

Randwick Local Planning Panel (Electronic) Meeting

Thursday 12 September 2024



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting
will be held online via Microsoft Team on
Thursday, 12 September 2024 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D70/24

Subject: 6 Aeolia Street, Randwick (DA/419/2024)


Executive Summary

Proposal:	Alterations and additions to the existing school building (Connolly Williams Building) at an educational establishment – Brigidine College (Heritage Item - I248)
Ward:	East Ward
Applicant:	Trustees of The Sisters of The Brigidine Congregation
Owner:	Trustees of The Sisters of The Brigidine Congregation
Cost of works:	\$4,990,887.01 (excluding GST)
Reason for referral:	Local Heritage Item - “Aeolia”, Brigidine Convent and Chapel

Recommendation

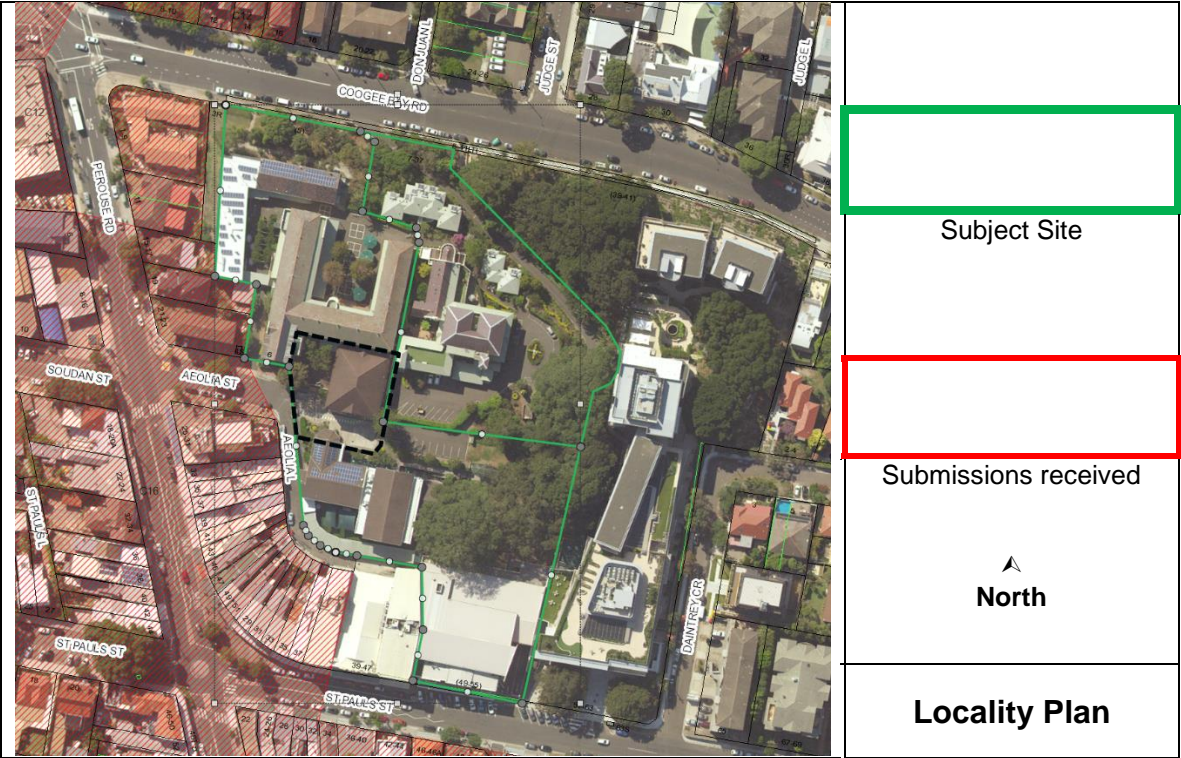
- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/419/2024 for alterations and additions to the existing school building, at No. 6 Aeolia Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  Consent Conditions - DA/419/2024 - 6 Aeolia Street, Randwick

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1. Executive summary

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

The proposal seeks development consent for alterations and additions to the existing school building (named Connolly Williams Building) at an educational establishment at No. 6 Aeolia Street, Randwick known as Brigidine College.

The proposed development was advertised and notified in accordance with the Randwick City Community Engagement Strategy. No submissions were received as a result of the notification process.

In accordance with Schedule 5: Environmental Heritage of the Randwick Local Environmental Plan 2012, the subject site is a listed heritage item (reference number I248) and described as “Aeolia”, Brigidine Convent and Chapel (c. 1924). The site also adjoins ‘The Spot’ Heritage Conservation Area and is in the vicinity of heritage item to the south identified as ‘Ritz Cinemas’ at No. 39-47 St Pauls Street (reference number I447).

The key issues associated with the proposal relate to the site’s identification as a local heritage item and built form being demolished and/or retained as part of the proposal. The details of the heritage significant fabric and an assessment of the proposed works have been outlined in the comments provided by Council’s Heritage Planner who has raised no objections to the proposed works, subject to conditions.

Council’s Development Engineer has reviewed the application and raises no objections to the reduction of one car space to improve parking accessibility on the site. Council’s Environmental Health officer has also reviewed the application and has no objections to the proposed works, subject to appropriate conditions in relation to acoustic privacy measures.

The subject site is zoned SP2 - Infrastructure under the Randwick Local Environmental Plan 2012. The purpose shown on the land zoning map includes “Educational Establishments” as a permissible form of development. The proposal demonstrates consistency with the objectives of the zone in that the proposed development will maintain the existing use of the site as an ‘educational establishment’ will support the needs of the community by providing improved educational facilities

and subject to conditions will not result in any significant adverse amenity impacts to nearby and adjoining residents. Rather, the proposed works seek to improve the amenity, fire safety requirements and accessibility for school which will benefit the local community and its users.

The majority of proposed works as part of this application are located internally will generally result in an improvement to the functioning of the school premises in terms of amenity, visual aesthetics, fire safety and accessibility. Similarly, the majority of external works do not contain any significant bulk or scale and will not detract from the building design elements associated with the spatial setting of existing buildings on the heritage context of the site and within the conservation area.

Overall, the proposal will have a positive impact on the existing Brigidine College and the local community and will result in the delivery of infrastructure that will support the existing use and operations of the site as educational establishment in accordance with the public interest.

The proposal is recommended for approval subject to non-standard conditions that require acoustic privacy measures to be implemented and heritage conditions relating to photographic records of historical items to be archived, historical archaeological remains or deposits and external colours, materials and finishes to the building.

2. Site Description and Locality

The subject site is known as Brigidine College Randwick and is legally described as Lot 21 in DP 1134767. The site is located at 6 Aeolia Street Randwick and is owned by the Trustees of The Sisters of The Brigidine Congregation.

The site has a total area of 1.92 hectares and is irregular in shape as depicted in the mapping extract below in Figure 5 below. The site has three main street frontages, Aeolia Street where the main entry is located, to the north along Coogee Bay Road and the south along St Pauls Street. There is also a laneway frontage to Aeolia Lane. The site topography is elevated in the center of the property along the Aeolia Street frontage and slopes down to northern and southern ends of the site by around 9m.

The subject site is heritage listed pursuant to the Randwick Local Environmental Plan 2012 (RLEP 2012) and is known as "Aeolia", Brigidine Convent and Chapel. The College comprises several existing buildings, which form the Brigidine College Randwick campus.

The building subject to this development application is known as 'Connolly Williams Building' and presents as a three-storey educational establishment, which currently contains a uniform shop, canteen, bathroom, library and music room.

The subject building is located directly in front of the access gate at Aeolia Street (see Figures 7 & 8), as outlined in black dashed line below. The subject building has a building footprint of approximately 458m², which is less than 5% of the site area.

The surrounding area is predominantly characterised by low to medium density residential development and strips of several commercial/retail, educational and community buildings. The surrounding properties to the west and south are zoned E1 Local Centre. The subject site including surrounding educational establishment properties to the east (at No.'s 7-37 Coogee Bay Road and 57-63 St Paul's Street) are zone SP2 Infrastructure "educational establishment" and listed as containing heritage items (I248) under the RLEP 2012. The surrounding area west, north, and south of the site (hatched in red) are located within 'The Spot' Heritage Conservation Area.

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Figure 1: Subject site (Brigidine College) as viewed from Aeolia Street



Figure 2: Connolly Williams Building and adjoining education building on subject site



Figure 3: Existing ground floor undercroft amenity and canteen area within the Connolly Williams Building



Figure 4: Existing First floor level library room within the Connolly Williams Building

Figure 5:
Existing
corridor
and
bathroom
facilities on
the ground
floor level



Figure 6:
Existing
courtyard and
void areas
which allows
for the new
access stairs,
lift shaft &
plant room



Figure 7: Area Map of subject site outlined in Green and the Connolly Williams Building which is subject to the proposed works is hashed in black.

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Figure 8: Aerial Map of Connolly Williams Building indicating the general location/area of works hashed in black. (Source: Metromaps modified by Patch which was extracted from the applicants SEE)

3. Relevant history

DA/1195/2003 – Approval issued for development of a multi-purpose facility for Brigidine College including new classrooms, hall and gymnasium, new carpark for 168 vehicles, 3 new premises for potential retail/ commercial/ community uses and ancillary work (Heritage Item).

DA/289/2017 – Alterations to Brigidine College including changes to Aeolia Street pedestrian entry, upgrade of levels 2 and 3 external courtyards, alterations to Connolly Williams Wing including enclosure of ground floor canteen and undercroft, new covered colonnades, new garbage storage, internal changes, upgrade of library and student spaces, new circulation stairs and lifts to connect buildings, landscaping and associated works (Heritage Item).

DA/289/2017/A – Section 96 modification to reinstate and modification to existing level 4 verandah.

DA/289/2017/B – Modification of approved development to relocate Hydrant Booster Pump to the entry to the College off Aeolia Street to provide extended hydrant cover to the works in accord with NCC requirements.

The SEE notes that the proposed works under this DA are very similar in nature to those which were proposed within DA/289/2017 and subsequent modification applications. However, it is noted those works proposed within this DA are significantly reduced in scale from those which were previously approved.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing Connolly Williams Building at the Brigidine College campus at Randwick.

Generally, the redevelopment seeks to alter the existing building to render it suitable for use as a library and music room, and to facilitate better accessibility to and within the building. This involves various internal and external works to the building. Additionally, the proposal includes a new lift shaft and new stair access through the building and new plant room.

Demolition works are proposed to facility the alterations and additions. The proposed works are detailed as follows:

Ground floor internal works

Internal demolition proposed at the ground floor incdes the following:

- Cutting into slab to allow access to services;
- Removal of existing non-structural walls to facilitate relocation of the bathrooms and kitchen (canteen), new lift and new stairs;
- Demolition of a portion of the existing slab at that west of the building for new ramp and steps and to level the entry area floor; and
- Removal and infill of existing door to fire safety stairs.

Ground Floor external works

External demolition proposed at the ground floor includes the following:

- Removal of roller doors;
- Remove existing ramp and protective barriers at the west of the building where new access is being created;
- Removal of existing wooden flower bed;
- Modify portion of existing driveway to suit new levels where pedestrian access is being established;
- Removal of existing paving and concrete in parking area; and
- The onsite parking to the south of the Connolly Williams building will be reduced by one space to allow for 2 accessible car spaces with a shared zone and a short stay carparking space.

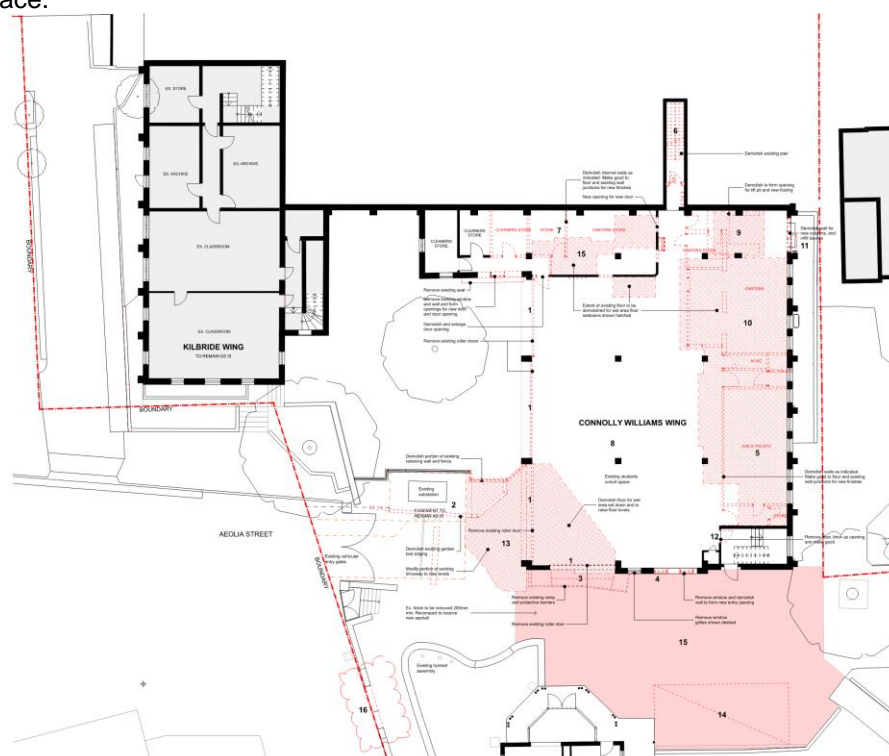


Figure 9: Ground Floor Demolition Plan

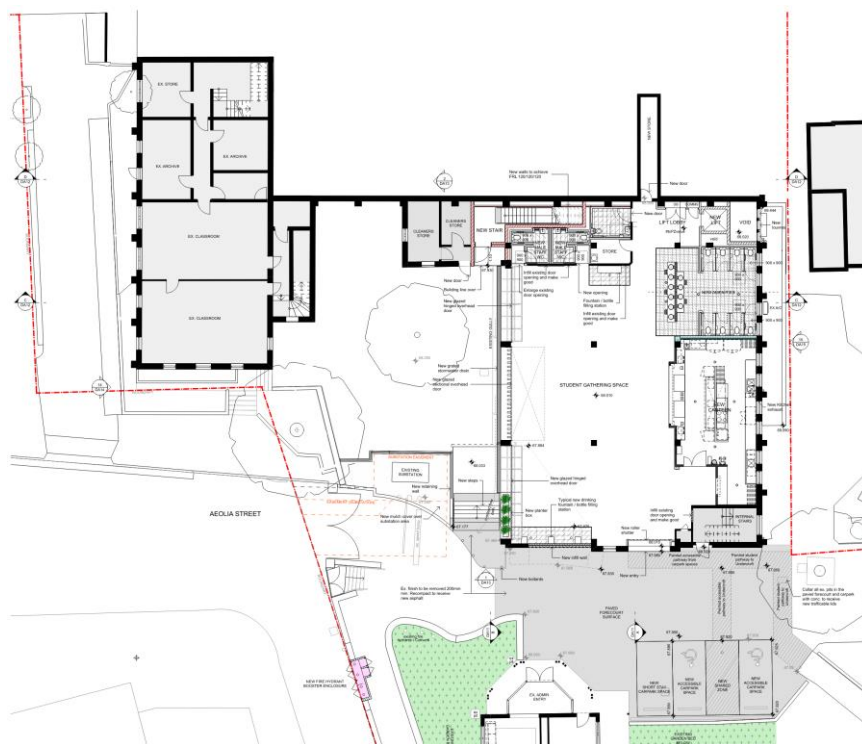


Figure 10: Proposed works on Ground Floor Plan

Level 1 internal works

Removal of internal non-structure walls and make good existing wall and floor joinery.

Level 1 external works

External demolition proposed at level 1 includes the following:

- Demolition of part of slab to allow for new lift shaft (roof of ground floor).
- Demolition of part of slab to allow for new stairs (roof of ground floor).
- Provision of a new library.

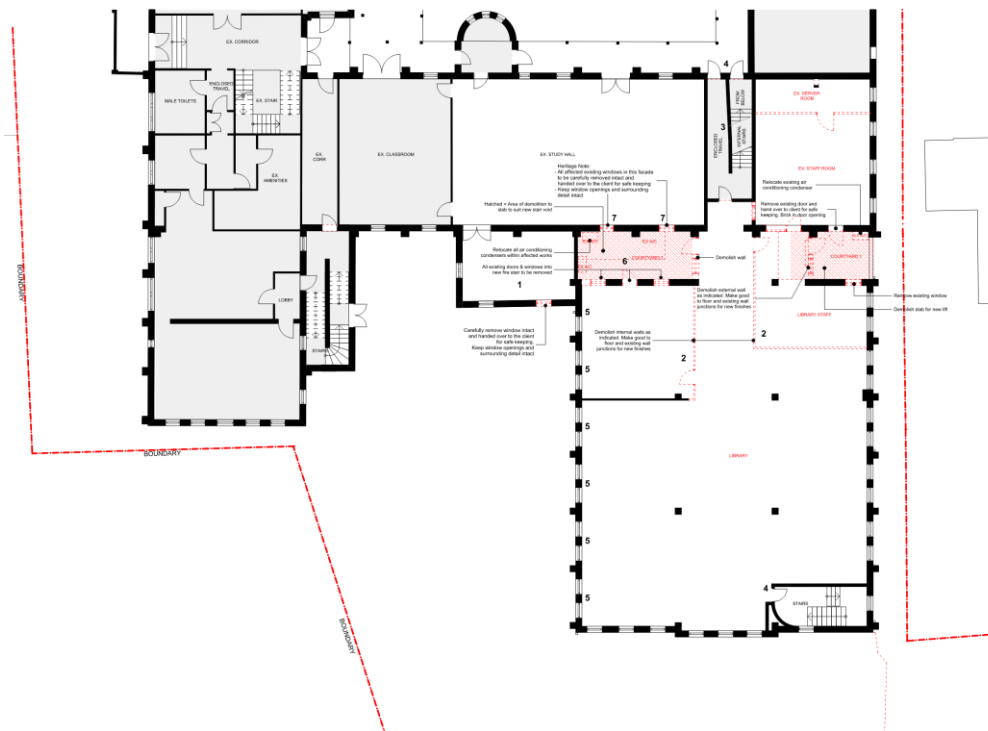


Figure 11: First floor Demolition Plan

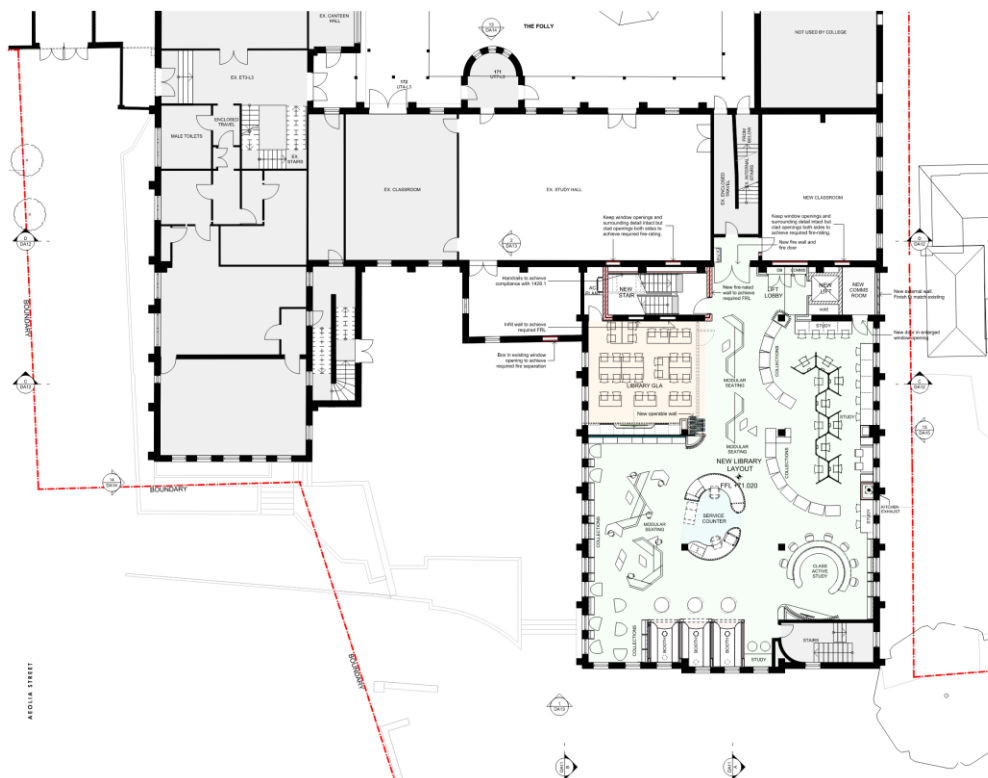


Figure 12: Proposed works on First Floor Plan

Level 2 internal works

Demolition of internal partition walls to provide for new music rooms and teaching areas.

