality.

The proposed building height towards the rear will be compatible with the height, bulk and scale of adjoining dwellings with particular regards to the adjoining dwellings to the northwest at No. 15, 11, 9, 7 and 5A Mermaid Avenue as shown in Figure 7 below. The height of the proposed development will be consistent and compatible with other recently approved and constructed dwelling with breaches even greater than that proposed under this application.

In the context, the proposed building height will not be overbearing in the streetscape and will sit comfortably and appropriately alongside adjoining and neighbouring dwellings along the foreshore.

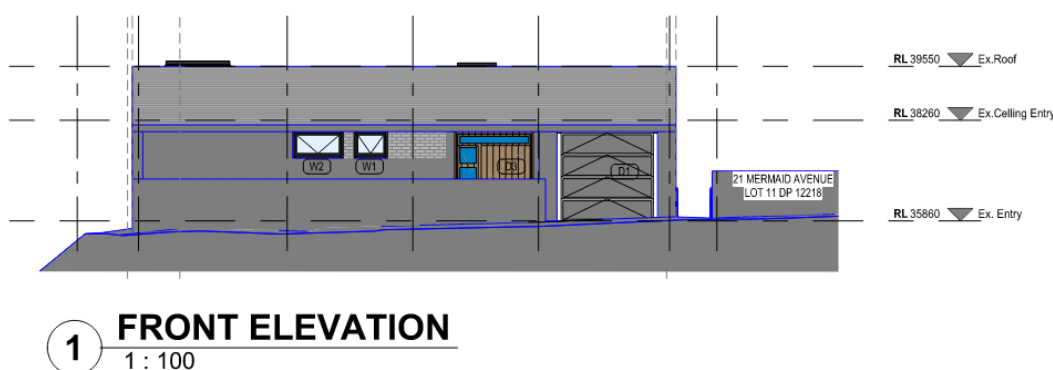


Figure 6: Front elevation of proposed development on Mermaid Avenue.



Figure 7: Front and rear photo montage of the approved attached dual occupancy under DA/9/2018 at No. 11 Mermaid Avenue and adjoining development which consist of up to 5-6 storeys that step down the steeply sloping topography

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

The development is not within a conservation area or near a heritage item, so the objective detailed in Clause 1(c) is not relevant to this development.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed development will not contribute to any unreasonable adverse impacts upon the amenity of surrounding properties in terms of its visual bulk, loss of privacy, overshadowing or enjoyment of views.

Visual bulk: The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed development has a compliant FSR and a built form that presents as single storey to Mermaid Avenue which is compatible with the surrounding development and desired future character of the locality.

The height variation is limited to small portion of the roof form (rear elevation) and northern side elevation of the building where the site drops significantly from the natural ground line and therefore, no significant or public views will be impacted as a result of the variation.

The southern elevation is under the LEP height limit and is a height reduction when compared to the previously approved DA which significantly exceeded the building height limit.

Overall, the visual bulk will be in keeping with existing and emerging development along Mermaid Avenue.

Loss of Privacy: A detailed assessment of privacy impacts is provided below under Section 9.1 Discussion of key issues which demonstrates that the proposed development (subject to a condition) will not result in any unreasonable adverse privacy impacts.

Overshadowing: The non-compliant portion of the building is located to the northern side and does not result in any unreasonable overshadowing impacts. The southern side

elevation complies with the development standard and a detailed assessment of the overshadowing impacts is provided below under Section 9.1 Discussion of key issues. The assessment shows that 3 hours of solar access to the neighbouring properties will be maintained and proposed development results in minimal additional overshadowing impacts to the north facing windows and POS.

View loss: A view loss assessment was carried out which demonstrates that the proposed development will have negligible view loss impacts on neighbouring properties. Refer to Section 9.1 Discussion of key issues under Sub-Section 5.6 – View Sharing for detailed assessment.

The height variation will not obstruct any significant views and is well setback back from both adjoining properties and nearby residential dwellings in the vicinity. The multi-storey built form is considered suitable for the site and consistent with the zoning's bulk and scale of development along the foreshore. Notably, the height, mass, bulk and scale proposed are generally compatible with adjoining dwellings.

Assessing officer's comment:

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, overshadowing or view sharing and privacy loss subject to conditions. (Refer to the Key Issues section of this report).

The size and scale of the proposed development is considered to be generally consistent with other residential developments in the immediate vicinity of the site with particular regards to immediate adjoining development. The proposed built form responds to the topography of the site to ensure the bulk and scale is adequately distributed and to minimise its impact on the visual amenity and scenic quality of the coast. The proposed development is well under the FSR development standard in the LEP and complies with the site coverage and landscape controls in the DCP; and therefore, compatible with the desired future character of the locality.

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

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

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

- The extent of height variation is significantly less than the approved DA on the site which was supported with a height variation of 3.66m.
- The height variation is localised to the north eastern corner of the building where the site significantly falls and is not visible from the public domain. This is a typical scenario along Mermaid Avenue where the height variation is a result of the topography of the site and the dwellings follow the steep site topography. Therefore, the variation is not responsible for any unreasonable streetscape impacts and the steeply sloping nature of the sites is often recognised as being sufficient environmental planning grounds.
- The height variation will not obstruct any significant views and aligns with other older and newer residential dwellings in the vicinity. The multi storey built form is considered suitable for the site and is consistent with the zoning bulk and scale of development along the foreshore. The proposed height, mass, bulk and scale is notably compatible with adjoining dwelling.
- The height variation is well articulated and integrated within the design of the existing dwelling and is of a high quality that will positively contribute to the locality, particularly when viewed from the sensitive foreshore areas.

Assessing officer's comment:

The applicant's environmental planning grounds provided to justify contravention of the development standard relate to the site and its context and the paucity of environmental impacts to the adjoining properties. The non-compliance is confined to a portion of the roof form and northeastern corner of the building as the building steps down the site as shown in Figures 6 & 7 above.

The non-compliant building elements are largely due to the step topography of the site and will not result in any adverse amenity impacts to the adjoining residential properties with regards to solar access, privacy and view loss or any undue visual impacts when viewed from the foreshore.

The proposed development has been skillfully designed to maintain views and (privacy subject to condition) for surrounding development and will not result in significant additional solar access impacts when compared to a fully compliant building envelope. Additionally, when compared to the previously approved DA the proposal results in a reduction in shadowing to neighbouring properties and relocated the rear balcony centrally within the floor plate to mitigate sight lines to adjoining development and is an improved environmental outcome when compared with the existing configuration.

The non-complying side setbacks will not result in any unreasonable adverse amenity impacts to the adjoining residential properties or any undue visual impacts when viewed from the streetscape. The proposed setback variation predominantly relates to a minor rear infill of the existing balcony area and the substantially retained building envelope. The proposal is sensitively designed to mitigate amenity impacts to the surrounding neighbouring properties by reasonably preserving solar access, privacy (subject to condition) and view sharing.

The proposal complies with the FSR development standard in the LEP and meets the objectives of the built form control requirements and amenity provisions in the DCP.

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

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the Height of Buildings development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

Council has commenced a comprehensive review of the existing Randwick Development Control Plan 2013. Stage 1 of the RDCP 2013 review has concluded, and the new RDCP comprising Parts B2 (Heritage), C1 (Low Density Residential), E2 (Randwick) and E7 (Housing Investigation) commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of the new RDCP 2023 are applicable to the proposed development, and the proposal shall be assessed against the new DCP.

The relevant provisions of the DCP are addressed in Appendix 3.

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(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 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 have been received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Randwick Comprehensive DCP 2013

Part C1 – Low Density Residential

Sub-Section 3.3 – Setbacks

Objectives

- *To maintain or establish a consistent rhythm of street setbacks and front gardens that contributes to the character of the neighbourhood.*
- *To ensure the form and massing of development complements and enhances the streetscape character and maintains a two storey street frontage.*

- To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access.
- To reserve adequate areas for the retention or creation of private open space and deep soil planting.
- To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.

Sub-section 3.3.2 - Side setbacks

Controls

- i) New buildings and alterations and additions must comply with the following minimum side setbacks based on the primary frontage width:

Minimum side setbacks			
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m
Less than 6m	Merit assessment		
6m to less than 9m	0.9m	0.9m	0.9m + (building height – 7m)
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$

Note: All building heights are measured from ground level (existing).