Architectural floor plan of the proposed new building. The plan shows a large central hall (CLAUSTRUM 1) and a smaller hall (CLAUSTRUM 2). To the left of the central hall are two offices (OFFICE) and a staircase. To the right of the central hall is a large room (NEW MUSIC ROOM 1) and a smaller room (NEW MUSIC ROOM 2). Below the central hall are three new practice rooms (NEW PRACTICE ROOM 1, 2, 3) and a new music room (NEW MUSIC ROOM 3). The plan also shows a staircase (STAIRS) and a circulation area (CIRCULATION). A red dashed line indicates the boundary of the site. The plan is oriented with North at the top.

Roof works

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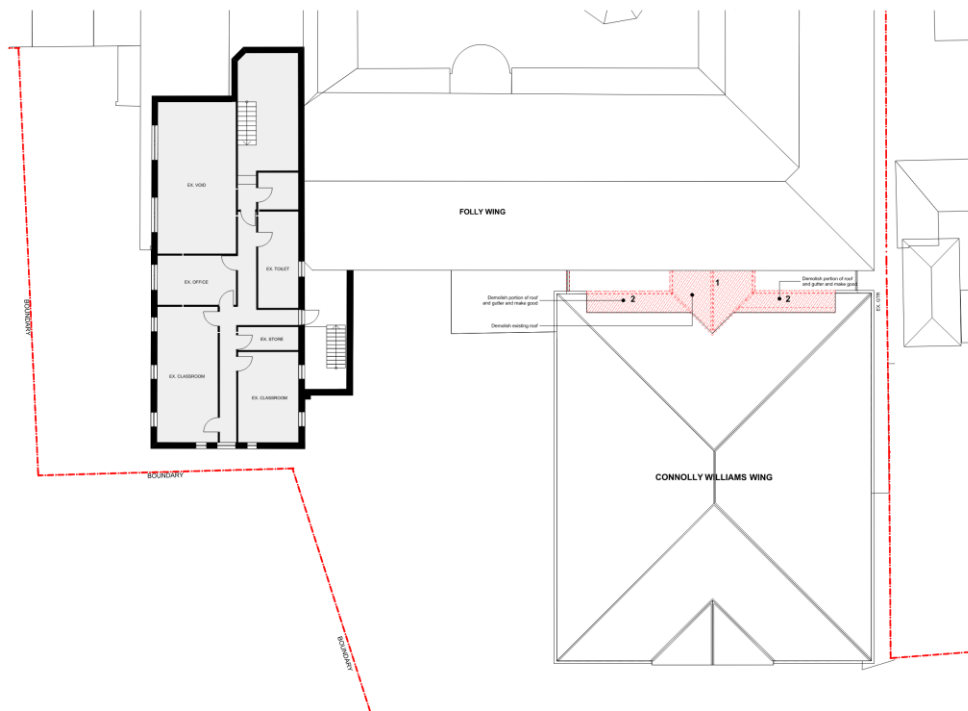


Figure 15: Roof Demolition Plan

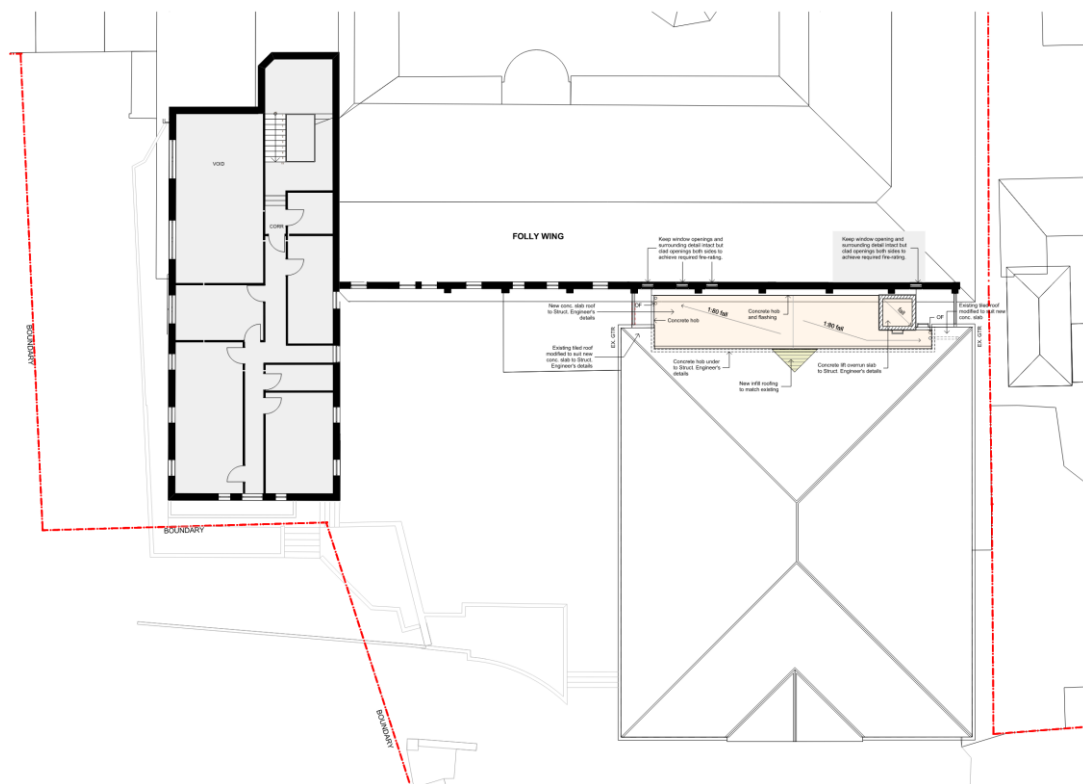


Figure 16: Proposed works on Roof Plan

There is no change proposed to the following:

- Existing student and staff population
- Operating hours
- Vehicular access and school drop-off and pick-up arrangements.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

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

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

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

6.2. SEPP (Transport and Infrastructure) 2021

Chapter 3 – Educational establishments and childcare facilities

Pursuant to section 3.36 of *State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)*, development for the purpose of a school may be carried out by any person with consent on land in a prescribed zone. The SP2 zone is identified as a prescribed zone under section 3.34 of the T&I SEPP.

Subsection 3.36(6) of the T&I SEPP states:

“Before determining a development application for development of a kind referred to in subsection (1), (3) or (5), the consent authority must take into consideration -

- (a) the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and*
- (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.”*

An assessment of the design quality principles set out in Schedule 8 of the T&I SEPP is provided in the below table.

Design Quality Principle	Comment
<p>1. <u>Context, built form and landscape</u></p> <p>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</p> <p>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</p> <p>School buildings and their grounds on land that is identified in or under a local</p>	<p>The proposal upgrades the existing use for the purposes of an educational establishments.</p> <p>The continued use of the site by Brigidine College appropriately responds to the site's educational context. The proposal seeks to provide improved internal amenity, fire safety upgrades and accessibility for students and staff by way of appropriate amenity facilities and improved connectivity throughout the existing building and site.</p> <p>The existing garden beds to the south of the building adjacent to the admin building will be maintained and the new landscape planter box to the western side of the building appropriately responds to the site and its context.</p>

environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development's visual impact on those qualities and that natural environment.	
<p>2. <u>Sustainable, efficient, and durable</u></p> <p>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>The proposal will retain and 'make-good' the existing building on the site, reducing the need for new building materials. All new works have been designed to be durable, adaptable, and resilient to meet the changing needs of the school.</p>
<p>3. <u>Accessible and inclusive</u></p> <p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p> <p>Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	<p>The proposal has been specifically designed to improve and meet the current needs of school. The inclusion of new lift shaft, stairs, as well as other design features which improves usability and accessibility.</p> <p>The proposed works are considered to enhance the existing facilities and achieve the desired design outcome for the uses of the site and community, including a new library and canteen facility.</p>
<p>4. <u>Health and safety</u></p> <p>Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.</p>	<p>The proposal seeks to improve the health, safety, and security of the school by providing improved amenity, and fire safety and better accessibility (for people with a disability) to meet the National Construction Code (NCC) of Australia), which is a significant benefit and support the existing and future needs for the users of the school building.</p>
<p>5. <u>Amenity</u></p> <p>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.</p> <p>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.</p> <p>Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight,</p>	<p>The proposal seeks to utilise the existing building for use as a library and music room, which provides an improved education facility and enhance student and staff amenity.</p> <p>The existing building on the ground floor level will also provide for a new canteen, bathroom facilities and lift shaft that will improve accessibility and provide better and suitable standard of amenity for students and staff.</p> <p>As previously indicated the proposal is generally contained within the existing building envelope and subject to conditions, which</p>

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natural ventilation, outlook, visual and acoustic privacy, storage and service areas.	<p>require an acoustic report to be undertaken and appropriate noise mitigation measures to be implemented to prevent any unreasonable adverse acoustic and visual privacy or amenity impacts to the neighbouring properties.</p> <p>Standard conditions in relation to waste, pollution control have been included in the consent to ensure compliance with the relevant legislation and guidelines.</p>
<p>6. <u>Whole of life, flexible and adaptive</u></p> <p>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</p>	<p>The proposal has been designed to meet current and future needs of students and staff.</p>
<p>7. <u>Aesthetics</u></p> <p>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood.</p> <p>The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.</p>	<p>The proposal seeks to enhance the aesthetic character of the school. The proposed built form responds to the existing and desired future context of the site and surrounding neighbourhood with particular regards to the conservation area and adjoining heritage significant items.</p> <p>The new infill roof structure to the norther of the building will match the existing building and is not visible from the streetscape.</p> <p>Overall, the proposed development will have a positive contribution and will improve the aesthetics and quality of the building as viewed from the public domain and its surrounds.</p>

6.3. State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 of the State Environmental Planning Policy (Sustainable Buildings) 2022 (SB SEPP) came into force on 1 October 2023 and applies to all no-residential development that involves:

- The erection of a new building, if the development has an Estimate Development Cost (EDC) of \$5 million or more; or
- Alterations, enlargement, or extension of an existing building, if the EDC is \$10 million or more.

The cost estimate report provided with the documentation notes that the cost of works is less than \$10 million and therefore, the requirements under Chapter 3 of the SB SEPP do not apply.

6.4. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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 application involves alterations and additions to an existing education establishment. Noting that the site has historically been used for educational purposes, the possibility of contamination is unlikely, and the site is considered suitable for the proposed development.

6.5. Randwick Local Environmental Plan 2012 (LEP 2012) (Amendment No. 9)

The site is zoned SP2 – Infrastructure (Education Establishment) under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The SP2 Infrastructure zoning objectives are as follows:

- To provide for infrastructure and related uses.
- To prevent that is not compatible with or that may detract from the provision of infrastructure.
- To facilitate development that will not adversely affect the amenity of nearby and adjoining development.
- To protect and provide for land use for community purposes.

The proposal is consistent with the specific objectives of the zone in that the proposal will support the ongoing use of the site as an educational establishment which serves the needs of the local community. The proposed works will be improving fire safety and accessibility on the site which will better services the needs for the school.

There are no development standards for lot size, floor space ratio, or building height under RLEP 2012 applying to the subject site. Notwithstanding this, it is noted that the proposal will not be increasing the predominant overall height of the building or FSR on the site. The proposed works are mainly internal and are within the existing building form and include accessibility, fire safety requirements and cosmetic improvements to the external fabric of the building. The proposed external works will be improving the visual amenity of the building and will responds appropriately to the heritage significance of the locality and the associated setting.

The proposed works will not result in any additional amenity impacts to neighbouring properties and public domain. The existing students and staff population and operating hours of the school will remain unchanged.

The application does not propose any increase in staff or student numbers hence there will be no associated increase in parking demand, nor will there be any additional privacy or acoustic impacts (subject to conditions) associated with the proposed works.

6.5.1. 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.

The site is a locally listed heritage item pursuant to the Randwick Local Environmental Plan 2012 - Amendment No. 9 (RLEP 2012). The heritage item is known as '*Aeolia' Brigidine Convent and Chapel [1248] at 6 Aeolia Street Randwick Lot 21 DP1134767*'. The site also adjoins The State listed item known as the Ritz Cinema (at No. 39-47 St Pauls Street (reference number I447)) which is located immediately to the south of the subject site and to its north side this State listed item also adjoins one of the Brigidine College buildings. To the west of the subject site adjoins The Spot Heritage Conservation area. Refer to Heritage Map Extract in Figure 17 below.

As the proposal involves alterations to the interior and exterior of a building located on a site which is listed as a heritage item, and adjoins heritage items and conservation area, provision (2)(a)(i) and (2)(b) of Cause 5.10 under the RLEP 2012 (Amendment No. 9) apply to the proposed development.

An assessment of the heritage impacts has been considered by Council's Heritage Planner. The main heritage considerations concern the visual catchment from the public domain in Aeolia Street. This visual catchment substantially relates to the west elevation of the subject building. The internal changes to non-structural and already substantially modified spatial arrangements have little heritage import.

The Heritage Planner notes that the proposed works have been carefully addressed in the balance of retaining the heritage character of the "Aeolia", Brigidine Convent and Chapel and the existing built form that adjoins the site and surrounding buildings, roofing arrangements, landfall, retaining and privacy walls, has the practical effect of substantially ameliorating any public visual impact.

Subject to conditions, the proposal will not result in any adverse impacts to the heritage significance or qualities of the adjoining and nearby heritage items and conservation area.

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



Figure 17: Heritage Map Extract - Heritage Items shaded in brown, Heritage Conservation Area hashed in red and subject site is identified in green.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed below:

Part B2 – Heritage

The proposed works will maintain the significance of the existing heritage item of the 'Aeolia' Brigidine College and Convent (heritage item no. I248 within the RLEP 2012) and will comply with

the relevant objectives of control. The proposal will continue to conserve the heritage significance of the building including the associated fabric, settings and views of the development. Council's heritage planning officer has no objections to the proposed development.

Refer to discussion by Council's Heritage Planner at Appendix 1 of this report which addresses the relevant controls.

Part B6 – Recycling and Waste Management

Capable of complying, subject to suitable conditions.

Part B7 – Transport, Traffic, Parking and Access

The proposal will not generate any increase in traffic or car parking demand as there will be no increase in the student or staff population of the school.

There are no changes proposed to the vehicle access, school drop-off and pick-up arrangement on the site. However, the onsite parking to the south of the Connolly Williams building will be reduced by one space to allow for 2 accessible car spaces with a shared zone and a short stay carparking space. Refer to Figure 18 below. Council's Development Engineer has supported the reduction in the overall parking provision as the parking spaces will improve existing parking operations and accessibility on the site and the benefits outweigh the reduction of 1 space.

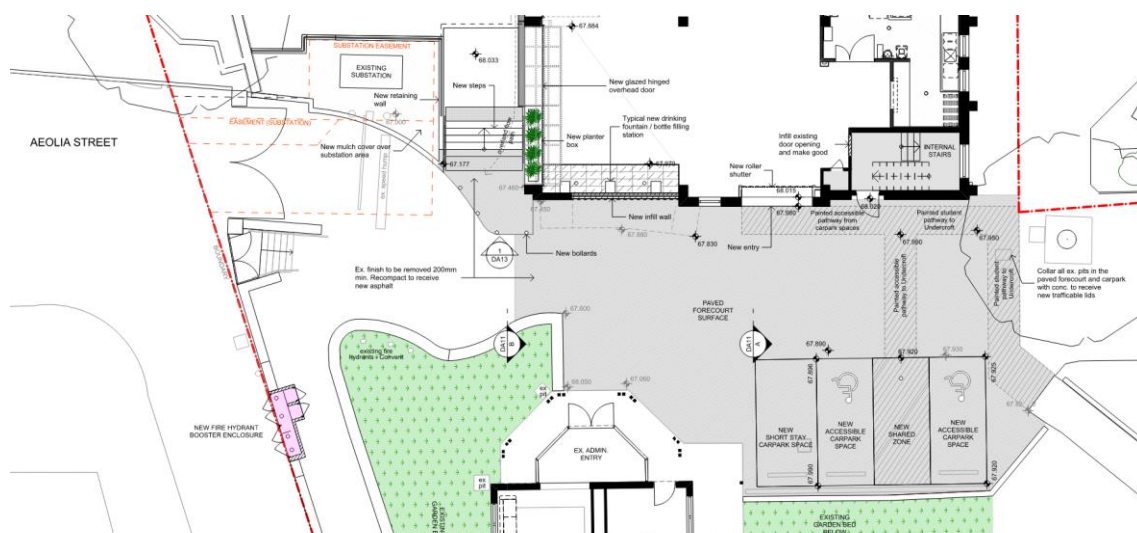


Figure 18: Proposed Parking layout

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.

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Section 4.15 'Matters for Consideration'	Comments
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 the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant 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 during the notification period.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Acoustic & Visual Privacy

The proposal will not give rise to any additional visual privacy impacts noting that it does not include any changes to existing external openings. Additionally, the proposal does not result in any change to existing staff or student populations or hours of operation. In this regard, there will be no intensification of use at the site, which is wholly surrounded by the school grounds.

However, the refurbishment proposed to the existing building for use as a library, canteen and music room with associated facilities will require potential noise impacts to be considered relating to the plant and equipment and use of a music room on the second-floor level.

A condition has been included that requires an acoustic report to be undertaken to ensure that the plant and equipment and use of the music room is in accordance with NSW EPA policy guidelines and confirm noise emanating from the proposal complies with relevant noise criteria.

Appropriate noise mitigation measures have also been included within the consent to achieve reasonable levels of environmental amenity to neighbouring properties and comply with the relevant noise criteria.

9. Conclusion

That the application for alterations and additions to the existing school building (Connolley Williams Building) at an educational establishment be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant requirements contained within Chapter 3 of SEPP (Transport and Infrastructure) 2021.
- 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 SP2 - Infrastructure zone in that it will result in the delivery of infrastructure that will support the exiting use and operations of the site and as educational establishment.
- Subject to conditions, the proposal will not result in any unreasonable adverse amenity impacts (with regards to visual, acoustic and privacy) to the neighbouring properties or streetscape.
- The development enhances the visual quality of the public domain/streetscape and will be sympathetic to its setting and context within the conservations areas as well as the heritage items.
- The proposed development will make a positive contribution to the site in that it will facilitate better accessibility, fire safety and amenity to the existing building.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The subject site forms part of several interconnected buildings, in an educational complex known as Brigidine College Randwick. This subject building is known as the *Connolley Williams Building* and adjoins another part of the school complex via a passageway. Its primary street address and entranceway are at 6 Aeolia Street, Randwick which is a short, narrow road that runs east off Perouse Road. However, it is also accessible from other surrounding streets; Belmore to the north, Dudley to the east, St Paul's to the south. The footprint of the subject building and its immediately associated landscaped elements is sited across two irregularly shaped allotments (Lot 1 DP 1093846 and Lot 21 DP 1134767).

The site is a locally listed heritage item pursuant to the Randwick Local Environmental Plan 2012 (RLEP 2012). The listing is known as '*Aeolia*' *Brigidine Convent and Chapel at 6 Aeolia Street Randwick Lot 21 DP1134767*. The State listed item the *Ritz Cinema*, is located immediately to the south of the subject site and to its north side this State listed item also adjoins one of the Brigidine College buildings.

The surrounding area is predominantly characterised by low to medium density residential development and strips of several commercial/retail and community buildings.

Background

The form, scale and detailing of the *Connolley Williams Building* has remained substantially consistent over some decades, especially in its presentation to the public domain. Its practical role within the complex has changed over time, as is generally the case with educational buildings - especially in terms of utilitarian connectivity. The interiors of the subject building have been upgraded to contemporary expectations and compliance, with considerable internal changes to decorative details and other historical features.

In 2017 a Development Application proposed external changes and internal re-configurations to the *Connolly Williams Wing*. That proposal included canteen and under-croft spaces, the covered colonnades, circulation and access, library and student spaces, storage and garbage areas, as well as landscaping.

The works proposed in this DA, are very similar in nature to those which were proposed within DA/289/2017 and subsequent modification applications. However, it is noted that the works proposed within this DA are significantly reduced in scale from those which were previously approved as an acceptable development.

Proposal

This project seeks approval for alterations and additions to the existing *Connolly Williams Building*. It entails substantial new internal fit-out configurations across three floors, as well as equitable accessibility upgrades. It also entails minor external changes for new access arrangements.

The internal works will render the spaces suitable for use as a library and music room, and to facilitate better accessibility to and within the building. These include the following:

- Ground Floor (Level 2): Slab cutout to allow access to services; provision of new lift shaft and lift lobby and new internal stairs; removal of existing non-structural walls to facilitate relocation of the bathrooms (male, female and accessible) and relocated kitchen.
- First Floor (Level 3): Removal of internal non-structural walls and make good all existing wall and floor joinery for library fit out. New lift shaft structure and new stair structure in the void behind the existing building. Relocation of AC equipment.

- Second Floor (level 4): Removal of internal non-structural walls Internal Demolition of internal partition walls and make good all existing wall and floor joinery for music facility and rooms fit out. New lift shaft structure and new stair structure in the void behind the existing building. Relocation of AC equipment.

The external works include partial demolition for the external facades and partial replacement of the existing windows, largely in compliance with statutory requirements for fire compliance.

- Ground Floor (Level2): Removal of roller doors; New glazed panel lifting doors; Remove existing ramp and protective barriers at the west of the building for creation of new access, including ramp; Relocation of AC equipment; New access stair to undercroft level; Removal and infill of existing door to fire safety stairs; New fire access door to internal stairs; New retaining wall; New landscaping between stairs and existing substation and new fire hydrant booster enclosure; Modify portion of existing driveway to suit new levels where pedestrian access is being established; Removal and reinstatement of existing paving and concrete in parking area.
- First Floor (Level 3): Demolition of part of slab to allow for new lift shaft and new stairs in void small courtyard area.
- Second Level (Level4): Demolition of part of slab to allow for new lift shaft and new stairs.
- Roof Level: Demolition of a portion of the roof and gutter to facilitate the roof works and new slab on for new plant space.

Submission

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

- A full set of architectural drawings prepared by *Gardner Wetherill Associates* (GW) of Pacific Highway St Leonards NSW, dated as 10 April 2024 (and received by Council 13 June 2024)
- A Schedule of Materials and Finishes prepared by *Gardner Wetherill Associates* (GW) of Pacific Highway St Leonards NSW, dated as 10 April 2024 (and received by Council 13 June 2024)
- A full set of Survey Plans (particularly defining elevations of site) prepared by *Hill & Blume Consulting Service* of Crown Street Woolloomooloo NSW, dated as 21 April 2020 (and received by Council 13 June 2024)
- A Statement of Heritage Impact (SHI), professionally prepared by *City Plan* of Sussex Street Sydney NSW, dated as 8 May 2024 (and received by Council 13 June 2024)
- A Statement of Environmental Effects (SEE), professionally prepared by *Patch Planning and Development* for *Gardner Wetherill* dated as 22 May 2024 (and received by Council 13 June 2024)

Controls

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

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

The Heritage section of Randwick Development Control Plan 2023 provides Objectives and Controls in relation to heritage properties.

Comments

The main heritage considerations concern the visual catchment from the public domain in Aeolia Street. This visual catchment substantially relates to the west elevation of the subject building.

At the property boundary there are minor utilitarian changes to elements such as the fire-hydrant enclosure and a slight level change.

Substantially, the works are interior modifications for educational purposes on an historical education site that has evolved over time in numbers and complexity of use. There are some mandatory changes to fenestration and human circulation for fire safety requirements and practicality. Given the evolving educational purposes of the site, these interior changes to non-structural and already substantially modified spatial arrangements have little heritage import.

At the perimeter of the *Connolley Williams Building* there are changes for entry steps and a retaining wall. Then at the ground level of this subject building (designated as Level 2) there are large-scale glazed sectional overhead doorways. At the northwest corner of this building there is void infill between buildings for elevator and stairway lobby, with upper ancillary mechanicals and overrun.

To the south of the *Connolley Williams Building*, at ground level there are landscape works for garden arrangements, paving and carparking. The landscaping changes are deemed to be of insubstantial heritage impact.

The combination of relative heights and proximate locations of tightly adjoining and surrounding buildings, roofing arrangements, landfall, retaining and privacy walls, has the practical effect of substantially ameliorating any public visual impact.

It is especially noted that for such an educational complex there are mandatory requirements for fire safety, student and worker safety, equitable access, spatial and purpose designations, and the relevant security for built arrangements and protocols. These requirements while taking precedence, have been carefully addressed in the balance of retaining the heritage character of the "Aeolia", Brigidine Convent and Chapel.

It is noted, in regard, that the present neutral cavity spaces are to become internal (new stairway and lift shaft). Some external windows and doors are to be removed for fire safety compliance. These are to be removed intact and handed over to client for safe keeping. The window openings and surrounding detail are to remain intact.

Recommendation

The following conditions should be included in any consent:

- Please note to Council the practical arrangements for the ongoing storage of any removed historical items such as doors and windows.
- Please note also to Council that a digital photographic record of the historical windows and doors to be removed is conducted prior to the removal of these elements. Note then to Council that this photographic record has been attached to the relevant architectural drawings for the location, and that this documentation will be kept in the Brigidine College building archive.
- The colours, materials and finishes of the external surfaces to the building are to be in accordance with the Proposed Materials Schedule prepared by *Gardner Wetherill Associates* (GW) of Pacific Highway St Leonards NSW, dated as 10 April 2024 (and received by Council 13 June 2024). Details of any changes are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

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

1.2. Development Engineer

An application has been received for alterations and additions to the existing school building (Connolly Williams Building) at an educational establishment – Brigidine College within the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Gardner Wetherill dated 10/04/2024;
- Statement of Environmental Effects by Patch Planning & Development Pty Ltd dated
- Detail & Level Survey by Hill & Blume dated 21st April 2020

General Comments

No objections are raised to the development subject to the comments and conditions provided in this report.

Parking Comments

The existing carpark just to the south of the Connolly Williams building currently comprises of 4 standard carspaces. It is proposed to replace 4 spaces with 2 accessible spaces and 1 normal (short stay) space resulting in a net reduction of 1 space.

The amendments will result in improved accessibility for the site which is considered to outweigh the one space reduction in the overall parking provision.

The site is well situated to reduce dependence on a motor vehicle being located within 150m of bus stops on Perouse Road and within 400m of the Randwick Terminus of the L2 Light Rail located to the northwest in High Street.

The application does not propose any increase in staff or student numbers hence there will be no associated increase in parking demand.

Waste Management Comments

A Demolition and Construction Waste Management Plan is required to be submitted to and have approved by Council's Lead specialist Strategic Waste prior to the issuing of a construction certificate.

Operational Waste Management provisions must be implemented generally in accordance with the Waste Management Plan submitted with the development application (Appendix H of the SEE) and stamped by Council 13th June 2024.

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. Environmental health

Proposed Development:

The proposed development would involve alterations and additions to the existing Connolly Williams Building at the Brigidine College campus at Randwick. Works include library, music room with associated facilities including mechanical plant and lift.

Comments:

Acoustic Amenity

The proposal is to refurbish existing building to be a library and music room with associated facilities. Potential noise needs to be considered relating to assessment of the proposal the plant and equipment and use of a music room.

The potential for noise nuisance has been considered and appropriate conditions have been included in this referral.

Environmental Issues

Standard conditions in relation to waste, pollution control have been included to ensure compliance with the relevant legislation and guidelines.

Responsible officer: Chahrazad Rahe, Senior Assessment Planner

File Reference: DA/419/2024

**Development Consent Conditions
(Educational Establishment)**



Folder /DA No:	DA/419/2024
Property:	6 Aeolia Street, Randwick
Proposal:	Alterations and additions to the existing school building (Connolly Williams Building) at an educational establishment – Brigidine College (Heritage Item - I248)
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>
DA01 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA02 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA03 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA04 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA05 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA07 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA08 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA09 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA10 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA11 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA12 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA13 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA14 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA15 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024
DA21 (Revision 01)	Gardner Wetherill	10/04/2027	13 June 2024

In the event of any inconsistency between the approved plans and supplementary

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	Condition
	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.	General Heritage Conditions a) A management statement is to be submitted to Council's Heritage Planner detailing the practical arrangements for the ongoing storage of any removed historical items, such as doors and windows. b) A digital photographic record of the historical windows and doors to be removed is conducted prior to the removal of these elements. A copy of this photographic record must be submitted to Council and this documentation is to also be kept in the Brigidine College building archive. c) The colours, materials and finishes of the external surfaces to the building are to be in accordance with the Proposed Materials Schedule prepared by <i>Gardner Wetherill Associates</i> (GW) of Pacific Highway St Leonards NSW, dated as 10 April 2024 (and received by Council 13 June 2024). Details of any changes are to be submitted to and approved by Council's Heritage Planner, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. d) In respect of landscaping works, in the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potential extent and significance is undertaken and the NSW Heritage Office notified under the requirements of the Heritage Act. Condition Reason: To satisfy the heritage conservation requirements of the site.

**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.	Environmental Amenity A suitably qualified acoustic consultant shall undertake an acoustic report in accordance with NSW EPA policy guidelines confirming noise emanating from the proposal complies with relevant noise criteria. The acoustic consultant shall confirm in writing to the certifying authority that all acoustic requirements have been included in construction with prior to a construction certificate being issued. Condition Reason: To ensure appropriate environmental amenity is maintained to neighbouring properties.
5.	Design, Construction & Fit-out of Food Premises In accordance with section 80 A (11) of the <i>Environmental Planning & Assessment Act 1979</i> and clause 98 of the <i>Environmental Planning & Assessment Regulation 2000</i> , it is a <i>prescribed condition</i> that all building work must be carried out in

	Condition
	<p>accordance with the provisions of the Building Code of Australia (BCA).</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
6.	<p>Design, Construction & Fit-out of Food Premises</p> <p>The premises is to be designed and constructed in accordance with the <i>Food Act 2003</i>, <i>Food Regulation 2010</i>, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
7.	<p>Design, Construction & Fit-out of Food Premises</p> <p>The design and construction of the food premises must comply with the following requirements, as applicable: -</p> <ol style="list-style-type: none"> The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non-slip and nonabrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning. Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface. <p>The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.</p> 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), with a light-coloured washable paint finish. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas. All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like. 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. Fly screens and doors with self-closing devices, are to be provided to all external door and window openings and an electronic insect control device/s are to be provided in suitable locations within the food premises.

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| h) | <p>A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.</p> <p>Emission control equipment shall be provided in mechanical exhaust systems serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils.</p> |
| i) | <p>Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.</p> |
| j) | <p>Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.</p> |
| k) | <p>All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.</p> |
| l) | <p>Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).</p> |
| <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p> | |
| 8. | <p>Additional requirements on plans – sinks and hand wash basins</p> <p>Prior to the issue of Construction Certificate, amended scale plans confirming the position of all sinks and hand wash basins within the food premises must be submitted to and approved by Council's Health, Building and Regulation Unit. The location and accessibility of sinks and hand wash basins must comply with the requirements of <i>AS4674 Design, Construction and Fit-out of Food Premises</i> and <i>Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment</i>.</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p> |
| 9. | <p>Additional requirements on plans – sinks and hand wash basins</p> <p>Any Cool rooms and freezer rooms must comply with the following requirements:</p> <ul style="list-style-type: none"> Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements. All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer. The space between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed). |

	Condition
	<p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
10.	<p>Additional requirements on plans – sinks and hand wash basins</p> <p>A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant, which confirms that the design and construction of the <i>food business</i> will satisfy the relevant requirements of the <i>Food Act 2003</i>, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to a construction certificate being issued for the 'fit-out' of the <i>food business</i>, to the satisfaction of the Principal Certifying Authority.</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
11.	<p>Additional requirements on plans – sinks and hand wash basins</p> <p>Liquid trade waste materials are to be drained to the sewer (via a suitable grease trap) and details of compliance are to be submitted to the Certifying Authority.</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
12.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Development Contributions Plan, based on the development cost of \$5,489,975.72 the following applicable monetary levy must be paid to Council: \$54,899.75.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $\text{IDC} = \text{ODC} \times \text{CP2/CP1}$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
13.	<p>Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section 6.8 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>

Condition	
	<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>
14.	<p>Security Deposits</p> <p>The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$2000.00 - Damage Deposit <p>The damage 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.</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>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The plans must be approved by Sydney Water prior to demolition, excavation or construction commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in to apply.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/tapin</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>

- | Condition | |
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| 16. | <p>Building Code of Australia
In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>All works must be carried out in accordance with the conclusions of the BCA Design Assessment Report, prepared by Design Confidence, dated 27 September 2023.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p> |
| 17. | <p>Building Code of Australia
Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p> |
| 18. | <p>Excavation Earthworks and Support of Adjoining Land
Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p> |
| 19. | <p>Stormwater Drainage
Surface water runoff from building work and structures must satisfy the following requirements (as applicable), 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 is to be drained and discharged to the sites stormwater drainage system 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 or cause a nuisance; d) Any new 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. |

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Condition

Condition Reason: To control and manage stormwater run-off.

20. **Fire Safety**

In accordance with the provisions of section 64 of the Environmental Planning and Assessment Regulation 2021, the existing levels of fire and safety within the premises are to be upgraded to achieve an adequate level of safety and the following requirements are to be satisfied:

- (a) A report prepared by a suitably qualified Registered Building Certifier or Building Code of Australia Consultant must be submitted to and approved by Council's Manager Health, Building & Regulatory Services (or delegate), in accordance with section 4.17(2) of the *Environmental Planning and Assessment Act 1979*.

The report must include an assessment of the existing building and the relevant provisions of the National Construction Code - Building Code of Australia. The report must also include details of the measures and works considered appropriate to achieve an adequate level of fire and safety for the building and the occupants, for consideration by Council.

- (b) The upgrading works contained in the report (as approved by Council) are to be included in the construction certificate and be implemented prior to issuing an occupation certificate for the new building or part and written confirmation is to be provided to Council accordingly.

Condition Reason: Statutory requirement. To ensure compliance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, and that adequate provision is made for fire safety in the premises for building occupant safety.

21. **Public Utilities**

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.

Condition Reason: To ensure infrastructure is appropriately managed.

22. **Public Utilities**

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.

Condition Reason: To ensure appropriate infrastructure fees are paid.

23. **Demolition & Construction Waste**

A *Demolition and Construction Waste Management Plan* (WMP) must be developed and implemented for the development, to the satisfaction of Council's Lead Specialist of Strategic Waste.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's website at https://www.randwick.nsw.gov.au/data/assets/pdf_file/0007/22795/Waste-

Condition
<p><u>Management-Plan-Guidelines.pdf</u> or contact Council Development Engineer on 9093-6881.</p> <p>Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.</p> <p>Condition Reason: To maximise resource recovery and minimise residual waste from demolition activities.</p>

BEFORE BUILDING WORK COMMENCES

Condition
<p>24. 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>. <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <ul style="list-style-type: none"> b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and 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. <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
<p>25. Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise & Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <ul style="list-style-type: none"> a) The <i>Construction Noise & Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.

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Condition
<p>(b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.</p> <p>(c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the <i>Construction Noise & Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise & Vibration Management Plan</i> and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.</p> <p>A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p> <p>(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>

26.
- 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 fencing / hoardings to the perimeter of the site;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction;
 - provisions for public safety;
 - dust control measures;
 - site access location and construction
 - details of methods of disposal of demolition materials;
 - protective measures for tree preservation;
 - provisions for temporary sanitary facilities;
 - location and size of waste containers/bulk bins;
 - details of proposed sediment and erosion control measures;
 - provisions for temporary stormwater drainage;
 - construction noise and vibration management;
 - construction traffic management details.