The proposed setbacks to the dwelling are as follows:

Northern side - The proposed additions have a side setback of 1,315mm which is consistent with the existing building line.

Southern side - The proposed additions have a side setback of 900mm which is consistent with the existing building line.

For building height less than 4.5m the setback requirement is 1.2m. The northern side complies with this requirement. However, to the southern side the additions to the rear do not comply.

Also, the proposed side setbacks do not comply with the minimum side setback requirement of 1.825m for building height between 4.5m to 7m; and a minimum setback of 10.89m for building height greater than 7m to the northern side boundary and a minimum setback of 8.8m for building height greater than 7m to the southern side boundary. The allowable setback requirements are demonstrated below and the non-compliant elements are hashed in blue.

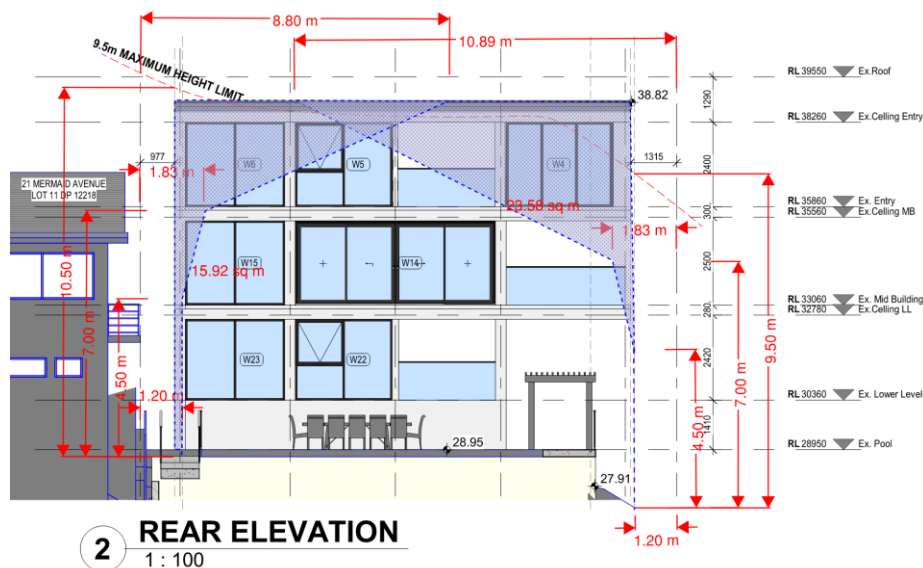


Figure 8: Rear elevation demonstrating non-compliant setbacks areas hashed in blue.

Existing primary frontage width	Building height 0m to 4.5m	Building heights between 4.5m to 7m	Building heights greater than 7m
Control requirement for 12m frontage widths and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$
The site has a frontage width of 15.54m to Mermaid Avenue.	Northern & southern side setbacks 1.2m	Northern & Southern side setbacks: $1.2 \text{ meters} + \frac{(7m - 4.5 \text{ meters})}{4}$ $1.2m + 0.625m = 1.825 \text{ meters}$	Northern side setback: $1.8m + 2 \times (11.545m - 7m)$ $1.8 \text{ meters} + (2 \times (11.545m - 7m)) = 10.89 \text{ meters}$ Southern side setback: $1.8m + 2 \times (10.5m - 7m)$ $1.8 \text{ meters} + (2 \times (10.5m - 7m)) = 8.8m \text{ meters}$

The proposed setback of the dwelling house to the side boundaries is considered acceptable in the circumstances for the following reasons:

- The proposal represents a significant reduction in bulk and scale from the 2016 approval.
- The site slopes dramatically from the highest point of the street frontage (western boundary) towards the lower end at the rear (eastern boundary) of the site, with a fall of approximately 19m. Due to the topography of the site the three storey components of the proposed dwelling are not readily visible from the street and will therefore have no impact on streetscape character. The entry floor plan level which is visible from the street and presents as a single storey development is not altered and the built form remains consistent with current streetscape character.
- The proposed setback is a continuation of existing floor levels and built form will relate compatibly with the setback of those in the surrounding streetscape along Mermaid Avenue, the height being single/two storey at the front and steps down to four storeys to the rear; and therefore, the breach will not be visually intrusive and will be in keeping and compatible

with the existing built form and character within the locality. The proposal is a minor infill at the rear of the development that will predominantly retain the existing built form and partially falls within the extent of the current rear balcony.

- The setback enables an acceptable building separation within the built form context of the site and as discussed in the relevant sections of this report subject to conditions will allow acceptable privacy, view sharing and solar access to be retained to the adjoining sites. The dwelling has been appropriately articulated and modulated with openings and materials and follows the contours of the land. The design of the proposed side elevations is considered to have minimised environmental impacts and are reasonable within regard to the context of the site.
- When considered on balance with a compliant scheme, there are minimal additional environmental impacts resulting from the proposed setback variation in this instance noting the context of the existing built form proposed for retention and that the development is not an entirely new built form outcome.
- The development will provide a reasonable level of amenity for future occupants of the subject site in that adequate levels of private open space and landscaped area have been provided and the proposal thereby meets the relevant objectives of the control.

Given the above arguments, the proposed setbacks are considered to have minimised environmental impacts and is reasonable within regard to the context of the site in this instance.

Sub-section 5.1 - Solar Access and Overshadowing

Objectives

- *To ensure new dwellings and alterations and additions are sited and designed to maximise solar access to the living areas and private open space.*
-
- *To ensure development retains reasonable levels of solar access to the neighbouring dwellings and their private open space.*
- *To provide adequate ambient daylight to dwellings and minimise the need for artificial lighting.*

Controls

Solar access to proposed development:

- i) *A portion of the north-facing living area windows of proposed development must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (in so far as it does not contradict any BASIX requirements).*
- ii) *The private open space of proposed development must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. The area covered by sunlight must be capable of supporting passive recreation activities.*

Controls

Solar access to neighbouring development:

- i) *A portion of the north-facing living area windows of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.*
- ii) *The private open space of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. The area covered by sunlight must be capable of supporting passive recreation activities.*

- iii) Existing solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. Where the neighbouring dwellings do not contain any solar panels, direct sunlight must be retained to the northern, eastern and/or western roof planes of neighbouring dwellings, which are at least 6m above ground level (existing), so that future solar panels capturing not less than 3 hours of sunlight between 8am and 4pm on 21 June may be installed.
- iv) Any variation from the above requirements will be subject to a merit assessment having regard to the following factors:
- Degree of meeting the FSR, height, setbacks and site coverage controls.
 - Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.
 - Topography of the subject and adjoining allotments.
 - Location and level of the windows in question.
 - Shadows cast by existing buildings on the neighbouring allotments.

The shadow diagrams provided in Figures 9 & 10 below demonstrate that the north facing open plan living and dining area windows to the proposed development will receive a minimum of 3 hours of solar access in the morning.

The shadow diagrams submitted demonstrate that solar access to the principal outdoor recreation space within the rear yard on the subject and surrounding properties will not be impacted by the proposed development and will continue to receive a minimum of 3 hours of direct solar access.

The elevational shadow diagrams in Figure 10 demonstrate the north facing living room windows of the neighbouring dwelling at no. 21 Mermaid Avenue will continue to maintain a minimum of 3 hours of direct solar access between 8am to 2pm as stipulated by the DCP.

When compared to the previously approved development, the shadow diagrams in Figure 9 below demonstrate that the proposal will result in a reduction in shadow impacts.



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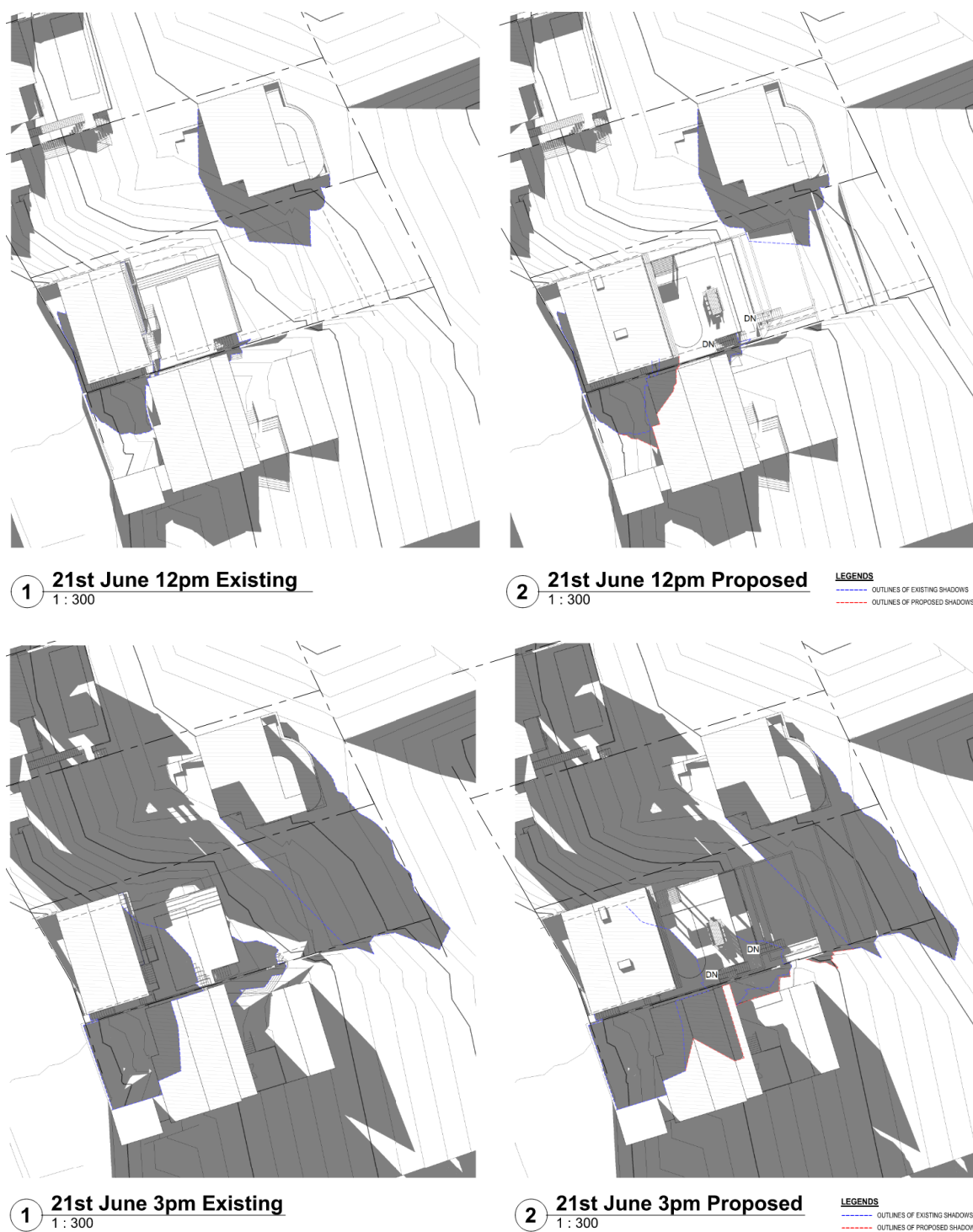


Figure 9: Existing and proposed shadow diagram plans on 21 June

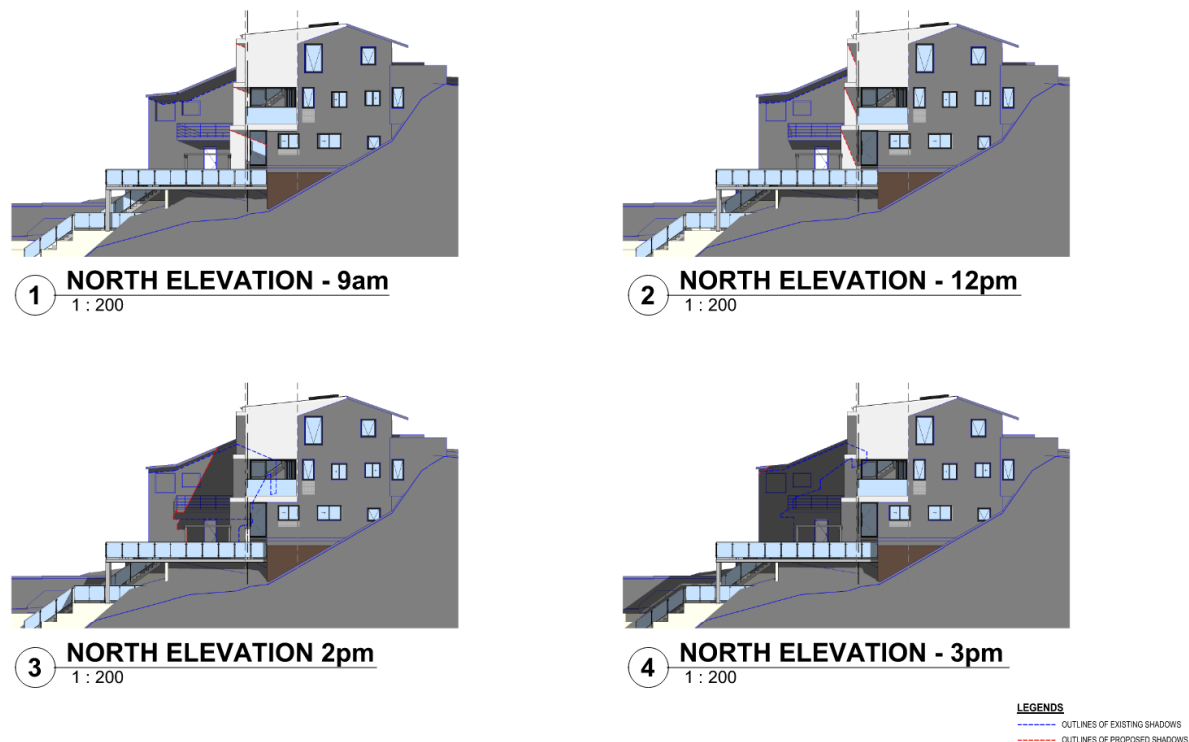


Figure 10: Existing and proposed elevation shadow diagrams on 21 June

Sub-section 5.3 - Visual Privacy

Objective

- To ensure development minimise overlooking or cross-viewing to the neighbouring dwellings to maintain reasonable levels of privacy.

Controls

- All habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings.
- The windows to the living areas must be oriented away from the adjacent dwellings where possible. In this respect, they may be oriented to:
 - Front or rear of the allotment;
 - Side courtyard.
- Where a balcony, deck or terrace is likely to overlook the private open space or windows of the adjacent dwellings, privacy screens must be installed in positions suitable to mitigate the loss of privacy.

(a) Windows

It is not anticipated that the proposed window and door openings will result in any unreasonable privacy impacts to neighbouring properties. The modifications made to the front window openings are maintaining highlight windows; however, the proposed works reduces the opening to two windows and a larger door with glazed openings. There are no overlooking impacts, and any overlooking will primarily be of the front yard to the subject site and street.

The new window openings to the northern elevation are mainly replacing existing window openings and the change of uses to these rooms are not expected to result in further overlooking impacts than the currently configuration.

The new glazed door opens D16 to the dining area on the mid floor level & D20 to the staircase exit on the lower ground floor level are both recessed from northern side boundary and are not expected to create significant privacy concerns. It should be noted that no window or door openings are

proposed on the non-complaint building height portion of the dwelling and therefore, there are no privacy impacts as a result of the variation.

The window openings to the southern side window W7 to the staircase on the entry floor plan and glazed door/window opening D21 will overlook the neighbouring properties blank wall at no. 21 Mermaid Avenue and do not cause overlooking impacts.

The new window and door openings to the eastern elevation will primarily overlook the rear yard of the subject site and views beyond. However, given the neighbouring dwelling at No. 17 Mermaid Street is located to the rear rather than to the front and centre sections of the site this property will be susceptible to privacy impacts. When considering the existing openings to the rear and the new opening the impacts would be very similar and therefore, the new openings are considered acceptable.

Moreover, any overlooking that may have raised from the proposed window and door openings are considered acceptable when considering there is an exception that there would some level of privacy lost in order to gain or retain substantial views beyond and the addition of privacy screens that would result in view loss.

(b) Balcony

The configuration of the rear balcony on the mid ground floor level off the main living area is now located to the northern end and is reduced in width, but with an increased balcony depth.