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

A copy of the Construction Site Management Plan must be provided to the Principal Certifying Authority 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	
	Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
27.	<p>Sediment and Erosion Control</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
28.	<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> <p>Demolition Work Plan</p> <p>A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures and relevant environmental/occupational health and safety requirements.</p> <p>The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the work involves asbestos products or materials, a copy of the Demolition Work Plan must also be provided to Council not less than 2 days before commencing those works.</p> <p>Condition Reason: To ensure demolition works are carried out in accordance with Australian Standard AS2601-2001.</p>

DURING BUILDING WORK

Condition	
29.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed. <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> building work, subdivision work or demolition work carried out inside an

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Condition
existing building, if the work does not affect the external walls of the building, or
b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

30. **Restriction on Working Hours**

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

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

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for 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.

31. **Noise & Vibration**

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

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

32. **Construction Site Management**

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

- (a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.

	Condition
	<p>(b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.</p> <p>(c) All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>(d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>(e) Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p>(f) Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i> <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
33.	<p>Overhead Hoardings</p> <p>An overhead ('B' class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:</p> <ul style="list-style-type: none"> 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. <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>
34.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <p>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.</p> <p>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.</p> <p>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</p>

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Condition	
d)	The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
e)	Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
f)	During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
g)	The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
h)	Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
i)	Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

35. **Building Encroachments**

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

Condition Reason: To ensure no encroachment onto public land and to protect Council land.

36. **Survey Report**

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.

Condition Reason: To ensure compliance with approved plans.

Road / Asset Opening Permit

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

Condition
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.
Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>37. Occupation Certificate Requirements</p> <p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>38. Fire Safety Certificate</p> <p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
<p>39. Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
<p>40. Waste Management</p> <p>Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.</p> <p>Trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.</p> <p>The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with an authorised waste services</p>

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	Condition
	contractor accordingly.
	Condition Reason: To ensure that waste and recycling is appropriately managed.
41.	<p>Council's Infrastructure, Vehicular Crossings, 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 the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure.</p>
42.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>Any 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 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. <p>Condition Reason: To ensure rectification of any damage to public infrastructure.</p>
43.	<p>Carpark</p> <p>The proposed amendments to the carpark shall be constructed and finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking on a surface of asphalt. Such works shall be completed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To ensure the car spaces is consistent with the approval.</p>
	<p>Food Safety</p> <p>A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant or Council's Environmental Health Officer, to confirm that the design and construction of the <i>food business</i> satisfies the relevant requirements of the <i>Food Act 2003</i>, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to issuing an Occupation Certificate.</p> <p>Condition Reason: To ensure fit out of premises complies with design and building standards as detailed in the relevant requirements.</p>
44.	
	<p>Food Safety</p> <p>The food premises must be registered with Council and be inspected by a Council Environmental Health Officer to ascertain compliance with relevant Food Safety</p>
45.	

	Condition
	Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.
	Condition Reason: To ensure premises is registered and complies with Council's Policy the relevant requirements NSW Food Act requirements.
	Environmental Amenity A report, must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from the development (including all plant and equipment) satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i> , 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. A copy of the report is to be forwarded to Council with or prior to the issue of an occupation certificate.
46.	Condition Reason: To ensure compliance with required noise criteria.
	Mechanical ventilation Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the <i>Building Code of Australia</i> , must be submitted to the Principal Certifier.
47.	Condition Reason to ensure compliance with the Building Code of Australia and relevant standards.

OCCUPATION AND ONGOING USE

	Condition
48.	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 surrounding areas.
49.	Acoustic Compliance Noise Levels The operation of the premises including but not limited to all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i> . The operation of the plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Office of Environment & Heritage (EPA) Noise Control Guidelines. Condition Reason: To protect the amenity of surrounding areas.
50.	Environmental Compliance The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises. Condition Reason: To protect the amenity of surrounding areas.
51.	Environmental Compliance Within three (3) months of an occupation certificate being issued, a report must be

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	Condition
	<p>obtained from a suitably qualified and experienced consultant in acoustics, and submitted to Council which demonstrates and certifies that noise from the use and operation from the development complies with the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i> and conditions of Council's consent.</p> <p>The acoustic report is to include (but not be limited) to;</p> <ul style="list-style-type: none"> Noise emission from the proposed development (e.g. operational noise, mechanical plant noise, assessment of use of music room monitoring from nearest affected residential premises during the use and operation of the premises Any recommendations or requirements which form part of this acoustic report are to be implemented and form part of this consent. Confirm any acoustic requirements have been complied with. <p>Condition Reason: To protect the amenity of surrounding areas.</p>
	<p>Air Conditioners</p> <p>Air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:</p> <p>52.</p> <ul style="list-style-type: none"> before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or before 7.00am or after 10.00pm on any other day. <p>Condition Reason: To protect the amenity of surrounding areas.</p>
	<p>Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>53.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
	<p>Waste Management</p> <p>Operational Waste Management provisions must be implemented generally in accordance with the Waste Management Plan submitted with the development application (Appendix H of the SEE) and stamped by Council 13th June 2024.</p> <p>54.</p> <p>Condition Reason: To ensure that waste and recycling is appropriately managed.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

	Condition
55.	<p>Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy. The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor Details of hazardous materials in the building (including materials containing asbestos) Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) Measures and processes to be implemented to ensure the health & safety of workers and community Measures to be implemented to minimise any airborne dust and asbestos Methods and location of disposal of any hazardous materials (including asbestos) Other measures to be implemented to ensure public health and safety Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

	Condition
	<p>Demolition Work Requirements</p> <p>The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of SafeWork NSW and</p>

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Condition

the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- The Protection of the Environment Operations Act 1997;
- Randwick City Council Asbestos Policy

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

Removal of Asbestos Materials

Work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Relevant Occupational Health & Safety legislation and SafeWork NSW requirements
- Randwick City Council's Asbestos Policy
- A SafeWork licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by Safe Work or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence. A copy of the relevant licence must be provided to the Principal Certifying Authority.
- On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
- Asbestos waste must be stored, transported and disposed of in compliance with the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Waste) Regulation 2005*. Details of the landfill site (which must be lawfully able to receive asbestos materials) must be provided to the Principal Certifying Authority.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos assessor or other competent person, must be provided to Council and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site or a copy can be obtained from Council's Customer Service Centre.

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

Development Application Report No. D71/24

Subject: 6 Aeolia Street, Randwick (DA/375/2024)

Executive Summary

Proposal:	Demolition of an existing brick wall and dilapidated awning to enable the repair of a sandstone stone wall and a replacement awning structure
Ward:	North Ward
Applicant:	Mr J Georges
Owner:	Trustees of The Sisters of The Brigidine Congregat
Cost of works:	\$346,500.00
Reason for referral:	Local Heritage Item - "Aeolia", Brigidine Convent and Chapel

Recommendation

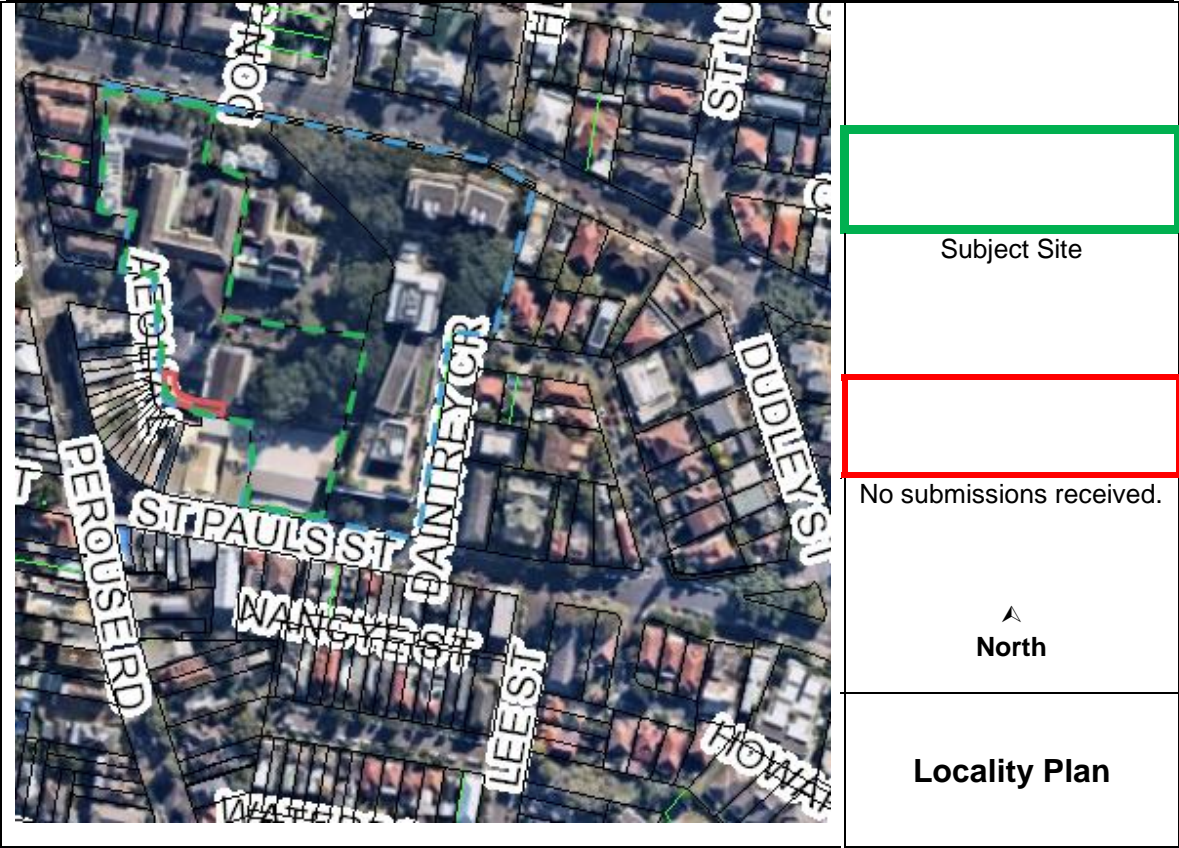
- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/375/2024 for demolition of an existing brick wall and dilapidated awning to enable the repair of a sandstone wall and a replacement awning structure, at No. 6 Aeolia Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions

D71/24

D71/24



1. Executive summary

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

The proposal seeks development consent for demolition of an existing brick wall (on top of existing sandstone wall) and dilapidated awning to enable the repair of a sandstone stone wall and a replacement awning structure (Heritage Item) sited behind the sandstone wall.

The subject application was notified from 30 May 2024 to 14 June 2024 in accordance with Randwick Community Engagement Strategy. No submissions were received at the conclusion of the public consultation process.

The subject site is zoned SP2 Infrastructure under the Randwick Local Environmental Plan 2012. The purpose shown on the land zoning map includes “Educational Establishments” as a permissible form of development. The DA will maintain the existing use of the development as an ‘educational establishment’ and therefore is a permissible form of development.

In accordance with Schedule 5 - Environmental Heritage of the Randwick Local Environmental Plan 2012, the subject site is a listed heritage item (reference number I248) and described as “Aeolia”, Brigidine Convent and Chapel (c. 1924). The site adjoins ‘The Spot’ Heritage Conservation Area. The subject site is also in the vicinity of a state listed heritage item to the south identified as ‘Ritz Cinemas’ at No. 39-47 St Pauls Street (reference number I447).

The key issues associated with the proposal relate to heritage conservation management of the reconstructed sandstone wall and required change to the material and colour selection for the proposed awning structure that is offset from the sandstone wall. In brief, Council’s Heritage planner indicated that the demolition and reinstatement of the sandstone walls shall be managed via a minimum impact strategy. The colours and materiality shall be conditioned such that the louvers shall be of a darker Windspray colour than the surfmist identified in amended plans and fencing/wall

cladding zincalume shall be replaced with natural zinc type cladding in a square ribbed form for improved weathering patina and compatibility with the sandstone wall.

Council's Development Engineer has also reviewed the subject application and recommended conditions of consent to ensure the proposed awning structure does not encroach onto Council's Aeolia Street Road reserve.

The proposal as conditioned is considered to satisfy the relevant assessment criteria and will satisfy the objectives of the zone, the applicable standards under the RLEP, and provisions of the RDCP.

The proposal is recommended for approval subject to non-standard conditions that require salvage and rectification works to the retained sandstone wall and conditions relating to colours and materials for the new fencing and awning located behind and above.

2. Site Description and Locality

The site is formally described as Lot 21 DP 1134767, and known as 6 Aeolia Street, Randwick. The area of the site shown bounded in green in aerial view below is irregular in shape with boundaries to three street frontages Aeolia Street where the main entry is located, to the north along Coogee Bay Road and to the south along St Paul's Street. An aerial view of the site and surrounding area is shown immediately below. The site is highest in the middle along the Aeolia Street frontage and slopes down to northern and southern ends of the site by around 9m.

The land area of the total Brigidine College and convent site is 18,934.6sqm. No. 6 Aeolia Street containing the school buildings takes up around 13,000sqm of the site.

The subject site is listed as a heritage item (I248) under the RLEP 2012 as are the other SP2 zoned sites east and north of the site at 7-37 Coogee Bay Road containing the Brigidine Convent and 57-63 St Paul's Street containing a recently built multi storey residential flat building containing Seniors ILU housing. The area west, north and south of the site is a Heritage Conservation area (The Spot) taking in medium density R3 zoned land (shown in aerial below shaded red) and Local centre E1 zone land (shown in aerial below shaded blue). The proposed development is identified in red bold shading along a part of Aeolia Street, which services the back of house functions of properties in the adjoining E1 zoned land.

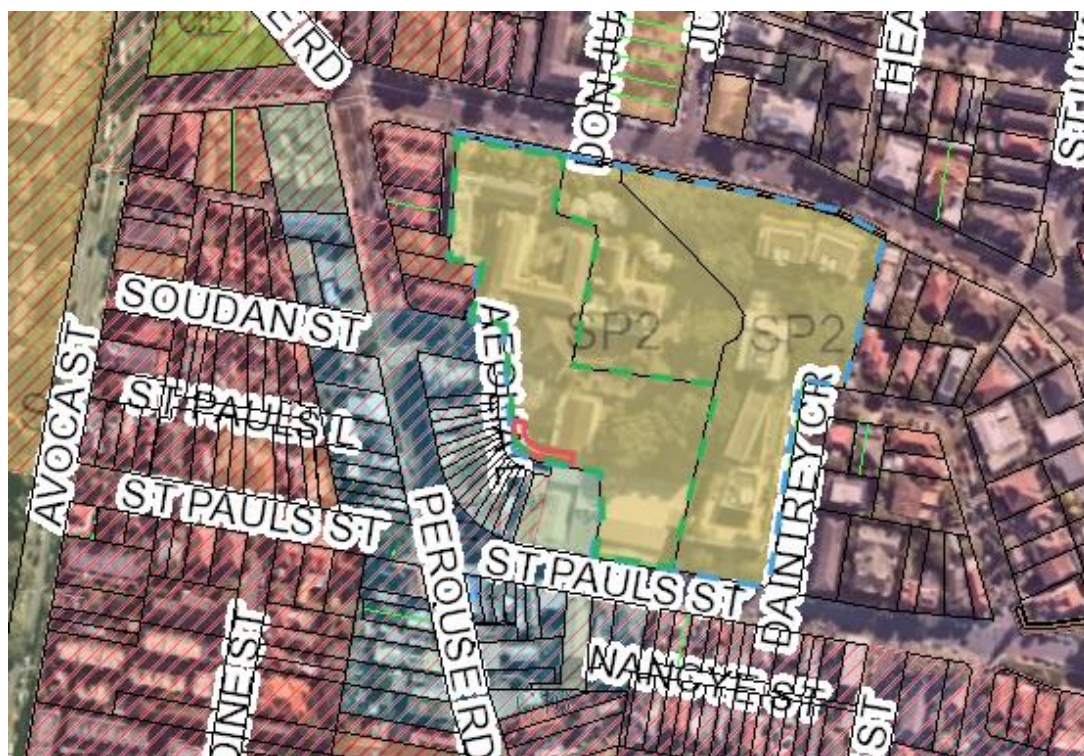


Figure 1: Aerial view of subject site bounded in green.

The subject site including surrounding educational establishment properties (7-37 Coogee Bay Road and 57-63 St Paul's Street) are zone SP2 Infrastructure "educational establishment" and listed as containing heritage items (I248) under the RLEP 2012. The blue shaded area to the west and south is zoned E1 Local Centre, subject to a maximum 12m height and 1.5:1 FSR under the RLEP. The surrounding area west, north, and south of the site (hatched) are located within 'The Spot' Heritage Conservation Area

Development surrounding the site to the west and south predominately contain two storey commercial premises at ground level and either commercial or residential at first floor level. This land is subject to maximum building height of 12m and floor space ratio of 1.5:1.

3. Relevant history

DA/289/2017 (including Modification A and B) granted consent for alterations to Brigidine College including changes to Aeolia Street pedestrian entry, upgrade of levels 2 and 3 external courtyards, alterations to Connolly Williams Wing including enclosure of ground floor canteen and undercroft, new covered colonnades, new garbage storage, internal changes, upgrade of library and student spaces, new circulation stairs and lifts to connect buildings, landscaping and associated works (Heritage Item).

Currently under assessment is DA/419/2024 for alterations and additions to the existing school building (Connolly Williams Building) at an educational establishment – Brigidine College (Heritage Item - I248).

4. Proposal

The proposal seeks development consent for:

1. Demolition of the existing masonry wall and awning due to structural issues (absence of control joints, observed titling of the brick wall) that pose a potential safety risk to staff, students and the general public.
2. Repoint and repair significant cracking to the sandstone base course and
3. Construction of new Colorbond and aluminium fencing and louvres to replace existing masonry walls and provide a replacement awning structure.

Amended plans received by Council on 24 June 2024 showing the following:

- Louvres: Colourbond (surfmist)
- Fencing/wall: Zinalume ribbed corrugated profile (driftwood colour).

Councils' heritage planner commented on these changes and reached agreement with the applicant for the louvres subject to change in colour to 'Windspray'. However, it does not appear that agreement was reached in relation to the fencing/wall cladding material – see discussion under key issues section.



Figure 2: photo showing the cracking in the masonry wall (source: Town Planning Collective)



Figure 3: photo showing the masonry wall and awning (source: Town Planning Collective)

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Figure 4: Sandstone wall and brick wall over as viewed from along Aeolia Street.



Figure 5: existing awning.

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 (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

The SEPP aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. The subject site has maintained use as a school for a considerable period of time and it is unlikely to contain any harmful contaminants.

6.2. State Environmental Planning Policy (Transport and Infrastructure) 2021

In accordance with Clause 2.121 of the Transport and Infrastructure SEPP, the consent authority must give written notice of a development application to Transport for NSW (TfNSW) for development specified in the Table in Schedule 3 of the SEPP. The proposed development does not trigger any requirements under the SEPP for referral to TfNSW.