Location of the BBQ area along the northern side of the balcony restricts views on an oblique angle to part of the yard of the neighbouring property at No. 21 Mermaid Avenue. The main Principal Open Space (POS) to the neighbouring dwelling is located to the far eastern end of the site and therefore, a privacy screen to the northern side will not provide the privacy to the main POS and providing a screen to the eastern side will only block out the substantial views of Lurline Bay. When considering the existing balcony already overlooks the POS and rear windows of this property and the exception that there would some level of privacy lost in order to gain or retain substantial views beyond, the proposed balcony is considered to be acceptable.

To the northern side the existing terrace deck area has extended in width by 1.5m and is now setback 2.311m from the northern side boundary. Given the length of the extension to the northern side of the terrace deck and use of the cabana structure it would be reasonable to provide a privacy screen having a height of 1.6m from the finished terrace deck floor level. The privacy screen to the northern side of the deck shall start from the rear of the dwelling and extend for a length of 6.071m to align with the rear eastern end of the swimming pool. It is not anticipated that the screen will result in any unreasonable view loss impacts; however, it will provide some level of privacy to the neighbouring property at No. 21 Mermaid Avenue.

Subject to the recommended condition above, the proposed development will not result in any unreasonable privacy impacts and will meet the objectives of the control.

Sub-Section 5.6 - View Sharing

The objectives of the view sharing control are as follows:

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

Controls

- i) The location and design of dwellings and outbuildings must reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas.
- ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas (such as living room, dining room, lounge and kitchen) should be given a priority over those obtained from the bedrooms and non-habitable rooms.
- 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.
- iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring dwellings and the public domain.
- 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.
- vi) Clearly demonstrate any steps or measures adopted.

No submissions have been received in relation to view loss.

The proposed alterations and additions to the rear of the dwelling are well recessed behind the rear edge of both adjoining dwellings and nearby neighbouring properties to the north and south.

The existing photos and proposed photomontage in Figures 9 to 14 demonstrate that adjoining and neighbouring properties (including the properties on the western side of Mermaid Avenue) will continue to retain uninterrupted water views to the east over the subject site. The red hash line in Figures 9 to 12 indicates the approx. location of the proposed rear additions.

The non-compliant building height and side setbacks for the upper section of the building are not expected to cause any significant additional adverse impacts on view as the side setbacks are not the primary view corridor for any of the surrounding dwellings and the additions are located behind the existing built form, which mitigates any potential view loss impacts. The main primary view of the ocean and Lurline Bay in an easterly direction will be retained.

The built form to the front of the dwelling remains unchanged which sets the viewing aspects to the side boundaries and stepping down the proposed built form will not change the view lines given the additions are modest and an extension of existing floor levels.

It should be noted the proposal will result in lesser impact on views when compared with the approved development in 2016.



Figure 9: View taken from the rear balcony on the entry floor plan in a southern direction

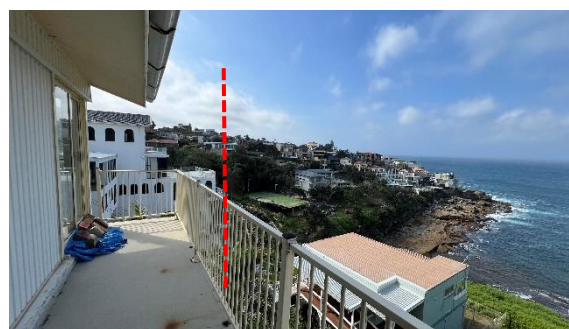


Figure 10: View taken from the rear balcony on the entry floor plan in a northern direction



Figure 11: View taken from the rear terrace the lower ground floor plan in a southern direction



Figure 12: View taken from the rear terrace deck on the lower ground floor plan in a northern direction



Figure 13: Rear view of existing dwelling taken from terrace level area



Figure 14: Photomontage of proposed alterations and additions as viewed from the rear of the dwelling

10. Conclusion

That the application to for alterations and additions to the existing dwelling house including rear extension, re-configuration of pool and surrounding terrace, and associated landscaping works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The variation to the height of building development standard has been supported in that it will not result in any unreasonable adverse impacts upon either the amenity of the adjoining premises or the character of the locality.
- The proposed development is consistent with the specific objectives of the R2 zone in that proposed activity and built form will provide for the continued use of the site as a low scale residential development, shall not fundamentally alter the existing streetscape, and subject to a condition in relation to privacy shall not result in any unreasonable amenity impacts upon adjoining and surrounding properties.
- 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 and will make a positive contribution to the streetscape and users of the site.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for alterations and additions at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Notch Design Studio P/L and dated 23/12/23;
- Statement of Environmental Effects by ABC Planning dated 11/2024;
- Landscape Plan by Melissa Wilson Landscape Architects date 20/12/2023;
- Detail & Level Survey by LTS Lockley Surveying date 20/12/2023;

Landscape Comments

Inspection was undertaken through google street view on Thursday 16th May with pictures of all vegetation on SEE D05182724.

Within the councils verge on the northern side aspect of the dwelling, mature *Cupaniosis anacarioides* (Tuckeroo) 5 metres high, good condition, good health, protected under the DCP, to be protected, lower branches will need uplifted to balance the tree and for aesthetic reasons, trees adjacent both northern and southern neighbouring properties, of same species, are far enough away from works, protection will not be needed, moving east, close to existing driveway, hard against frontage boundary brick wall, within councils property, clumping Yucca species, 4 metres high, good health, planted by existing owner, in direct conflict with works, will be removed.

Moving within the rear northern side setback, directly adjacent the northeastern side aspect of the existing dwelling, clumping Date palms, 3 meters high, fair health, fair condition, close to existing dwelling and northern common boundary, insignificant and in direct conflict with works, will be removed.

Within the rear aspect of the site, confirmed an absence of any significant vegetation that will be affected by this application, only a small Date palm, plotted within the eastern lower terrace was seen, 3 metres high, poor health, covered in thick weed scrub, will be removed from site.

All other vegetation within this site is small and insignificant, with others on adjoining sites noted to be sited well clear of all works.

The alterations do not change the existing site coverage by more than 10%, so the landscaping and tree canopy cover clauses in the C1 DCP 2023 will not apply.

Nevertheless, as outlined in the landscape plan, the proposal includes significant landscaping upgrades in the side and rear setbacks, which include *Banksia integrifolia*, Coastal Tea Tree and NZ Christmas Bush.

The proposed planting will increase tree canopy, soften the built form at the rear and improve privacy, to accommodate more canopy trees is due to the site topography and environmental constraints, which include view impacts to neighbouring properties, steep slope, exposed rocky layers and small front setback.

Landscape Plans by Melissa Wilson Landscape Architects date 20/12/2023 Dwg No LS02 **must be amended** to show the proposed, 14 *Leptospermum laevigatum* (Coastal Tea Trees), along the length of the northern side setback boundary fence line, which will grow to a mature height of 5 metres, these trees **must be deleted** from the landscape plans, the C1 DCP controls cannot permit any trees that can achieve a height of 5 metres, and planted any closer than 2.5 metres from any part of the dwelling, new plantings of a smaller size and species which cannot achieve a height of 2 metres must be planted within the northern side setback to comply with this condition.

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

RANDWICK LEP 2012 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This Clause 4.6 variation request has been prepared to accompany the development application for alterations and additions to the existing dwelling and a new, swimming pool and associated landscaping works.

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

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

Clause 4.6 Exceptions to development standards

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

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the *Randwick LEP 2012* - maximum height of 9.5m, demonstrated on the LEP map in Figure 1 below.

The proposed maximum height of 11.545m represents a variation of 2.045m from the numerical height standard in the LEP. the variation is limited to the northern side elevation as the height along the southern side is compliant due to the southern side having a higher existing ground level.



Figure 1: Building Height Map

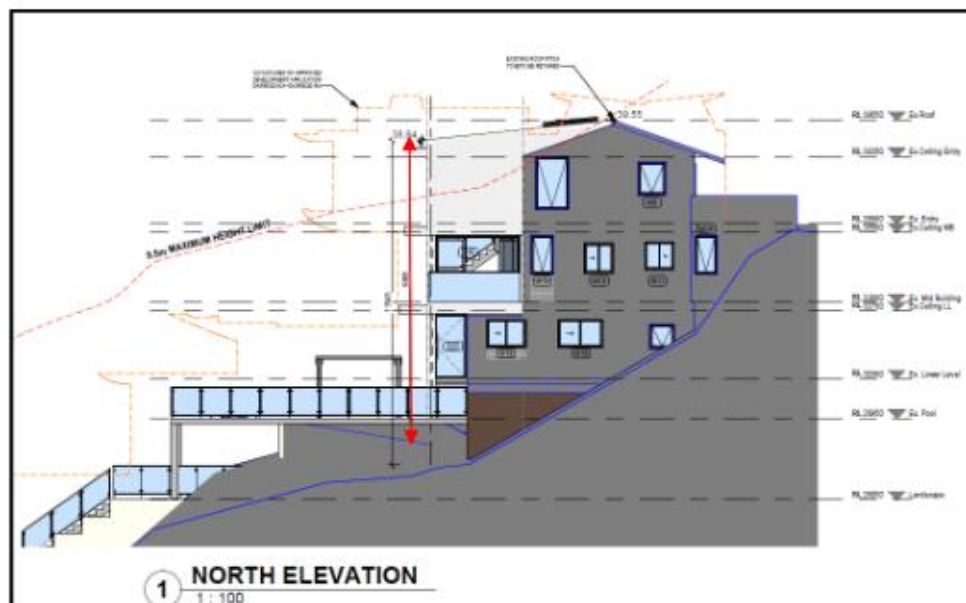


Figure 2: Excerpt of north elevation which includes the greatest extent of height variation (shown by the red arrow)

Justification for Contravention of the Development Standard

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

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

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

The proposal complies with the development standard's objectives and the R2 Low Density Residential zone, indicated in the assessment in the following table. Furthermore, compliance with the development standard is unreasonable and unnecessary as it is in the public interest, achieving the objectives for development within the zone, notwithstanding non-compliance.

Comparison with existing approval

The extent of height variation is far less than that which was approved under DA/958/2016 (which remains active). The proposed variation of 2.045m is 1.615m below that approved. Furthermore, as shown in the northern elevation above, the approved built form extended well beyond the proposed extent of built form. The approved height variation of 3.66m was associated with a significantly larger dwelling which had substantially greater visual bulk, shadow and view impacts than that proposed. The retention of the existing ridge height is also less than the approved roof form which significantly increased the height of the dwelling as viewed from Mermaid Avenue.

The proposed FSR of 0.392:1 is also significantly less than the approved FSR of 0.58:1, being 125sqm below that approved.

On this basis, the proposed form of development is considered to be more modest and reasonable with less streetscape, view, shadow and visual bulk impacts.

Isolated nature of the height variation

The height variation is limited to small portions of the roof form, as demonstrated below in the northern elevation, noting the height is well below the height limit on the southern side.

Steeply sloping nature of the site

The proposed non-compliance is considered to be due to the substantially steep drop in the land where the height variation occurs at its greatest, as noted on the northern elevation excerpt.

Streetscape

The streetscape image below demonstrates the proposed dwelling as a single storey built form when viewed from the public domain, indicating any additional bulk and scale impacts

associated with the variation will not be apparent. Thus, the proposed dwelling, irrespective of the height variation, will retain the streetscape character along this part of Mermaid Avenue and the desired future character of the locality:

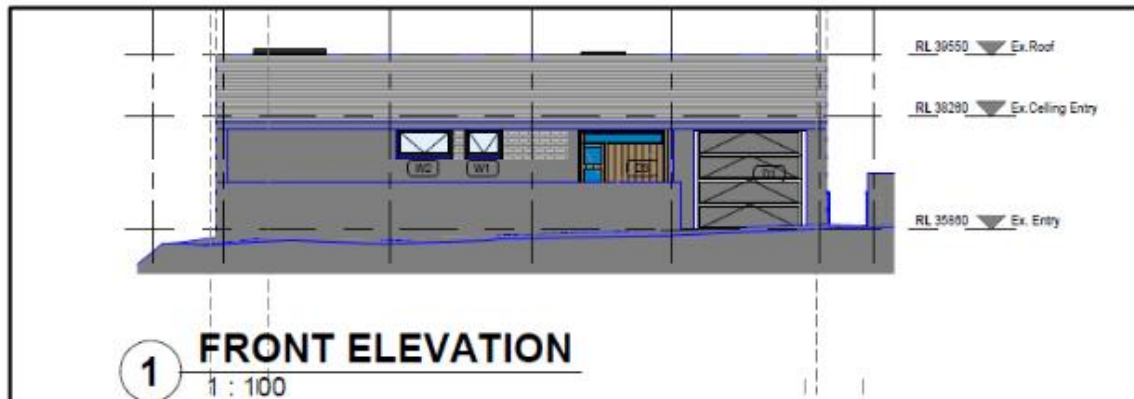


Figure 3: Photomontage of the proposed multi-storey residential dwelling, visually presented as a single storey dwelling, as viewed from the Mermaid Avenue streetscape

Compatibility with the height of the surrounding dwellings along this section of Mermaid Avenue

The proposed building envelope aligns with older and newer dwellings in the streetscape, some of which are 4-6-storeys and present greater heights, bulks and scales than proposed. In this regard, the proposed dwelling is compatible with the scale and design of contemporary dwellings, particularly with the adjoining dwellings to the northwest at Nos 15, 11, 9, 7 and 5A Mermaid Ave.



Figure 4: Front and rear montage of the approved attached dual occupancy under DA 9/2018 at No. 11 Mermaid Avenue. The approved montage also demonstrates the existing dwellings that comprise this component of Mermaid Avenue, indicating that the proposed development will be subservient to the scale

and extent of neighbouring dwellings which consist of 5-6 storeys and step down the steeply sloping topography



Figure 5: View of the subject site (annotated by arrow) as viewed from foreshore areas and its relationship with adjoining developments, all of which include heights greater than that proposed

The proposed height, bulk and scale of the dwelling is considered appropriate, noting its consistency and compatibility with other recently approved and constructed dwellings which are noted to breach the height limit to a greater extent, as demonstrated in the below height variation analysis:

SITE	HEIGHT	FSR
3A Mermaid Avenue (DA/80/2021) under assessment	10.848m (14% variation from the 9.5m variation)	
11 Mermaid Avenue (DA/9/2018)	18.72m (97.05% variation from the 9.5m standard)	0.78:1 (56% variation from the 0.5:1 standard)
15 Mermaid Avenue (DA16/2022)	11.5m (21% variation from the 9.5m standard)	
19 Mermaid Avenue (DA 958/2016)	13.16m (38% variation from the 9.5m standard)	
23 Mermaid Avenue (DA 372/2015)	11.1m (16.84% variation from the 9.5m standard)	0.7:1 (14.28% variation from the 0.6:1 standard)

In this context, it is considered that the proposed height will not be overbearing in the streetscape but will sit comfortably and appropriately alongside the 4-6-storey dwellings along the foreshore.

Retention of solar access

The northeast-southwest orientation of the subject site ensures the adjoining neighbours receive 3 hours of solar access to north-facing primary areas and at least 3 hours of solar access to private open space areas, thereby exceeding the DCP solar access requirements. Furthermore, the height variation is limited to the northern side of the site which limits shadow impacts from the component over the height limit, noting that the southern side is below the height limit. Therefore, the height variation will not generate any unreasonable shadow impacts to neighbouring dwellings, as displayed in the shadow diagram:

View sharing

There are no unreasonable view loss impacts associated with the proposed dwelling, considering that the development from the streetscape is compliant concerning the LEP and DCP height limits. The developments opposite the subject site to the southwest will continue to enjoy coastline views of Lurline Bay, with minimal change to coastal views given that they are substantially elevated above the subject site. In addition, the proposed dwelling includes a height that is consistent with the ridge of the existing dwelling, which also limited the extent of potential view impacts.

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

Consistency with the objectives of the height standard in the LEP	
Objectives	Assessment
4.3(a) to ensure that the size and scale of development is compatible with the desired future character of the locality	<p>The proposed height variation associated with a multi-storey residential dwelling is suitable for the subject site and within the context of the locality.</p> <p>The height variation associated with the extended form to the rear of the existing dwelling will be indiscernible from the streetscape, noting the significant downward slope, which conceals the majority of the built form from the public domain. In this regard, the size and scale of the proposed dwelling will be viewed as a single storey dwelling from the Mermaid Avenue streetscape irrespective of the height variation. Therefore, the proposed dwelling will continue to reinforce the area's existing and future neighbourhood character.</p> <p>The proposed height, bulk and scale of the proposed dwelling is compatible with the scale and design of contemporary dwellings, particularly with the adjoining dwellings to the northwest at 11, 9, 7 and 5A Mermaid Ave. The high-quality design and articulated façade outcome ensure that the proposed dwelling will sit comfortably along Mermaid Avenue's streetscape.</p> <p>On this basis, the height variation does not generate any inconsistency with this objective.</p>
4.3(b) to ensure that development is compatible with the scale and character of contributory buildings	The subject site does not adjoin any heritage item, conservation area or special character areas.