The proposal has also been considered against Schedule 8, being the design principles for development of schools and it is considered that the proposed materials and form will satisfy the design principles ensuring adequate aesthetics in both materials and form along Aeolia Street and within the context of existing buildings on site.

6.3. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned SP2 Infrastructure "Educational Establishment" 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 a compatible use for the educational establishment, and it will not adversely affect the amenity of nearby and adjoining development.

No maximum height or FSR development standards apply to the site under the RLEP 2012. Notwithstanding, the proposal seeks a bulk and scale that is generally consistent with the existing structure and limited to a height that is generally subservient to the bulk and scale applicable to properties in the adjoining E1 zone on the opposite side of Aeolia Street.

No major earthworks are proposed other than those for footings.

6.3.1. *Clause 5.10 - Heritage conservation*

The site is adjacent to the *Spot* Heritage Conservation Area and contains heritage items. The application was referred to and reviewed by Council's Heritage Planner who raised no major concerns other than those relating to the colours and materiality.

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. Part B2 of the RDCP contains objectives and Controls in relation to Heritage items. As indicated by Council's Heritage Planner the proposal seeks to conserve and reinstate a sandstone base wall which was compromised in its initial construction and in need of repair. In addition, the proposed fencing awning is now offset from the sandstone wall

ensuring its overall impact is minor, given that it comprises a similar form and scale to the existing, which is located along a street that is largely shielded from the public domain.

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives of the Randwick Comprehensive DCP 2013.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<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	N/A.
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

Materials and colours fencing wall cladding

The original application sought colourbond for the whole of the scheme and Council's Heritage planner noted the extent of the structure, as well as its location, use within the school grounds and substantial visual presentation. As a result of these considerations, the use of colourbond for the wall sheeting and light surfmist colour, would be too light and too reflective and that a darker shade, such as 'Dune' would be more appropriate. The heritage planner also noted that Colorbond is not an appropriate long-term material in recreational and high traffic circumstances, where it is more

susceptible to accidental damage/dents, and this is even more evident for lighter shades. The recommendation was for the wall cladding to be a square-ribbed profile in zinc natural finish, which has the advantage of weathering over time to a suitable patina and has improved compatibility with natural components such as stone.

The applicant submitted amended plans, but still showed the louvres and cladding as surfmist and the wall cladding as ribbed zincalume – a materiality consistent with colorbond. Further discussion enabled an agreement to be reached with the applicant for the louvres to be retained as colorbond however changed in colour from Surfmist to Windspray.

Notwithstanding this agreement, the applicant has not formalised these revisions to the plan package in terms of the wall cladding materiality and colour preference for natural zinc due to its associated weathering properties and compatibility with the sandstone wall.

The above matters in relation to the louvre colour and wall cladding material are therefore resolved by condition of consent requiring the following:

- Louvres shall be coloured Windspray or similar colour to fencing/wall cladding below.
- Fencing/wall below the louvres identified as zincalume shall be replaced with genuine zinc type materiality designed in a square-ribbed profile, which weathers over time to a patina and is more compatible with the reinstated sandstone.

9. Conclusion

That the application to demolish an existing brick wall and dilapidated awning to enable the repair of a sandstone stone wall and a replacement awning structure 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 SP2 zone in that it repairs and reinstates a sandstone base wall and the awning and fence structure are offset behind to not detract from the heritage significance of the site or detract from the character of development along this part of Aeolia Street.
- 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 site.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

This large educational site known as the Brigidine College Randwick occupies an irregular shaped land parcel, with frontages to Aeolia Street, St Paul's Street, Coogee Bay Road and Daintrey Crescent. The total site comprises several legal land parcels. However, the subject structure and proposed works are only part of the overall College site, and the proposed works are located within Lot 21 DP 1134767 as this presents to Aeolia Lane.

The overall site is listed as a heritage item (I248) within Schedule 5 of RLEP 2012. It is also located in the vicinity of heritage item I447 being the 'Ritz Cinema' and also the Spot (C16) heritage conservation area (HCA).

Background

Professional heritage research established that the sandstone base-course to the subject wall was constructed in the mid-twentieth century. This sandstone base was assessed as having aesthetic and precinct-representative values. All other components of the subject structure, including the face brick walls, fanning and awning, have been assessed as having no heritage value.

A structural assessment of all built components – the sandstone base, the masonry wall, and the metal framing and roofing was undertaken by *Birzulis Associates*. Sections of the masonry wall were deemed to be a safety risk, and the sandstone base-course was deemed as unstable given its original concrete substrate. Professional assessment has therefore advised that a wall reconstruction is not to be affected in masonry.

Proposal

The project entails an entire demolition, stabilisation and reconstruction of the structure. A face brick masonry wall had been placed atop a fundamentally unstable sandstone-base wall with an awning structure above.

The proposed works therefore involves:

- Demolition of the existing masonry wall and awning.
- Stabilise, repoint and repair significant cracking to the sandstone base course.
- Construction of new Colorbond and aluminium fencing/wall and louvres as well as shade roofing to replace existing masonry with metal roof.

Submission

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

- A professional Statement of Environmental Effects (SEE) prepared by Town Planning Collective, dated as February 2024 (and received by Council 23 May 2024).
- A professional Statement of Heritage Impact by *NWT Heritage Consulting Pty Ltd* of Martin Place Sydney and dated as 5 September 2023 (and received by Council 23 May 2024).
- A set of architectural drawings prepared by Quantum 3D and dated as 28 February 2024 (and received by Council 23 May 2024).

- A set of engineering drawings prepared by *Birzulis Associates, Consulting Structural & Civil Engineers* of Darling Street, Rozelle and dated as April 2023 (and received by Council 23 May 2024).

Controls

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

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

The Heritage section of Randwick Development Control Plan 2023 provides Objectives and Controls in relation to heritage properties.

Comments

The proposal aims to reinstate a long-standing, utilitarian, school assembly and luncheon facility which presents in a dilapidated condition and with safety concerns.

The location of this development within the overall educational site is largely shielded from the public domain. It presents to a minor service roadway - Aeolia Lane – which is rarely frequented by pedestrians or vehicular traffic, and substantially, its views are within the school premises.

In terms of heritage fabric there is an intention to conserve and reinstate the sandstone base-course as an item of aesthetic significance, even though this element was compromised in its initial construction.

It is noted that the proposed fencing and awning are to be constructed offset and away from the sandstone base-course, to avoid future physical impacts related to fixings, footings and bracings.

Therefore, in a general sense, its overall impact is considered as no greater than minor and without a negative heritage impact. It is similar in form and scale to the existing structure.

However, this heritage assessment raises two concerns:

- Firstly, the proposal for wall sheeting to be affixed in colorbond requires further consideration. It appears from the provided documentation that the profile of the colorbond is to be cliplock, but this is not detailed in a materials schedule, nor is any substantial reasoning for this choice provided, especially in consideration of its substantial visual presentation. The proposed Colorbond shade is given as 'Surfmist'. Given the extent of the structure, as well as its location and use within the school grounds, this selection is considered as too light and too reflective. A darker shade, such as 'Dune' would be more appropriate.

However, it is also strongly advised that Colorbond is not an appropriate long-term material in recreational and high traffic circumstances. It is more subject to accidental damage/dents, and this is even more evident for lighter shades.

Therefore, it is strongly recommended that a square-ribbed profile in zinc be investigated for this project. Zinc is a natural finish which has the advantage of weathering off over time to a suitable patina, which better combines with natural components such as stone.

- Secondly, the aesthetic and historical values of the stone wall are to be managed with care in the demolition and reinstatement process. It is noted that the Heritage Impact Statement Section 5 makes several specific recommendations concerning the stone wall for photographic recording, initial deconstruction works and for reinstatement. Specifically, (a) to adopt a minimum impact strategy, which should be communicated to all works-personnel

at the outset of the project. Then (b) to adopt nine specific procedures for cleaning, re-pointing and re-establishment.

Recommendation

The following conditions should be included in any consent:

- Zinc sheeting as an alternative fabric be examined. If for some significant reason this is not feasible then the profile and the colour shade of any alternative - such as colorbond – would be proposed with considered reasons provided to Council.
- That a digital photographic record of the original structure, and in particular its sandstone base, be undertaken and attached to the Heritage Impact Statement for the archival records of the school as part of the development record of the school site. And that this be formally notified to Council.
- That all tradespeople be informed/made aware of the significance of the sandstone base-course prior to and during works to avoid any unwanted impacts.
- That the procedures outlined in Section 5 (pages 25-27) of the Heritage Impact Statement for the repair of the retained base course be adopted in full as a condition of Council. And that this be formally notified to Council, in summary:
 - Notification to tradespeople; Avoidance of direct impact; Placement of machinery, tools and vehicles; Appropriate surface cleaning; Re-mortar work and indents procedures; Contamination avoidance.

1.2. Development Engineer

An application has been received for the demolition of an existing brick wall and dilapidated awning to enable the repair of a sandstone stone wall and a replacement awning structure (Heritage Item). at the above site.

This report is based on the following plans and documentation:

- Building Plans by Birzulis & Associates dated April 2023.
- Statement of Environmental Effects by Town Planning Collective dated Feb 2024
- Detail & Level Survey by Baissline Surveys dated 7/07/2023.
- Geotechnical Report by Morrow Geotechnics dated 31st January 2023

General Comments

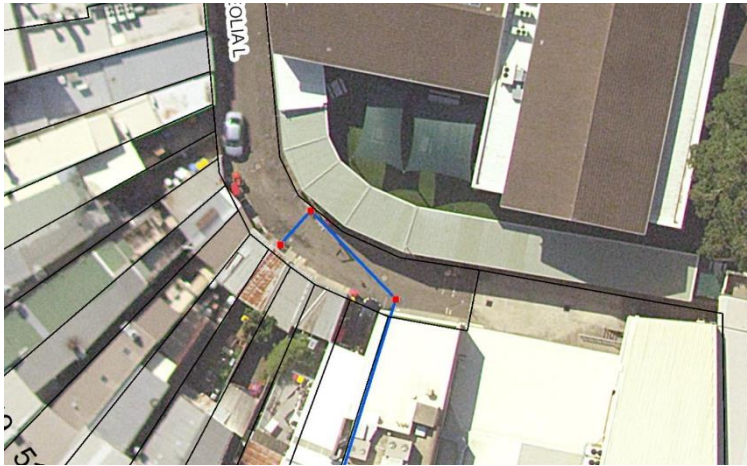
No objections are raised to the development subject to the comments and conditions provided in this report.

Roof Comments

The Section detail on sheet A102 appears to show the overhanging roof structure will be located behind the outside face of the sandstone wall and therefore not encroach on to Council property. This may not be true at the bends in the boundary due to the geometry and care shall be taken in the Construction Certificate plans to ensure the roof structure does not encroach onto Council property at these locations. A recommended condition has been included in this report.

Council Drainage Pipe Comments

The proposed wall & structure will be in close proximity to a Council drainage pit and a 450mm diameter Council pipe in Aeolia Lane (see below)



Any footings adjacent to the drainage pit and pipe must be either founded on rock or extend below the "angle of repose". Documentary evidence of compliance is to be submitted to Principal Certifier in plans submitted for the construction certificate and footings visually inspected prior to proceeding to the subsequent stages of construction.

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/375/2024

D71/24

Development Consent Conditions



Folder / DA No:	DA/375/2024
Property:	6 Aeolia Street, RANDWICK NSW 2031
Proposal:	Demolition of an existing brick wall and dilapidated awning to enable the repair of a sandstone wall and a replacement awning structure (Heritage Item).
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
Sheet A100	Quantum 3D	28/02/2024	24 June 2024
Sheet A101	Quantum 3D	28/02/2024	24 June 2024
Sheet A102	Quantum 3D	28/02/2024	24 June 2024
Sheet A103	Quantum 3D	28/02/2024	24 June 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 colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application subject to the following changes:
- Louvres shall be coloured Windspray or similar colour to fencing/wall cladding below.

Fencing/wall below the louvres identified as zincalume shall be

Condition	
	<p>replaced with genuine zinc type materiality designed in a square-ribbed profile.</p> <p>Details (samples) of the proposed materials/colour and profile are to be submitted to and approved by Council's Manager Development Assessment, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development. To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
3.	<p>Heritage Conservation</p> <p>A digital photographic record of the original structure, and in particular its sandstone base, be undertaken and attached to the Heritage Impact Statement for the archival records of the school as part of the development record of the school site. And that this be formally notified to Council.</p> <p>Condition reason: To ensure the conservation of heritage.</p> <p>Heritage Conservation</p> <p>All tradespeople be informed/made aware of the significance of the sandstone base-course prior to and during works to avoid any unwanted impacts.</p> <p>Condition reason: To ensure the conservation of heritage.</p> <p>Heritage conservation</p> <p>The procedures outlined in Section 5 (pages 25-27) of the Heritage Impact Statement for the repair of the retained base course be adopted in full as a condition of Council. And that this be formally notified to Council, in summary:</p> <ul style="list-style-type: none"> Notification to tradespeople; Avoidance of direct impact; Placement of machinery, tools and vehicles; Appropriate surface cleaning; Re-mortar work and indents procedures; Contamination avoidance. <p>Condition reason: To ensure the conservation of heritage.</p>

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

Condition	
6.	<p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
7.	<p>Section 7.12 Development Contributions</p>

	Condition
	<p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$346,500.00 the following applicable monetary levy must be paid to Council: \$3,465.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $\text{IDC} = \text{ODC} \times \text{CP2/CP1}$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
8.	<p>Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section 6.8 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p>
9.	<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"> • \$2000.00 - Damage / Civil Works Security Deposit

	Condition
	<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>
10.	<p>Roof Structure</p> <p>No part of the proposed overhanging roof structure shall encroach onto Council property (Aeolia Lane). Plans submitted for the construction certificate must demonstrate compliance with this requirement.</p> <p>NOTE: Indicative clearances must be shown at each bend in the lane boundary and at each end of the structure.</p> <p>Condition Reason: To ensure no encroachment of the development over Council land.</p>
11.	<p>Footings adjacent to Council Drainage Pipe</p> <p>All proposed footings located adjacent to the existing Council Drainage pipe shall either be:</p> <ol style="list-style-type: none"> Founded on rock, or; Extend below a 30 degrees line taken from the level of the pipe invert (angle of repose). <p>Structural details demonstrating compliance with this condition shall be submitted with the construction certificate application.</p> <p>Any enquiries on this matter shall be directed to Council's Development Engineer on 9093-6881.</p> <p>Condition Reason: To ensure the footings are appropriately designed.</p>
12.	<p>Stormwater Drainage</p> <p>Surface water runoff from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p> <ol style="list-style-type: none"> Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2); The surface water/stormwater is to be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit; Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance; External paths and ground surfaces are to be constructed at appropriate

	Condition
	<p>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; and</p> <p>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> <p>Condition Reason: To ensure stormwater is appropriately designed.</p>
13.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The plans must be approved by Sydney Water prior to demolition, excavation or construction commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in to apply.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/tapin</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: Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
14.	<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>
15.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant</p>

Condition	
	Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.
	Condition Reason: To ensure safe and easy access to the premises for people with a disability.
16.	Excavation Earthworks and Support of Adjoining Land Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier. Condition Reason: To ensure adjoining land is adequately supported.

BEFORE BUILDING WORK COMMENCES

Condition	
17.	Public Utilities 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. Condition reason: To ensure infrastructure is appropriately managed.
18.	Infrastructure facilities 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. Condition reason: To ensure necessary arrangements are made with infrastructure bodies.
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: <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment. b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation

Condition
<p>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.

20. **Dilapidation Reports**

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.

21. **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.

Condition
<p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>22. Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
<p>23. Demolition Work Plan</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy. b) The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) • Measures and processes to be implemented to ensure the health & safety of workers and community • Measures to be implemented to minimise any airborne dust and asbestos • Methods and location of disposal of any hazardous materials (including asbestos) • Other measures to be implemented to ensure public health and safety • Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p>Notes: <i>it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p>

Condition	
	Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.
24.	<p>Construction Noise & Vibration Management</p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
25.	<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>

1.1.
DURING BUILDING WORK

Condition	
26.	<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. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
27.	<p>Restriction on Working Hours</p>

Condition

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

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

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for 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.

28. **Noise & Vibration**

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

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

29. **Construction Site Management**

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

- (a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
- (b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- (c) All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Condition

- (d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
- (e) Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.
- (f) Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

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

30. **Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
- g) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- h) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

	Condition
	<p>i) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p>
	<p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>31. Site Access</p>	<p>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 Certifier 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.</p> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>32. Excavations and Support of Adjoining Land</p>	<p>Tin accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
<p>33. 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>
<p>34. Survey Report</p>	<p>A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p>

Condition	
	Condition Reason: To ensure compliance with approved plans.
35.	<p>Road/Asset Opening Permit</p> <p>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.</p> <p>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.</p> <p>For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.</p> <p>Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
36.	<p>Footings adjacent to Council Drainage Pipe</p> <p>Any footings adjacent to the Council drainage pipe and pit in Aeolia Street must be inspected by the applicant's engineer to ensure that these footings are either founded on rock or extend below the "angle of repose". Documentary evidence of compliance with this condition is to be submitted to Principal Certifier, prior to proceeding to the subsequent stages of construction.</p> <p>Condition Reason: To ensure the development and works are undertaken in accordance with relevant technical standards and protect Council assets.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
37.	<p>Occupation Certificate Requirements</p> <p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
38.	<p>Council's Infrastructure, Vehicular Crossings, 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 the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure.</p>
39.	<p>External civil work</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</p>

Condition
<p>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> <p>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.</p> <p>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.</p> <p>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> <p>Condition Reason: To ensure appropriate consents are obtained for works.</p>

40. **Structural Certification**

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.

Condition Reason: To ensure the structural adequacy of the building and works.

**DEMOLITION WORK
BEFORE DEMOLITION WORK COMMENCES**

Condition
<p>41. Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <p>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</p> <p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) • Measures and processes to be implemented to ensure the health & safety of workers and community

Condition	
	<ul style="list-style-type: none"> • Measures to be implemented to minimise any airborne dust and asbestos • Methods and location of disposal of any hazardous materials (including asbestos) • Other measures to be implemented to ensure public health and safety • Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition	
42.	<p>Demolition Work and Removal of Asbestos Materials</p> <p>Demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress", • Council is to be given at least two days written notice of demolition works 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

Condition
<p>Council upon completion of the asbestos removal works,</p> <ul style="list-style-type: none"> • Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request. <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.</p>
<p>43. Dust Control</p> <p>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.</p> <p><i>Dust control measures and practices may include:</i></p> <ul style="list-style-type: none"> • <i>Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).</i> • <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i> • <i>Installation of water sprinkling system or provision hoses or the like.</i> • <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i> • <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i> • <i>Landscaping and revegetation of disturbed areas.</i> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>

Development Application Report No. D72/24

Subject: 893 Anzac Parade, Maroubra (DA/202/2023)

Executive Summary

Proposal:	Torrens title subdivision of one lot into 2, alterations to existing dwelling, demolition of garage and granny flat and associated site works.
Ward:	Central Ward
Applicant:	Mr W Dong
Owner:	Dy Selds Pty Ltd
Cost of works:	\$49,500.00
Reason for referral:	The development contravenes the development standard for minimum lot size by more than 10%.