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<i>in a conservation area or near a heritage item</i>	
<p>4.3(c) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views</p>	<p>No significant or public views are affected by the proposed height variation.</p> <p>There are no unreasonable view loss impacts associated with the proposed height variation, noting that the development from the streetscape is compliant in relation to the LEP and DCP height limits. The developments opposite the subject site to the southwest will continue to enjoy coastline views of Lurline Bay, with no change to coastal views given that the majority of the built form is below the view line to the coast beyond. Any potential view impacts would also be substantially less than that which was associated with the previous approval, noting that the former DA has a substantially greater height and building envelope.</p> <p>There are also no adverse side views from adjoining dwellings either side due to the limited extent of the built form beyond the existing rear building alignment. The approved development extended far beyond that proposed. Given the previous development was considered to be acceptable in relation to view sharing, the proposed DA must be considered to be acceptable in this regard.</p> <p>The northeast-southwest orientation of the subject site ensures the adjoining neighbours receive 6 hours of solar access to north-facing primary areas and 6 hours of solar access to private open space areas, thereby exceeding the DCP solar access requirements, irrespective of the height variation.</p> <p>Therefore, it can be stated that the proposed height variation associated with the built form will result in minimal amenity impacts to the surrounding developments.</p> <p>On this basis, the height variation does not generate any inconsistency with this objective.</p>
Consistency with the objectives of the R2 Low Density Residential zone	
<p>Objectives</p> <ul style="list-style-type: none"> 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. 	<p>Assessment</p> <p>The proposed dwelling is permissible in the R2 Low Density Residential zone and satisfies the objectives of the zone by providing for the housing needs of the community within a low density residential environment.</p> <p>The proposed multi-storey residential dwelling mitigates unreasonable adverse impacts to surrounding developments in terms of visual bulk, overshadowing, privacy or view loss.</p> <p>The proposed height, scale and external finishes will be in keeping with the character of the neighbourhood and streetscapes of the zone, notwithstanding the height variation.</p> <p>The proposal will not inhibit other land uses to be provided in the area that provides facilities or services to meet the day to day needs of residents.</p> <p>The proposed height variation is therefore not considered to generate any inconsistency with the zone objectives.</p>

- | | |
|---|--|
| <ul style="list-style-type: none"> • To enable small-scale business uses in existing commercial buildings. | |
|---|--|

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

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

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the building height development standard, which includes:

- The extent of height variation is significantly less than the approved DA on the site which was supported with a height variation of 3.66m.
- The location of the height variations ensures that it will not be visible from the public domain and will therefore not be responsible for any unreasonable streetscape impacts, as shown on the streetscape elevation above.
- The height variation is associated with a dwelling that has a particular site context, whereby all new (and almost all existing) dwellings already exceed the height limit and have a particular visual outcome when viewed from both Mermaid Avenue and foreshore areas. The proposed height variation is therefore considered to be related to the particular site circumstances of properties along this section of Mermaid Avenue.
- The steep downward topography of the site ensures that the height variation associated with the roof form will be indiscernible from the public domain. Steeply sloping sites are often recognised as being a sufficient environmental planning ground.
- The height variation will not obstruct any significant views and aligns with other older and newer residential dwellings in the vicinity. The multi-storey built form is considered suitable for the site and consistent with the zoning's bulk and scale of development along the foreshore. Notably, the height, mass, bulk and scale proposed are compatible with adjoining dwellings.
- The height variation has been well integrated into the high-quality and articulated design aesthetic of the built form and positively contributes to locality, particularly when viewed from the sensitive foreshore areas.

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

Other Matters for Consideration

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

Assessment: The above assessment demonstrates that the proposed height satisfies the height standard's objectives and the R2 Low Density Residential zone, notwithstanding the height variation.

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

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

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

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

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

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

Concurrence

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

(b) the public benefit of maintaining the development standard

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

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

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

Generally as to concurrence, for the reasons outlined above – and particularly having regard to the site-specific nature of this clause 4.6 variation request – there is nothing about this proposed height variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at 19 Mermaid Avenue, Maroubra and is requested to be looked upon favourably by the consent authority.

Appendix 3: DCP Compliance Table

Randwick Comprehensive DCP 2013 and 2023

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.

(Note: a number of control provisions that are not related to the proposal have been deliberately omitted)

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site area = 682m ²	
2.2	Lot frontage		
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Proposed = 23.03%	Complies
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Total landscaped area proposed on the site = 52.80%. A total of 35% is deep soil planting. There are no significant trees that will be removed on the site. A minimum of 25% of permeable surface is proposed to the front setback.	Complies
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Proposed = A total of 21 trees are proposed on the site with mature size of 4m plus. No changes are proposed to the front setback. The alterations do not change the existing site coverage by more than 10%, so the landscaping and tree canopy cover clauses in the C1 DCP 2023 will not apply.	Complies
2.7	Private open space (POS)		

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DCP Clause	Controls	Proposal	Compliance
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	A minimum of 8m x 8m of contiguous POS is proposed to the rear of the dwelling.	Complies
	iii) POS satisfy the following criteria: <ul style="list-style-type: none"> • Situated at ground level (except for duplex) • No open space on podium or roofs • Adjacent to living room • Orientated to maximise solar access • Located to the rear behind dwelling • Has minimal change in gradient • Includes landscaped areas, terraces, decks, paved surfaces and the like. 	The private open space is located to the rear of the dwelling, is accessible from the living area and is orientated to maximise solar access.	Complies
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.60:1 (or GFA of 409.2m²)	Proposed = 0.392:1 (or GFA of 260.57m²)	Complies
3.2	Building height		
	Building height LEP 2012 = 9.5m	Existing Building height is approx. 9.93m. No changes are proposed to the existing building height. Proposed extension to the rear has a maximum building height of approx. 8.3m from the natural ground line.	Proposed extension = Complies
	i) Habitable space above 1st floor level must be integrated into roofline. ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> - Topography - Site orientation - Lot configuration - Flooding - Lot dimensions - Impacts on visual amenity, solar access, privacy and 	The proposed floor to ceiling height of the proposed additions are as follows: <ul style="list-style-type: none"> • Lower ground floor = 2.42m • Mid Ground floor level = 2.5m • Ground floor entry level = 2.4m The proposed floor to ceiling heights is considered justifiable when taking into consideration the additions are a continuation of the existing configuration.	Complies with the objectives of the control.

DCP Clause	Controls	Proposal	Compliance																								
	views of adjoining properties.																										
3.3	Setbacks																										
3.3.1	Front setbacks <ul style="list-style-type: none"> i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front. 	The front setback is not altered.	Not applicable.																								
3.3.2	Side setbacks <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th> </tr> <tr> <th>Existing primary frontage width</th> <th>Building heights 0m to 4.5m</th> <th>Building heights >4.5m to 7m</th> <th>Building heights >7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td>0.9m</td> <td>0.9m</td> <td>0.9m + (building height - 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td>0.9m</td> <td>0.9m + $\frac{\text{building height} - 4.5\text{m}}{3}$</td> <td>1.5m + 2 x (building height - 7m)</td> </tr> <tr> <td>12m and above</td> <td>1.2m</td> <td>1.2m + $\frac{\text{building height} - 4.5\text{m}}{3}$</td> <td>1.8m + 2 x (building height - 7m)</td> </tr> </tbody> </table> <p><small>Note: All building heights are measured from ground level (existing).</small></p> Frontage width of 15.54m to Mermaid Avenue	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)	9m to less than 12m	0.9m	0.9m + $\frac{\text{building height} - 4.5\text{m}}{3}$	1.5m + 2 x (building height - 7m)	12m and above	1.2m	1.2m + $\frac{\text{building height} - 4.5\text{m}}{3}$	1.8m + 2 x (building height - 7m)	<p>Northern side = The proposed additions have a side setback of 1315mm which is consistent with the existing building line.</p> <p>Southern side = the proposed additions have a side setback of 900mm which is consistent with the existing building line.</p> <p>For building height less than 4.5m the setback requirement is 1.2m. The northern side complies with this requirement. However, to the southern side the additions to the rear do not comply.</p> <p>Also, the proposed side setbacks do not comply with the minimum side setback of 1.825m for building height between 4.5m to 7m and 10.89m for building height greater than 7m to the northern side boundary and 8.8m for building height greater than 7m to the southern side boundary.</p>	No. Refer to Section 9 - Discussion of Key Issues above.
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
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12m and above	1.2m	1.2m + $\frac{\text{building height} - 4.5\text{m}}{3}$	1.8m + 2 x (building height - 7m)																								
3.3.3	Rear setbacks <ul style="list-style-type: none"> i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: 	<p>Minimum = 8m</p> <p>Proposed = The dwelling is setback 30m to 31m from the rear boundary.</p>	Complies																								