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the minimum lot size development standard in Clause 4.1(3) of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be 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. DA/202/2023 for Torrens title subdivision of one lot into 2, alterations to existing dwelling, demolition of garage and granny flat and associated site works, at No. 893 Anzac Parade, Maroubra, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  Development Consent Conditions

D72/24

D72/24



1. Executive summary

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

- The development contravenes the development standard for minimum lot size by more than 10%.

The subject site fronts Anzac Parade and contains a semi-detached dwelling fronting Anzac Parade to the east. The existing semi-detached dwelling is the southern half of an existing semi to the north. The site has a rear laneway frontage to Ferguson Lane, which is subject to a Council Road widening policy (part B11 of the Randwick Comprehensive Development Control Plan 2013).

The development sought is for Torrens title subdivision of one lot into 2 lots, alterations to existing dwelling, demolition of garage and granny flat and associated site works. Amended plans were received whilst not altering the proposed subdivision, it did show a change to the indicative development on proposed lot 2 replacing the previously shown single detached dwelling with a semi-detached dwelling. The application was also amended showing a variation to easement access and parking provided in line with the indicative layout for the existing semi-detached dwelling fronting Anzac Parade.

The proposal is for 2 allotments as follows:

- a 257.6sqm lot containing the existing semi-detached dwelling fronting Anzac Parade and
- a 210.6sqm lot (excluding the 34.7sqm for road widening) fronting Ferguson Lane.

Both lot sizes do not comply with the 400sqm minimum lot size standard in clause 4.1 of the LEP applicable under Clause 1.8 savings provisions of the LEP. These savings provisions don't enable the application of the since reduced minimum lot size standard from 400sqm down to 275sqm pursuant to amendment No. 9 to LEP, which took effect on 1 September 2023. The applicant submitted an amended clause 4.6 (further amended) seeking a variation to the 400sqm lot size standard.

The proposed new lot facing Ferguson Street has a frontage of 7.61m and meets the 7.5m minimum frontage control for semi-detached dwellings in the current amended DCP. The indicative development layout shows a two-storey 2-bedroom semi-detached dwelling form with parking provided for Lot 1 and 2 in a side-by-side arrangement within the front setback of Ferguson Street.

The key issue associated with the proposal relates to whether the proposed clause 4.6 submission requesting a variation to the minimum lot size standard in the LEP contains sufficient environmental planning grounds to support the variation to the standard and whether the site is capable of delivering a good urban design outcome in relation to streetscape character, internal amenity and it protects the amenity of residents.

In relation to the proposed lot sizes, it is considered that there are sufficient environmental planning grounds to support the Clause 4.6 variation to the minimum lot size standard for the following reasons:

- The proposed subdivision enables road widening along this stretch of Ferguson Street noting it is one of only several remaining sites yet to be subdivided.
- The proposed subdivision centre line is generally consistent with the predominant subdivision pattern in the locality.
- The proposed lot size for the existing semi-detached delivers suitable amenity and streetscape outcomes
- The indicative built form for the new lot fronting Ferguson Street is generally consistent with the current DCP outcomes envisaged for semi-detached dwellings in regard to setbacks, landscaped open space, site coverage, easement access, parking, private open space dimensions and building design demonstrating a reasonably sized dwelling can be contained within the proposed lot.

In relation to streetscape outcomes, the proposed development provides a large double width hardstand across the front of the site than the single width that preferred under the DCP. This outcome is necessitated to ensure parking is available for the retained semi-detached dwelling facing Anzac Parade (Lot 1) and lot fronting Ferguson Street (Lot 2). This outcome whilst not ideal is not inconsistent with the hardscape across the front of several properties along this part of Ferguson Street notably at No. 97 Ferguson containing a single detached dwelling, No's 899, 901, and 903 Anzac Parade containing 3 and 4 storey walk up flat buildings whose hardscape vehicular access is across the whole of the site off Ferguson Street and other properties on the opposite side at No's 54, 86, and 108 Ferguson Street. The likely hardscape across a substantial portion of the site is not inconsistent with the existing streetscape character.

Overall, the application contains sufficient environmental planning grounds to support the variation to the minimum lot size standard for subdivision in the R2 zone and the applicant has suitably demonstrated that the site is capable of delivering a supportable built form outcome for the site that will not be inconsistent with the streetscape character, provides reasonable amenity for future occupants and will not result in any significant or unreasonable adverse impacts on the amenity of neighbouring properties or the broader context of the R2 zone.

The proposal is recommended for approval subject to standard conditions.

2. Site Description and Locality

The subject site is known as 893 Anzac Parade and is legally described as Lot C in DP 391283. The site is 501.3sqm, is regular in shape, has a 7.61m frontage to Ferguson Street to the west and a 7.44m eastern frontage to Anzac Parade. The site contains an existing semi facing Anzac Parade with ancillary structures accommodated to the rear of the property.

The site slopes approximately 3-5m from Anzac Parade to Ferguson Street, which represents a gradient of between 4-7% across the 67m long site.

The adjoining sites along Ferguson Street contain a mix of building types ranging from single detached dwellings to usually red/cream brick walk style older residential flat buildings housing stock. Some semi-detached dwellings are also located in the vicinity. The surrounding area contains a mixture of housing options usually dictated by the variations in land size. More recent development along Anzac parade contains newer style semi-detached dwellings more recently subdivided since Randwick LEP Amendment 9 reduced the minimum lot size standard for subdivision in the R2 low density zone from 400sqm down to 275sqm for each lot.

Figure 1: Aerial view of subject site (shaded blue) and surrounding area.

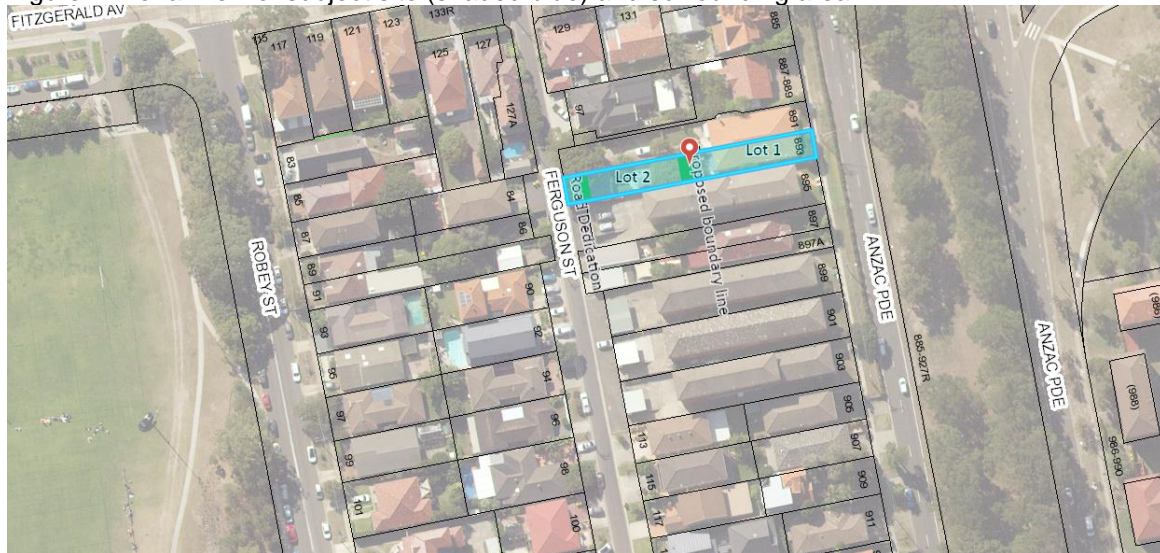
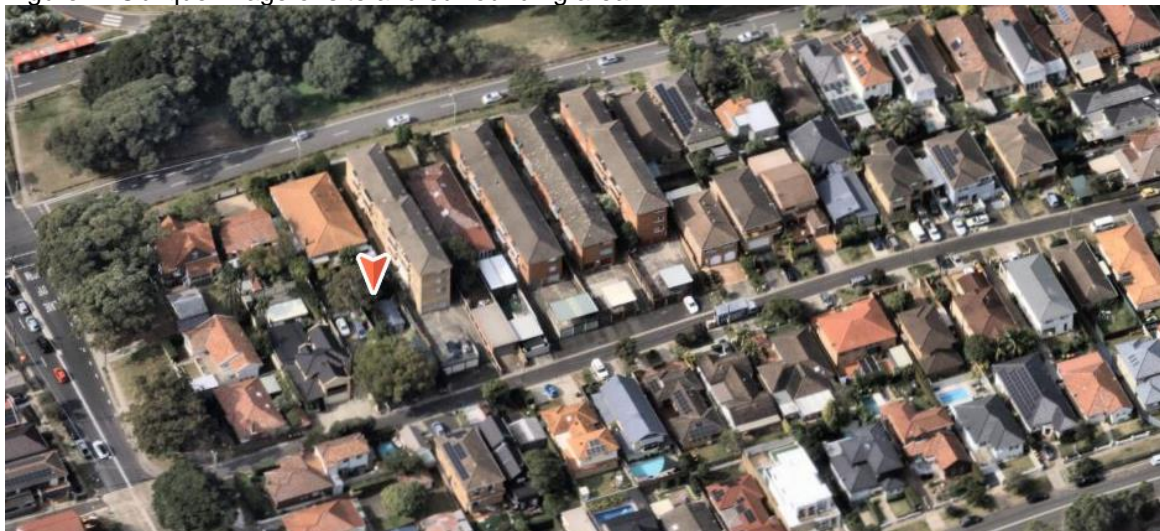


Figure 2: Oblique image of site and surrounding area



Street view photos

Figure 3: Looking south towards subject site and walk up flat buildings southward of the subject site showing as containing an outbuilding sought to be demolished as part of the subject application.



Figure 4: Looking south towards opposite side of Ferguson Street



3. Relevant history

None applicable to the subject application.

4. Proposal

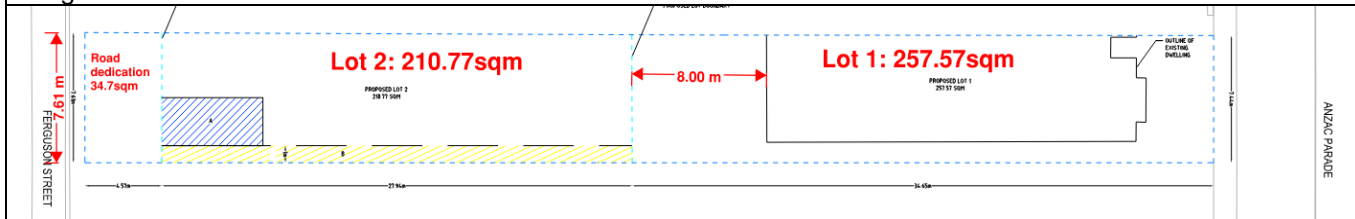
The proposal seeks development consent for torrens title sbudviion of the existing lot containing an existing dwelling into a 2 lots with the new lot fronting Ferguson Street and dedictation of land for the prupos of road widening along Ferguson Street.

Table 1: Details of proposed subdivision

	Lot size	Frontage	Side boundary
Lot 1 (No. 893 Anzac)	257.7m ²	7.44m (existing)	34.65m
Lot 2 (Ferguson Street)	210.77m ² (excludes 34.7m ²)	7.61m (proposed)	27.94m (excludes 4.57m for Road widening

Subdivision layout

Figure 2: The image below is an excerpt of the proposed subdivision showing at right Lot 1 containing the existing semi-detached dwelling (no works proposed) and at left proposed Lot 2 including Road dedication fronting Ferguson Street.



Indicative development layout of Lot 2 fronting Ferguson Street

Figure 3: Indicative development of Lot 2 fronting Ferguson Street – Ground level.

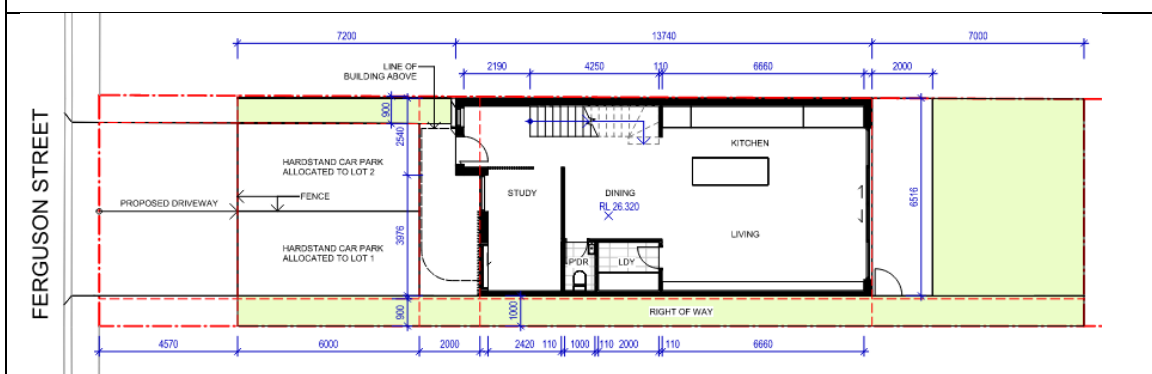


Figure 4: Indicative first floor level layout in Lot 2

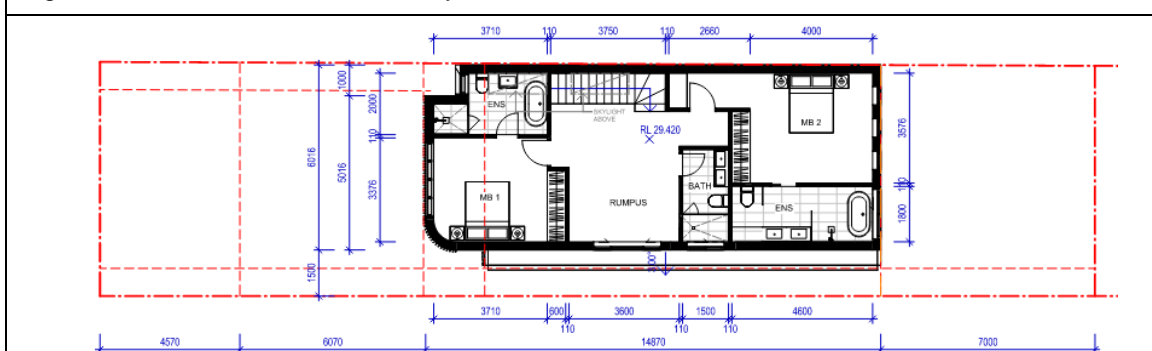


Figure 5: Indicative Front and rear elevation showing 2.7m floor to ceiling heights, 1m ground level side setback and 1.5m first floor level side setback. Note: Study room and entry door at front ground level.

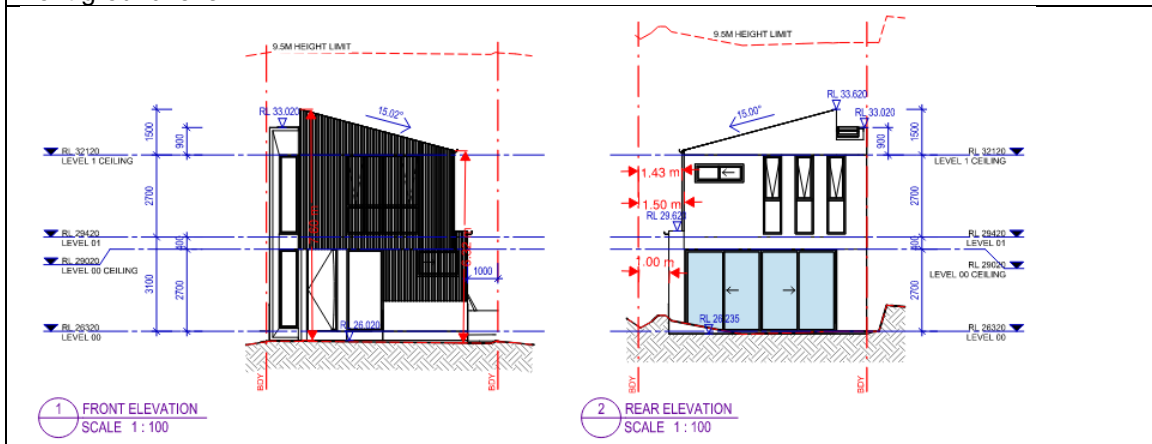
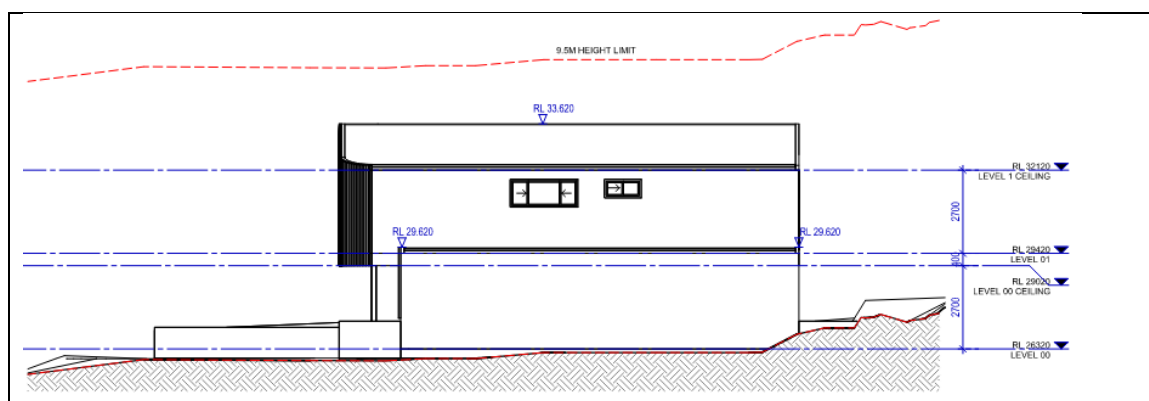


Figure 6: Indicative southern side elevation



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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 (BASIX) 2004

A BASIX certificate is not required to accompany an application that only seeks demolition work or subdivision as proposed under the subject application.

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. The proposal does not involve the removal of any significant trees on the site, and as such, no further consideration of the SEPP is required.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Clause 4.6 of the Resilience and Hazards SEPP requires that the consent authority must consider prior to granting consent whether the land is contaminated. The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development more so involving demolition of an old one storey building in the middle of the site that may potentially contain older type materials such as asbestos. As such, appropriate conditions are included to ensure that any contamination materials are disposed of in accordance with relevant workcover requirements.