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of: -</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>		
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The proposed alterations and additions have been well designed to appropriately respond to the coastal and natural environmental setting and will not result in detrimental visual impacts on the adjoining properties and the public domain.</p> <p>The design consists of high-quality finishes and the additions will continue to steps down the site to respect the natural fall and topography of the land.</p>	Complies
4.4	Roof terraces and balconies		
	i) Locate on stepped buildings only (not on	The terrace balcony is located on the lower ground floor plan. There	Complies

DCP Clause	Controls	Proposal	Compliance
	<p>uppermost or main roof)</p> <p>ii) Where provided, roof terraces must:</p> <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements • Be uncovered and comply with maximum height <p>iii) Locate above garages on sloping sites (where garage is on low side)</p> <p><i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i></p>	are no roof terraces or balconies proposed on the upper most level.	
4.5	Roof design and features		
	<p><i>Dormers</i></p> <p>i) Dormer windows do not dominate</p> <p>ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>iii) Multiple dormers consistent</p> <p>iv) Suitable for existing <i>Clerestory windows and skylights</i></p> <p>v) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>vi) Contained within roof form and not visible from street and surrounding properties.</p>	<p>There are two small skylight roofs proposed on the plan which are contained within the roof area and are not significantly visible from the street and surrounding properties.</p> <p>No dormer windows are incorporated into the design and no mechanical equipment is proposed to be contained with the roof form.</p>	Complies
4.6	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes.</p> <p>ii) Finishing is durable and non-reflective and uses lighter colours.</p> <p>iii) Minimise expanses of</p>	The colours and finishes schedule provided is of dark and light grey and earth brown and cream tones which will complement the design of the existing and neighbouring development.	Complies

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DCP Clause	Controls	Proposal	Compliance
	<p>rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</p> <p>vi) Recycle and re-use sandstone</p>	<p>The combination of materials and finishes provide will articulate and create visual interest to the existing dwelling.</p> <p>The materials and finishes are durable and suitable for the local climate to withstand natural weathering, ageing and deterioration. The finishes and materials proposed are non-reflective.</p>	
4.7	Earthworks		
	<p>i) Excavation and backfilling limited to 1m, unless gradient too steep</p> <p>ii) Minimum 900mm side and rear setback</p> <p>iii) Subterranean spaces must not be habitable</p> <p>iv) Step retaining walls.</p> <p>v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</p> <p>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</p> <p>vii) cut and fill for POS is terraced <i>where site has significant slope:</i></p> <p>viii) adopt a split-level design</p> <p>ix) Minimise height and extent of any exposed under-croft areas.</p>	<p>There are no significant earthworks within 900m from the side boundaries.</p>	<p>Complies</p>
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	<p>i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June</p> <p>ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p>	<p>Refer to Section 9 - Discussion of Key Issues above.</p>	<p>Complies</p>
	Solar access to neighbouring development:		
	<p>i) Portion of the north-facing</p>	<p>Refer to Section 9 - Discussion of</p>	<p>Complies.</p>

DCP Clause	Controls	Proposal	Compliance
	<p>living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.</p> <p>iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p> <p>v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> • Degree of meeting the FSR, height, setbacks and site coverage controls. • Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. • Topography of the subject and adjoining allotments. • Location and level of the windows in question. • Shadows cast by existing buildings on the neighbouring allotments. 	Key Issues above.	
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows 	<p>The submitted development has been accompanied with a BASIX Certificate identifying compliance with thermal and water energy.</p> <p>In addition, the location of windows and doors have been considered as acceptable, providing north facing windows where possible and addressing the matter of</p>	Complies

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) Living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	natural lighting and ventilation.	
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	Acceptable.	Refer to Section 9 - Discussion of Key Issues above.
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting</p>	Acceptable.	Refer to Section 9 - Discussion of Key Issues above.

DCP Clause	Controls	Proposal	Compliance
	and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.		
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	It is unlikely the development will generate any unreasonable acoustic impacts. Currently the surrounding development within the area all have large outdoor decks and pools to the rear for entertaining purposes.	Complies
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	<p>The main entry door is larger and continues to face the front of the dwelling.</p> <p>Condition will be included to ensure street numbering is located at the front near entry.</p> <p>There are two non-habitable highlight windows that face the street. Despite not being habitable windows, there are considered to be acceptable as they are replacing existing non habitable highlight windows that currently do not provide street surveillance and the new entry door provides glazing for street surveillance.</p> <p>There are no changes proposed to the existing front fencing.</p>	Meets the objectives of the control.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private	Acceptable.	Refer to Section 9 - Discussion of Key Issues above.

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DCP Clause	Controls	Proposal	Compliance
	properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable surfaces)	The existing single storey garage space which is incorporated within the design of the existing dwelling and its access off Mermaid Avenue is maintained.	Not applicable.
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The existing driveway is not maintained.	Not applicable.
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door	The existing roller door is replaced with a new roller door which will improve the visual amenity of the dwelling as viewed from the street.	Complies

DCP Clause	Controls	Proposal	Compliance
	200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)		
7.4	Outbuildings		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> - Finished external walls (not requiring maintenance; - No openings facing neighbours lots; and - Maintain adequate solar access to the neighbours dwelling v) For secondary street frontages a nil setback is only permitted if it adjoins a building constructed on the boundary. For detached garages at rear, first floor addition to existing may be considered subject to: <ul style="list-style-type: none"> - Containing it within the roof form (attic) - Articulating the facades; - Using screen planting to visually soften the outbuilding; - Not being obtrusive when viewed from the adjoining properties; - Maintaining adequate solar access to the adjoining dwellings; and - Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.	The maximum height of the proposed rear cabana structure is 2.2m. The cabana structure is setback 2.311m from the northern side boundary.	Complies
7.5	Swimming pools and Spas		
	i) Locate behind the front	The proposed swimming pool is	Complies

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DCP Clause	Controls	Proposal	Compliance
	building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. i) Pool and coping level related to site topography (max 1m over lower side of site). ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties. iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones. iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors. v) Position decking to minimise privacy impacts. vi) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	located to the rear of the dwelling and is replacing an existing swimming pool which is slightly smaller in size. The pool is located in the same location to the existing pool and given that it is smaller in size with an increased setback to the southern side boundary it is not expected to cause any additional privacy concerns than what currently exists.	
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	The SEE notes that the air-conditioning units will be suitably located with the development to be constructed to comply with the deemed to comply provisions of the Building Code of Australia and EPA criteria with respect to noise.	Any air-conditioning units must be located behind the front building line and to minimise noise impacts on bedroom areas of adjoining dwellings. Conditioned to comply.
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	There is adequate area in the rear for clothes drying facilities.	Complies

Responsible officer: Chahrazad Rahe, Senior Assessment Planner

File Reference: DA/14/2024

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Development Consent Conditions



Folder /DA No:	DA/14/2024
Property:	19 Mermaid Avenue, Maroubra
Proposal:	Alterations and additions to existing dwelling house including rear extension, re-configuration of pool and surrounding terrace, and associated landscaping works.
Recommendation:	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:

Plan	Drawn by	Dated	Received by Council
NS-2337-DA005 Sheet 5 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA008 Sheet 8 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA009 Sheet 9 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA010 Sheet 10 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA100 Sheet 12 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA101 Sheet 13 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA102 Sheet 14 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024
NS-2337-DA103 Sheet 15 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 January 2024

Condition				
NS-2337-DA201 Sheet 18 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January
NS-2337-DA202 Sheet 19 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January
NS-2337-DA203 Sheet 20 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January
NS-2337-DA301 Sheet 21 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January
NS-2337-DA302 Sheet 19 of 32 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January
Materials and Finishes NS-2337-DA601 (Rev 0)	Notch Design Studio Pty Ltd	22/12/23	16 2024	January

BASIX Certificate No.	Dated	Received by Council
A509508_02	12 January 2024	16 January 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. Amendment of Plans & Documentation

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

- A privacy screen having a height of 1.6m (measured above the finished floor level) shall be provided to the northern side along the edge of the terrace deck area. The privacy screen shall start from the rear end of the dwelling and extend for a length of 6.071m to align with the rear eastern end of the swimming pool.