It is considered that these conditions ensure that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone for the following reasons:

- The proposed residential activity and built form will provide for the housing needs of the community within a low-density residential environment noting the indicative layout shown demonstrates a similar outcome to several examples of semi-detached dwellings in the vicinity within similarly sized lots of land.
- The proposal recognises the desirable elements of the existing streetscape and built form by way of dedicating a strip of land for road widening in accordance with Part B11 *Development in*

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Laneways Nominated for Road Widening under the Randwick Comprehensive Development Control Plan 2013 (RDCP).

- The proposal provides an indicative layout of developable built form that is generally consistent with the delivery of semi-detached dwellings under the DCP noting that variations, such as a double hardscape driveway across the narrow lot frontage is not dissimilar to other development in the vicinity.
- The development is capable of protecting the amenity of residents by way of showing an indicative layout of built form and spatial setting within the site that would not inordinately result in any adverse impacts beyond that envisaged under the DCP for low density residential development.
- The proposal contributes to housing affordability in general by contributing to the supply of housing within a site capable of accommodating and delivering a reasonable sized dwelling within the urban context.

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)	No maximum applies - Existing dwelling on reduced lot size fronting Anzac Parade.	Existing dwelling on reduced lot size: Indicative layout on lot fronting Ferguson Street –	No maximum applies – see DCP table assessment and key issues section of this report for merit assessment.
CI 4.3: Building height (max)	9.5m applies to the existing dwelling on reduced lot size fronting Anzac Parade.	No building is proposed for the new lot. Indicative plans indicate a two-storey building can be accommodated on site and no change to existing two storey height.	Existing development complies and indicative plan shows a development is able to comply.
CI 4.1: Lot Size (min)	400sqm for each lot. Note: Amendment 9 which reduced the minimum lot size standard down from 400sqm to 275sqm was made after the date this DA was made.	<ul style="list-style-type: none"> • 257.6m² for lot fronting Anzac Parade • 210.77m² for lot fronting Ferguson Street (note 34.8sqm not included in above area as it is dedicated for road widening) 	No* Refer to Clause 4.6 assessment below.
Stormwater management	Management of permeable surfaces on land, includes on site detention and avoids adverse impacts.	The development maximises use of water permeable surfaces on land, includes a supported onsite detention and avoids adverse impacts.	Yes

Essential services	Provisions made for essential services.	The site is capable of being supplied with essential services.	Yes - conditioned
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6.4.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standard for minimum lot size in the R2 zone is discussed in section 7 below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.1: Lot Size (min)	400m ² applies under savings provisions in clause 1.8C of LEP.	<ul style="list-style-type: none"> Lot 1: 257.6 m² Lot 2: 245.47m² (210.77 m² excludes 34.7 m² for road widening) 	<ul style="list-style-type: none"> 142.4m² 154.7m² 	<ul style="list-style-type: none"> 35.6% 38.6%
Amendment No. 9 to LEP	275 m ²	<ul style="list-style-type: none"> As above 	<ul style="list-style-type: none"> 17.4 m² 29.7 m² 	<ul style="list-style-type: none"> 6.3% 10.8%

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

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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 Minimum lot size development standard (Clause 4.1)

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

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

The applicant's written request seeks to justify the contravention of the 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 minimum lot size standard are set out in Clause 4.1 (1) of RLEP 2012.

The applicant has addressed each of the objectives as follows:

(a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,

Applicant:

This objective is satisfied because the proposal will not result in any adverse amenity impact on the adjoining neighbouring properties as outlined below:

- 1. No adverse overshadowing impact is expected to arise out of the future dwelling on Lot 2 given the existing subdivision pattern and positioning of the adjoining dwellings and their private open spaces.*
- 2. No adverse privacy impact is expected to arise. The existing dwelling is a single storey dwelling having no opportunity for overlooking. The future dwelling on Lot 2, although subject to a future development application, is likely to be a double-storey semi-detached dwelling. Windows and balconies on the upper level (if any) are capable of complying with Randwick Development Control Plan (RDCP) controls in terms of sill height and provision for privacy screening if required.*
- 3. No adverse visual impact is expected to arise out of the future dwelling on Lot 2 as it will be consistent with the visual character of the locality.*
- 4. No adverse traffic impact will arise given both lots will be accessible from the rear lane (Ferguson Street).*

Assessing officer's comment:

The applicant provides a clear analysis of the proposed lots and how they interact with the predominant subdivision pattern in the vicinity as well as those on adjoining lots with specific regard to the pattern and amenity of low-density residential development such as semi-detached dwellings in the area as well as development on adjoining lots.

The proposal recognises the desirable elements of the existing streetscape and built form by way of dedicating a strip of land for road widening in accordance with Part B11 Development in Laneways Nominated for Road Widening under the Randwick Comprehensive Development Control Plan 2013 (RDCP).

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The proposed subdivision is generally consistent with existing development in the area as well as adjoining development noting that the indicative layout, as indicated in response to objective point c further below and in the DCP table applicable to this form of development, generally demonstrates that the proposed lot size can accommodate a development that is suitable for its purposes without resulting in adverse impacts on adjoining and neighbouring properties.

(b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,

Applicant:

The proposed development is not antipathetic to this objective as the site does not contain, and is not located in proximity to, any local or state heritage items, and is not considered to contain, or be located in proximity to, any special features such as trees and views.

Assessing officer's comment:

The development is not within a conservation area or near a heritage item and neither are there any particular elements within the streetscape that could be considered to be special features. The objective detailed is not particularly relevant to this development.

(c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose.

Applicant:

The proposed development is consistent with this objective because, as detailed on the Development Plans (MA, 2024), the proposed lot sizes are able to accommodate development that is suitable for its purpose, including:

- 1. Lot 1 will accommodate the existing semi-detached dwelling. The dwelling will maintain sufficient boundary setbacks, private open space, deep soil planting and will comply with maximum site coverage requirements under the RDCP.*
- 2. Lot 2 will accommodate a future dwelling house or a semi-detached dwelling (subject to a future development application) capable of including adequate boundary setbacks, private open space and deep soils planting in compliance with RDCP.*

Assessing officer's comment:

The indicative layout demonstrates that the proposed lot size can accommodate a development that is suitable for its purposes without resulting in adverse impacts on adjoining and neighbouring properties. In this respect, the indicative layout demonstrates site coverage, built form and spatial separation from the boundaries that is generally consistent with existing as well as that envisaged for low density development in the area under the current DCP.

The proposal does however show double driveway access and therefore large areas of hardscape across the front of the site than that which is preferred under the DCP, which would generally only allow for a single driveway access. This design outcome whilst not desirable is largely unavoidable as it is necessitated enabling parking for the retained semi-detached dwelling facing Anzac Parade as well as the new lot fronting Ferguson Street. In addition, the application of the road dedication policy and proposed hardscape is not dissimilar to other sites along this part of Ferguson Street notably that across the front of No. 97 Ferguson containing a single detached dwelling, No's 899, 901, and 903 Anzac Parade containing 3 and 4 storey walk up flat buildings whose hardscape vehicular access is across the whole of the site frontages off Ferguson Street and other properties on the opposite side at No's 54, 86, 108 Ferguson Street. The indicative scheme also seeks to minimise the impact of solid built form elements by way of incorporating large window openings across the front façade creating the opportunity for high levels of articulation and visual interest along the street rather than disproportionately large doors that accompany internalised garaging.

Assessing officer's concluding comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

There are sufficient environmental planning grounds to justify the proposed variation to the development standard because:

Applicant:

- I. *The proposed lot sizes are consistent with the objectives of the development standard (refer to Section 2.2 of this CI 4.6 Request).*
- II. *RDCP Part B11 relates to development in laneways nominated for road widening and applies as the site fronts a laneway nominated in Part B11 being 'Ferguson Street, Maroubra, between Maroubra Road and Beauchamp Road'. An extract of the controls is provided below.*

Notwithstanding the minimum allotment size provisions of the RLEP and the minimum frontage width requirements of this DCP, the subdivision of land for a dwelling house fronting a nominated laneway may be permitted having regard to the following criteria:

- i) *The merits of the proposal and compliance with the objectives of this DCP; and*
- ii) *The dedication to Council of a strip of land 4.57m in depth along the frontage of the lane for road widening purposes.*

Part B11 therefore permits subdivision of the site resulting in lots less than the minimum lot size. Section 4.5 of the SEE provides a detailed assessment against the RDCP controls, demonstrating that the proposal complies with relevant controls and objectives of the RDCP. The proposed development has significant merit and complies with relevant DCP objectives including spatial controls such as setbacks, carparking requirements, private open space and deep soil planting. In respect of (ii), a strip of land 4.57 m in depth fronting Ferguson Street is proposed to be dedicated to Council as part of the proposed development.

- III. *A number of other lots in the locality with frontages to Ferguson Street are subdivided in a manner similar to the proposed development and include one dwelling facing Ferguson Street and one facing Robey Street (west) or Anzac Parade (east). For example:*

- a. *71 Robey Street + 74 Ferguson Street*
- b. *73 Robey Street + 76 Ferguson Street*
- c. *117 Ferguson Street + 909 Anzac Parade*
- d. *115 Ferguson Street + 907 Anzac Parade*
- e. *111 Robey Street + 108 Ferguson Street*

- IV. *The proposed development will be compatible with the established subdivision pattern of the locality and will result in a consistent streetscape presentation on both Ferguson Street and Anzac Parade.*

Assessing officer's comment:

The applicant's environmental planning grounds focus on elements that are specific to the site and the aspects of the development that contravene the development standard noting that:

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- the proposal complies with the minimum frontage control for semi-detached dwellings,
- the site is subject to road widening that permits subdivision of lots sizes less than the minimum under the LEP, and
- the proposed subdivision as demonstrated in its indicative layout delivers appropriate amenity without resulting in any adverse impacts associated with the reduced minimum lot size sought under the DA.

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

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

Assessment against objectives of minimum lot size standard

For the reasons outlined in the applicant's SEE, written attention to and Council's assessment against the R2 zone objectives in this report, and applicants Clause 4.6 submission and Council officers' assessment comments, it is considered that the development will be consistent with the objectives of the minimum lot size standard.

In summary the following is noted:

The proposal does not comply with the 400sqm minimum site area representing a substantial variation to the standard. However, this variation would substantially be reduced, if not for the lodgement of the application prior to the gazettal of the amendment 9 to the LEP and DCP. Under amendment 9, the proposed lot size represents a substantially smaller variation to the since reduced development standard of 275m² for minimum lot size being in the order of 6.3% for Lot 1 and 10.8% for Lot 2 as opposed to the current variations of 35.6% and 38.6% respectively. It is also noted that the proposed frontage of Lot 2 complies with the now applicable DCP 7.5m minimum frontage control required for new lots seeking low-density type (semi-detached) development.

The minimum lot size of 400m² (since reduced) aims to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties by ensuring that subdivision is consistent with the existing and desired character of the area. The planning controls, such as minimum frontage widths supplement the minimum lot size standard and aim to ensure that new dwellings have sufficient size and configuration to maintain a reasonable level of amenity for occupants and deliver suitable urban design outcomes without resulting in adverse impacts on the amenity of surrounding properties.

The proposed subdivision allows for the road widening of the site to consolidate the road widening, which has occurred across the majority of this part of Ferguson Street, making it safer and more convenient for vehicles and pedestrians.

The applicant's indicative layout of lot 2, shows a semi-detached dwelling can reasonably be accommodated on the site demonstrating low-density residential development that is fit for purpose. The applicant has demonstrated consistency with the predominant subdivision and development pattern of other semi-detached development in the area. The indicative layout also shows adequate separation is capable of being provided by way of larger side setbacks at the upper levels which ensures the neighbouring property to the south will not be unduly impacted by overshadowing, or visual bulk, and that their privacy and daylight would be suitably protected.

In relation to lot 1, there are no changes sought to the existing retained semi-detached dwelling on site as approved and it will have an FSR of 0.56:1, retains a compliant height, has suitable landscaped open space, and 1.5m side setbacks all of which ensure this retained development fits into the proposed allotment size ensuring no appreciable adverse impacts on the amenity of neighbouring properties.

In considering the amendments to the LEP and DCP that permit a reduced minimum lot size standard, the objectives to which it relates, the unique circumstances of the site subject to road widening dedication, compliance with the minimum frontage control and the existing development and subdivision pattern in this stretch of Ferguson Street. It is acknowledged that the proposed subdivision into two lots will be 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.

In conclusion, the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case.

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?

The proposed variation of the minimum lot size standard will allow for the orderly use of the site and there is no public benefit in maintaining the development standard in this instance.

Conclusion

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

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.

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below.
Section 4.15(1)(a)(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 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

Minimum lot size standards

The minimum allotment size standard, whether it is the 400sqm that applies to the proposed DA by way of savings provisions or the 275sqm minimum that currently applies to subdivision in the R2 low density zone aims to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties.

There is no physical development sought other than of the existing dwelling on Lot 1 fronting Anzac Parade, which contains a pre 1940's semi-detached dwelling. In this respect, the proposed lot 1 will maintain its existing layout which is similar to the layout of other semi detached dwellings on similarly smaller lots in the surrounding area.

For Lot 2, the applicant provided an indicative development layout, which originally showed a single detached dwelling. However, this was not considered supportable predominately on the basis of the significant shortfall to the 12m minimum frontage control in the DCP would both be inconsistent with the predominant development and subdivision pattern. The revised semi-detached dwelling form

represented a more appropriate outcome as it would fit into a new lot that had a 7.615m frontage lot width and would comply with the current DCP provisions of 7.5m for semi-detached dwellings. The proposed configuration would essentially mirror the existing semi's fronting Anzac Parade and would be more consistent with these types of developments on similarly sized lots in the surrounding area.

The built form alone is not sufficient to address the objective of protecting amenity of neighbouring properties in so far as the potential for adverse impact of subdivision and development on the amenity of the neighbouring properties must have regard to the broader context of the low density zone. In this respect, Council has undertaken reviews of the minimum lot size in 1998, 2005 & 2012 and more recently in 2018 where it deliberated the questions of site area and form of subdivision making well considered decisions on the minimum allotment sizes and on the potential outcomes resulting from the proposed development standards. These reviews reflect a detailed understanding of the nature of development throughout the area and the integrity of the decisions being made about the form of development that Council and the community expects in order to achieve a desired level of local amenity as well as housing mix and choice. This resulted in the minimum lot size standard being reduced down to 275sqm in the R2 zone except for properties in Certain Heritage Conservation Areas.

Despite the proposed land sizes of both lots having shortfalls to the current 275sqm minimum lot size standard, it is not uncommon for semis constructed in the early 1900s through to the 1960s to be sited on small sized lots with small frontages and for these to have been mostly subdivided around the late 1950's and 1960's. The historical nature of the existing semi-detached dwellings on the lot fronting Anzac Parade distinguishes itself from the minimum site area requirement to a certain extent noting that it has a dual frontage to Ferguson Street and the road widening policy applicable under the DCP, which clearly indicates that subject to road dedication, the development for residential dwellings fronting these widened laneways is encouraged, notwithstanding the minimum allotment sizes required for subdivision under the RLEP.

Overall, the application contains an indicative scheme that demonstrates that a semi-detached dwelling on the proposed Lot 1 will facilitate widening and a streetscape improvement in this laneway, it will be capable of delivering a suitable building design, built form and spatial setting that is proportional to the allotment sought within the streetscape and would not result in any significant or unreasonable adverse impacts on the amenity of neighbouring properties.

10. Conclusion

That the application to Torrens title subdivision of one lot into 2, alterations to existing dwelling, demolition of garage and granny flat and associated site works be approved (subject to conditions) for the following reasons:

- While the proposed lot sizes do not comply with the minimum provisions in Clause 4.1 (4.1D) of the RLEP 2012, requiring a 400sqm minimum lot size for subdivision in the R2 zone in which it is located, the proposal is consistent with the objectives of the standard and the desired future character of the R2 zone in this area.
- Compliance with the minimum lot size applicable under Cl1.8A savings provisions is considered to be unreasonable or unnecessary in the circumstances of this case and there are sufficient environmental planning grounds that would warrant a variation to the since repealed development standard, based on the Amendment No. 9 to the Randwick LEP 2012, which results in a substantially less variation to that sought under the applicable standards. The written request pursuant to Clause 4.6 of the RLEP 2012 to vary the minimum lot size standard of 400m² pursuant to Clause 4.1 is considered to be well founded.
- The proposed development is consistent with the objectives of the R2 zone in relation to providing for the housing needs of the community, recognising the desirable elements of the streetscape and the desired character of the area, and will be capable of reasonably protecting the amenity of residents.

- The size of each of the resultant lots are considered to be suitable for the location and will be compatible with the existing and desired future character of the locality.
- The development appropriately enhances the visual quality of the public domain/streetscape.
- The proposed development will make a positive contribution to Ferguson Street and is not consistent with the character of existing development forms along this frontage.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An amended application has been received for Torrens title subdivision of the above site into 2 lots.

This report is based on the following plans and documentation:

- Amended draft Subdivision Plans by Martens and Associates Rev. D dated 28/06/2024.
- Indicative Architectural Plans by TROS Architects issue A dated 1st July 2024
- Statement of Environmental Effects Martens and Associates dated May 2023.
- Detail & Level Survey by (Martin) Xi Mar surveyor dated 22nd March 2023
- Letter of Response to Council Issues by Martens and Associates dated 17 January 2024

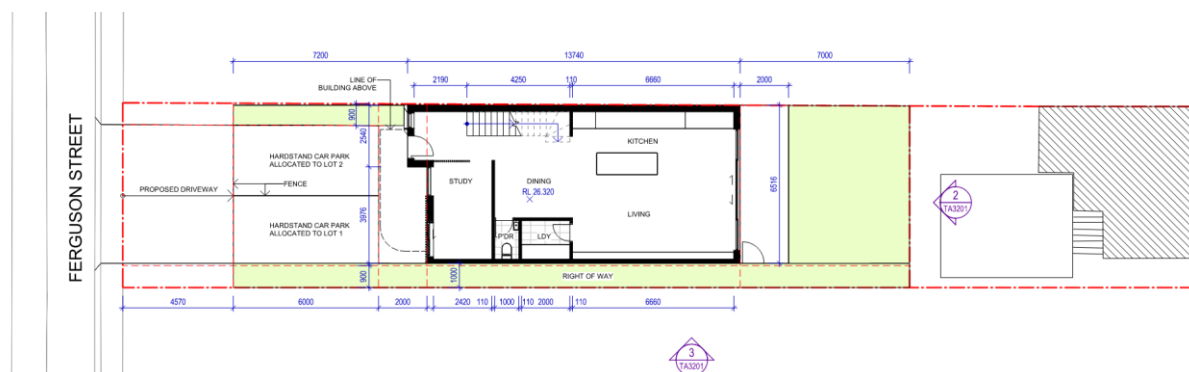
General Comments

Development Engineering has considered the applicants response and raises no further objections to the proposal. Some physical works will be required to be completed prior to the issuing of a subdivision certificate hence a construction certificate will also be required.