Privacy screen/s must be constructed with either:

- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
- Fixed lattice/slats with individual openings not more than 30mm wide;
- Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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BUILDING WORK**BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE****Condition****3. Consent Requirements**

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

Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.

4. Section 7.12 Development Contributions

In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$2,121,680.00 the following applicable monetary levy must be paid to Council: \$21,216.80.

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

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Condition Reason: To ensure relevant contributions are paid.

5. Long Service Levy Payments

Condition	
<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>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none">• \$600.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation 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>
7.	<p>Sydney Water</p>

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	Condition
	<p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ online service is available at:</p> <p>https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
8.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
9.	<p>Structural Adequacy</p> <p>Certificate of Adequacy supplied by a professional engineer shall be submitted to the Certifier (and the Council, if the Council is not the Certifier), certifying the structural adequacy of the existing structure to support the rear floor additions.</p> <p>Condition Reason: To ensure the structural integrity of the building is maintained.</p>
10.	<p>BASIX Requirements</p>

	Condition
	<p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
11.	<p>Stormwater Drainage</p> <p>A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate: -</p> <ul style="list-style-type: none"> a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2); b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit; c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises; d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises; e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works. <p>Condition Reason: To control and manage stormwater run-off.</p>
12.	<p>Excavation Earthworks and Support of Adjoining Land</p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
13.	<p>Excavation, Earthworks and Support of Adjoining Land</p>

	Condition
	<p>A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none">• when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land;• when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);• when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and• as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
14.	<p>Building Code of Australia – Swimming Pools</p> <p>Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools.</p> <p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p>
15.	<p>Swimming Pool Safety</p>

Condition

Swimming pools are to be designed, installed and operated in accordance with the following general requirements:

- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.
- Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance.
- Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.
- Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.

Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.

16. **Amended Landscape Plans**

The Landscape Plans by Melissa Wilson Landscape Architects date 20/12/2023 Dwg No LS02 must be **amended** to now include the following requirements:

- Along the length of the northern side setback boundary fence line, 14 *Leptospermum laevigatum* (Coastal Tea Trees) which will grow to a mature height of 5 metres, cannot to be planted any closer than 2.5 metres from any part of the dwelling to comply with the C1 DCP control, these trees **must be deleted** from the landscape plans.
- New native coastal plantings of a smaller size that will not achieve a mature height of 2 metres, must be planted along the northern side setback to comply with the C1 DCP condition.
- A high-quality selection and arrangement of decorative species throughout the front northern setback so as to assist with presentation of the development to the streetscape.
- A predominance of species that can withstand poor quality sandy soils and salt laden winds which are typical of these coastal conditions.
- A predominance of species that are not reliant on high quantities of moisture and fertilizer for survival.

A revised scheme complying with the requirements specified above must then be submitted to, and be approved by, the Principal Certifier, prior to any Construction Certificate.

Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.

17. **Street Tree Protection Measures**

To ensure retention of the, mature *Cupaniosis anacarioides* (Tuckeroo) 5 metres high, good condition, located adjacent the dwelling within the northern side aspect of the council's verge, in good health, the following measures are to be undertaken.

- All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of its trunk and canopy to be

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	Condition
	clearly and accurately shown in relation to the site and new work.
b)	This tree is to be physically protected by installing evenly spaced star pickets at a setback of 2000mm to its north and south, matching up with the footpath to its west, brick common wall to its east to which, safety para-webbing shall then be permanently attached to completely enclose the tree for the duration of works.
c)	Additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around the circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
d)	This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER" .
e)	Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
f)	The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6633 should clearance pruning or similar be needed. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE , with payment to be received prior to pruning or any Occupation Certificate.
g)	The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.
h)	A refundable deposit in the form of cash, credit card or cheque for an amount of \$700.00 must be paid at the Cashier on the Ground Floor of the Administrative Centre, prior to a Construction Certificate being issued for the development to ensure compliance with the conditions listed in this consent, and ultimately, preservation of the tree.
	The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's <i>'Security Deposit Refund Application Form'</i> and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6633).
	Any contravention of Council's conditions relating to the tree at any time during works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.
	Condition Reason: Protection of existing environment public infrastructure, community assets and significant trees.
18.	Street Tree Management
	The applicant must submit a payment of \$500 (GST inclusive) to cover the following costs:

Condition

- a) All lower lateral branches to be uplifted, this will balance the tree, which will also make the tree aesthetically appealing within the frontage of the proposed new dwelling, this will also ensure that trunk protection battens can be secured professionally to the trunk without damaging lower branches.

Condition Reason: Protection and/or maintenance of existing environment public infrastructure, community assets and significant trees.

BEFORE BUILDING WORK COMMENCES

Condition

19. **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.

20. **Home Building Act 1989**

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	Condition
	<p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>
21.	<p>Dilapidation Reports</p> <p>A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:</p> <ul style="list-style-type: none"> • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises; • demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary); • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and • as may be required by the Principal Certifier for the development. <p>The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.</p> <p>The dilapidation report must be submitted to the Principal Certifier, the Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</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>
22.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p>

Condition	
	Condition Reason: To protect the amenity of the neighbourhood during construction.
23.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
24.	<p>Public Utilities</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

Conditions	
25.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ul style="list-style-type: none"> 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. <p>The sign must be -</p> <ul style="list-style-type: none"> a) maintained while the building work is being carried out, and b) removed when the work has been completed. <p>This section does not apply in relation to -</p> <ul style="list-style-type: none"> 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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 Conditions

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

26. **Restriction on Working Hours**

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

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

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

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

27. **Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

	Conditions
	<p>f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</p> <p>g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p> <p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p> <p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
28.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
29.	<p>Tree Management</p>

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Conditions

Approval is granted for removal of the small Yucca Species that is located just beyond the front property boundary, within council's land, hard against brick boundary wall, removal wholly at the applicant's cost, all other vegetation within this development site, including Date palms within the northern rear side setback, Date palm on the lower southern terrace, and all the overgrown weeds in the rear setback, so as to accommodate excavations and civil works that are shown for these same areas, subject to full implementation of the approved Landscape Plans.

Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.

30. **Weed Removal**

The mass of overgrown weeds throughout the lower, rear portion of this site must also be formally removed, eradicated and disposed of from site so as to eliminate future invasions into the adjoining foreshore, with details of how this is to be achieved to be submitted to, and be approved by, the Principal Certifier.

Condition Reason: To ensure the protection and longevity of existing significant trees.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

31. **Occupation Certificate Requirements**

An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Condition reason: Statutory requirement. To ensure the site is authorised for occupation.

32. **BASIX Requirements**

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

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

Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.

33. **Council's Infrastructure, Vehicular Crossings and Street Verge**

The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

	Condition
	Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.
34.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
35.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>That part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
36.	<p>Swimming Pool Safety</p> <p>Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
37.	<p>Swimming Pool Safety</p> <p>A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation</p>

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Condition	
	techniques and the importance of the supervision of children at all times.
	Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.
38.	<p>Swimming Pool Safety</p> <p>The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>
39.	<p>Landscape Certification</p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Amended Landscape Plans by Melissa Wilson Landscape Architects date 20/12/2023, as well as any relevant conditions of consent.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
40.	<p>Landscape Certification</p> <p>Suitable strategies must then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
41.	<p>Landscape Certification</p> <p>The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>

OCCUPATION AND ONGOING USE

Condition	
42.	<p>Use of Premises</p> <p>The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p>

Condition

Condition reason: To ensure the development is used for its intended purpose.

43. **External Lighting**

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

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

44. **Plant & Equipment**

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

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

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

Condition

45. **Demolition Work Plan**

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

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

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

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

Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

Condition

DURING DEMOLITION WORK

Condition

46. Demolition Work

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

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

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

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

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