Parking Comments

The proposal will allocate a single carspace to each lot. As vehicle access is not available from Anzac Parade due to a raised footpath and crib-lock retaining wall, any off-street parking can only be accessed from the rear on Ferguson Street.

Off-street parking for Lot 1, which fronts Anzac Parade, will be provided as an Easement for Parking over Lot 2 fronting Ferguson Street. The carspace is accessed from Lot 1 via a 1m Right of Way along the southern side boundary over Lot 2.



The applicant's future dwelling concept plans indicate a potential new two-bedroom dwelling for Lot 2. The existing dwelling on Lot 1 is also two-bedroom although it is noted that the existing property currently provides 4 bedrooms when taking into account the granny flat and the bedroom above the existing double garage fronting Ferguson Lane, however these will be demolished with the subdivision leaving 2 bedrooms in the main dwelling.

The final proposed configuration will be a single carspace provided for each lot/dwelling which would be compliant with Council requirements. It shall be noted however that Development Engineering will unlikely support any future development of these lots should dwellings of 3 bedrooms or greater be proposed since under Part B7 of the DCP, dwellings containing 3 or more bedrooms require 2 off-street carspaces.

Drainage Comments

Although there is an initial step up in level from Anzac Parade, the site generally slopes towards Ferguson Street at the rear. The current drainage system appears to discharge to Ferguson Street as no drainage outlets were observed on Anzac Parade while a single outlet was observed on Ferguson Street. An Easement to Drain Water (min 0.9m wide) will therefore need to be created in

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favour of Lot 1 to allow for pipe infrastructure over lot 2. This could be coincident with the Right of Way but may require relocation of the existing drainage lines serving the property.

In addition, Council's Private Stormwater Code currently requires On-Site Detention (OSD) be provided as part of any future drainage system for the proposed lots. Upon review however it is noted that when taking into consideration the existing the garage, granny flat and paved areas will be removed and effectively replaced with a new dwelling, there is unlikely to be any significant increase in impervious area on the site. Development Engineering's own calculations in this regard indicate the maximum change in impervious area is likely to be about 20m² and this assumes the right of Way will be 100% paved so it is actually likely to be less.

In consideration of these factors and in recognition of the site constraints and the need to provide suitable landscaping On-Site Detention will not be required in this instance. Furthermore, it is confirmed there will no adverse impacts in not providing OSD in this instance.

Road Widening Comments

In accordance with Part B11 of the DCP the proposal includes a 4.57m road dedication to Council along the full Ferguson Street frontage (being a nominated laneway identified for road widening). It is noted that the subject property is one of the last properties in this section of Ferguson Street yet to dedicate the 4.57m road widening (see Figure 1) and so the proposed dedication will assist Council further in fully widening Ferguson Street.

Landscape Comments

The applicants concept plans has demonstrated that a future development will be able to achieve the minimum 30% requirement for deep soil landscaping under the new DCP controls detailed in Part C1 Section 2.5 however this has not likely taken into account potential for an OSD system.

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



Contact
Mo Shahrokhan

Our Ref
P2309539JC01V02

Pages
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CLAUSE 4.6 VARIATION REQUEST: MINIMUM LOT SIZE DEVELOPMENT STANDARD

Development Application proposing Torrens Title Subdivision, Ancillary Works and Minor Dwelling Alterations at 893 Anzac Parade, Maroubra NSW (DA/202/2023)

1 Introduction

1.1 Overview

This Clause 4.6 Variation Request (CI 4.6 Request) has been prepared by Martens & Associates (MA) on behalf of Mrs Vicky Dong (the Applicant) to accompany a Development Application (DA) submitted to Randwick City Council (the Council) proposing Torrens Title subdivision of the site located at 893 Anzac Parade, Maroubra (the site) into two lots, with ancillary works and minor alterations to the existing semi-detached dwelling.

The purpose of this CI 4.6 Request is to address a proposed variation to the minimum subdivision lot size development standard stipulated under cl 4.1 of *Randwick Local Environmental Plan 2012* (RLEP).

1.2 Relevant development standard and proposed variation

The relevant development standard is the minimum subdivision lot size under cl 4.1 of RLEP which was 400 m² at the time of submission of the DA (DA/202/2023). RLEP was amended on 1 September 2023 which included an amendment to the minimum lot size under cl 4.1 of RLEP. However, in light of savings provisions under cl 1.8A (3) of RLEP, given the DA was submitted on 31 May 2023, before the commencement of the RLEP (Amendment No 9), the DA remains subject to a minimum subdivision lot size of 400 m².

As detailed on the Development Plans (MA, 2024), proposed lot sizes are:

1. Lot 1: 257.57 m²
2. Lot 2: 210.77 m²

Numerical and percentage variations to the development standard are therefore as follows:

1. Lot 1: 42.4 m² (35.6%).
2. Lot 2: 189.2 m² (47.3%).



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Consideration of relevant matters pursuant to cl 4.6 of RLEP is provided in Section 2 of this CI 4.6 Request below.

2 Consideration of Clause 4.6 Matters

2.1 CI 4.6 of RLEP

Table 1 below provides responses to relevant subclauses under cl 4.6 of RLEP.

Table 1: Response to cl 4.6 of RLEP.

	Clause	Assessment	Compliance
(1)	<p><i>The objectives of this clause are as follows —</i></p> <p><i>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></p> <p><i>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></p>	It is noted the objectives of cl 4.6 are to provide flexibility in applying development standards to achieve a better planning outcome.	N/A
(2)	<p><i>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.</i></p>	Development consent is sought for subdivision of the site resulting in lots less than the minimum lot size. The minimum lot size development standard stipulated under cl 4.1 (2) of RLEP is not expressly excluded from operation of this clause.	Y
(3)	<p><i>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—</i></p> <p><i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p> <p><i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i></p>	Refer to Section 2.2 and 2.3 of this CI 4.6 Request.	Y
(4)	<p><i>Development consent must not be granted for development that contravenes a development standard unless—</i></p> <p><i>(a) the consent authority is satisfied that—</i></p> <p><i>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p> <p><i>(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</i></p> <p><i>(b) the concurrence of the Planning Secretary has been obtained.</i></p>	<p>This written request addresses all requirements of subclause (3).</p> <p>As detailed in Section 2.4 of this CI 4.6 Request, the proposed development is in the public interest as it is consistent with the objectives of the particular standard and objectives of the zone.</p>	Y
		Concurrence is assumed but is a matter to be determined by the consent authority.	N/A



	Clause	Assessment	Compliance
(5)	<i>In deciding whether to grant concurrence, the Planning Secretary must consider—</i>		Y
	<i>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</i>	Refer to Section 2.5 of this CI 4.6 Request.	
	<i>(b) the public benefit of maintaining the development standard, and</i>	Refer to Section 2.6 of this CI 4.6 Request.	Y
	<i>(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.</i>	N/A	N/A
(6)	<p><i>Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</i></p> <p><i>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</i></p> <p><i>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i></p>	The site is zoned R2 Low Density Residential. Subclause (6) does not apply	N/A
(7)	<i>After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</i>	This is a matter for the consent authority.	N/A
(8)	<p><i>This clause does not allow development consent to be granted for development that would contravene any of the following—</i></p> <p><i>(a) a development standard for complying development,</i></p> <p><i>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</i></p> <p><i>(c) clause 5.4,</i></p> <p><i>(caa) clause 5.5,</i></p> <p><i>(ca) clause 6.16(3)(b).</i></p>	Subclause (8) does not apply to the site or proposed variation.	N/A

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2.2 Compliance with the development standard is unreasonable or necessary in the circumstances of the case (cl 4.6 (3)(a))

The NSW Land and Environment Court, in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*). Under *Wehbe*, the most common way of demonstrating that compliance is unreasonable or unnecessary was whether the proposal met the objectives of the standard regardless of the variation. Under *Four2Five*, whilst this can still be considered under this heading, consideration of the remaining four ways in *Wehbe* was considered to be warranted.

The following discussion therefore provides a response to each of the five *Wehbe* 'tests'.

Test 1. The objectives of the standard are achieved notwithstanding noncompliance with the standard

An assessment against the objectives of RLEP cl 4.1 is provided below, demonstrating the proposed development achieves the objectives notwithstanding the numerical variation.

(a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,

This objective is satisfied because the proposal will not result in any adverse amenity impact on the adjoining neighbouring properties as outlined below:

1. No adverse overshadowing impact is expected to arise out of the future dwelling on Lot 2 given the existing subdivision pattern and positioning of the adjoining dwellings and their private open spaces.
2. No adverse privacy impact is expected to arise. The existing dwelling is a single storey dwelling having no opportunity for overlooking. The future dwelling on Lot 2, although subject to a future development application, is likely to be a double-storey semi-detached dwelling. Windows and balconies on the upper level (if any) are capable of complying with Randwick Development Control Plan (RDCP) controls in terms of sill height and provision for privacy screening if required.
3. No adverse visual impact is expected to arise out of the future dwelling on Lot 2 as it will be consistent with the visual character of the locality.
4. No adverse traffic impact will arise given both lots will be accessible from the rear lane (Ferguson Street).

(b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,

The proposed development is not antipathetic to this objective as the site does not contain, and is not located in proximity to, any local or state heritage items, and is not considered to contain, or be located in proximity to, any special features such as trees and views.



(c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose.

The proposed development is consistent with this objective because, as detailed on the Development Plans (MA, 2024), the proposed lot sizes are able to accommodate development that is suitable for its purpose, including:

1. Lot 1 will accommodate the existing semi-detached dwelling. The dwelling will maintain sufficient boundary setbacks, private open space, deep soil planting and will comply with maximum site coverage requirements under the RDCP.
2. Lot 2 will accommodate a future dwelling house or a semi-detached dwelling (subject to a future development application) capable of including adequate boundary setbacks, private open space and deep soils planting in compliance with RDCP.

Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

We do not rely on this reason because the objectives of the standard are met notwithstanding the numerical variation.

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

We do not rely on this reason because the underlying objects and purpose of the development standard are met as outlined under test 1 above.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

The Council previously approved development application DA/252/2018 on 14 September 2018 for Torrens Title subdivision of land at 98 Robey Street, Maroubra into two lots with lot sizes of 211.2 m² and 211.8 m². At the time of the approval of that application, the property was subject to the same minimum subdivision lot size of 400 m².

Further, there are other existing lots in the vicinity of the site that have areas below previous RLEP minimum lot size of 400 m² and the new RLEP minimum lot size of 275 m². These lots accommodate semi-detached dwellings similar to that anticipated for the site. The existing lots include:

1. 89 Robey Street – 211 m²
2. 86 Ferguson Street – 211 m²
3. 923 Anzac Parade – 228 m²
4. 923A Anzac parade – 234 m²
5. 925 Anzac Parade – 231 m²
6. 925A Anzac Parade – 234 m²



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Test 5: The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

We do not rely on this reason.

2.3 Sufficient environmental planning grounds to justify a contravention of the development standard (cl 4.6 (3)(b))

There are sufficient environmental planning grounds to justify the proposed variation to the development standard because:

1. The proposed lot sizes are consistent with the objectives of the development standard (refer to Section 2.2 of this CI 4.6 Request).
2. RDCP Part B11 relates to development in laneways nominated for road widening and applies as the site fronts a laneway nominated in Part B11 being 'Ferguson Street, Maroubra, between Maroubra Road and Beauchamp Road'. An extract of the controls is provided below.

Notwithstanding the minimum allotment size provisions of the RLEP and the minimum frontage width requirements of this DCP, the subdivision of land for a dwelling house fronting a nominated laneway may be permitted having regard to the following criteria:

- i) The merits of the proposal and compliance with the objectives of this DCP; and*
- ii) The dedication to Council of a strip of land 4.57m in depth along the frontage of the lane for road widening purposes.*

Part B11 therefore permits subdivision of the site resulting in lots less than the minimum lot size. Section 4.5 of the SEE provides a detailed assessment against the RDCP controls, demonstrating that the proposal complies with relevant controls and objectives of the RDCP. The proposed development has significant merit and complies with relevant DCP objectives including spatial controls such as setbacks, carparking requirements, private open space and deep soil planting. In respect of (ii), a strip of land 4.57 m in depth fronting Ferguson Street is proposed to be dedicated to Council as part of the proposed development.

3. A number of other lots in the locality with frontages to Ferguson Street are subdivided in a manner similar to the proposed development and include one dwelling facing Ferguson Street and one facing Robey Street (west) or Anzac Parade (east). For example:
 - a. 71 Robey Street + 74 Ferguson Street
 - b. 73 Robey Street + 76 Ferguson Street
 - c. 117 Ferguson Street + 909 Anzac Parade
 - d. 115 Ferguson Street + 907 Anzac Parade
 - e. 111 Robey Street + 108 Ferguson Street



4. The proposed development will be compatible with the established subdivision pattern of the locality, and will result in a consistent streetscape presentation on both Ferguson Street and Anzac Parade.

2.4 The proposed development is in the public interest (cl 4.6 (4)(a)(ii))

The proposed development is in the public interest as it achieves the objectives of cl 4.1 of RLEP (refer to Section 2.2 of this CI 4.6 Request) and achieves the objectives of the R2 Low Density Residential zone (refer to Section 4.4.2 of the SEE).

2.5 Matters of state or regional significance (cl 4.6 (5)(a))

It is considered there are no planning matters of State or regional significance that would be prejudiced by the proposed variation.

2.6 The public benefit of maintaining the standard (cl 4.6 (5)(b))

It is considered there is no public benefit in maintaining strict compliance with the development standard given the proposed subdivision is encouraged by Council's DCP and the site, as subdivided, is suitable for residential development with no adverse amenity or environmental impacts.

2.7 Is the variation well founded?

This CI 4.6 Request is well founded as it demonstrates, as required by cl 4.6 of RLEP, that:

1. Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this proposed development.
2. There are sufficient environmental planning grounds to justify the variation.
3. The development meets the objectives of the development standard and the objectives of the R2 Low Density Residential zone, notwithstanding the variation.
4. The proposed development is in the public interest and there is no public benefit in maintaining the standard.
5. The variation does not raise any matter of State or regional Significance.

Appendix 3: DCP Compliance Table**3.1 Section C1: Low Density Residential**

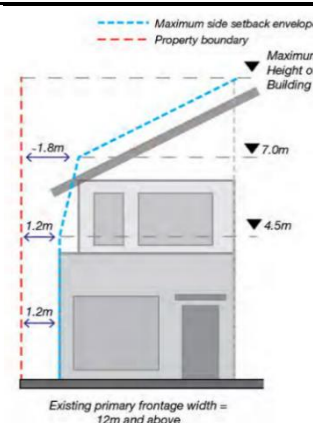
(Note: a number of control provisions that are not related to the proposal have been deliberately omitted)

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 503.1m ²	
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP): <ul style="list-style-type: none"> R2 = 400sqm R3 = 325sqm <p>Current minimum lot size under LEP: 275m² per lot.</p>	Lot 1 = 257.7m ² Lot 2 = 210.77m ² Road dedication = 34.7m ²	No, refer Clause 4.6 Assessment No.
	Minimum frontage		
	i) Min frontage R2 = 7.5m for semi-detached dwellings	Minimum = 7.5m Proposed = 7.615m 15m Parent combined with No. 891 Anzac Parade.	Yes, for lot 2 fronting Ferguson Street; No for lot 1 existing lot fronting Anzac Parade.
2.3	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Lot 1 = 53% Lot 2 = 40%	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.	Lot 1 = 23.4% Lot 2 = 21.1% Indicative.	Yes
2.5	Private open space (POS)		
	Dwelling Houses & Semi-Detached Dwellings		
	Up to 300 sqm = 5m x 5m each 301 to 450 sqm = 6m x 6m each 451 to 600 sqm = 7m x 7m each 601sqm or above = 8m x 8m each	Lot 1 = 8m x 7.6m Lot 2 = 7m x 7.6m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 4.4A(2)= no maximum applies as each lot is less than 275m².	Both the existing and indicative layout appears to be	See comments in section 6 and 7 of the

DCP Clause	Controls	Proposal	Compliance
		appropriately located such that the objectives of the standard and zone are satisfied or capable of being satisfied.	report.
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	6.32m	Yes
	i) Minimum floor to ceiling height = 2.7m	2.7m	Yes.
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 iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front 	Indicative layout shows consistency with predominant building line along Ferguson Street.	Yes
3.3.2	Side setbacks: See images in row below and control provisions applicable to the proposed development with a 7.5m wide site in row below. 900mm is required for a building up to 7m	1m at ground level and 1.5m at first floor level indicative to new allotment. Nil setback provided to enable symmetrical semi-detached dwelling form into the future to the north.	Yes

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).



4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape. • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	Indicative layout appears capable of providing articulated form and fenestration and would be subject to finer grain	Yes

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DCP Clause	Controls	Proposal	Compliance
		assessment under a formalise DA.	
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 lots are capable of retaining 3 hours of solar access to their living spaces and POS.	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. 	The indicative layout appears to show a lower building height along the southern elevation and larger side setbacks which minimises overshadowing to the southern neighbours.	NA
5.5	Safety and Security		
	i) dwellings main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	The indicative layout shows study at ground level and entry door.	Yes
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	A double hardstand is provided which doesn't comply with control point iv of	No, see discussion in section 7 of this report.

DCP Clause	Controls	Proposal	Compliance
	<p>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></p> <p>iv) Single width garage/carport if frontage <12m. Double width if:</p> <ul style="list-style-type: none"> - Frontage >12m, - Consistent with pattern in the street. - Landscaping provided in the front yard. <p>v) Minimise excavation for basement garages</p> <p>vi) Avoid long driveways (impermeable surfaces)</p>	this part of the DCP.	
8	B11 Road widening policy		
8.1	Development in Laneways Nominated for Road Widening		
	<p>A number of narrow laneways in Randwick City have been identified for road widening. In many of these nominated laneways, Council has already commenced widening works which are gradually transforming the lane character. These nominated laneways are listed below:</p> <p>a. Ferguson Street, Maroubra, between Maroubra Road and Beauchamp Road</p>	The proposed subdivision located in an area nominated for road widening.	Yes
	<p>Notwithstanding the minimum allotment size provisions of the RLEP and the minimum frontage width requirements of this DCP, the subdivision of land for a dwelling house fronting a nominated laneway may be permitted having regard to the following criteria:</p> <p>i. The merits of the proposal and compliance with the objectives of this DCP; and</p> <p>ii. The dedication to Council of a strip of land 4.57m in depth along the frontage of the lane for road widening purposes.</p>	<p>The merits of the proposal and compliance is achieved with the objectives of this DCP.</p> <p>The proposal provides for a 4.57m deep strip of land to be dedicated to Ferguson Street frontage.</p>	<p>Yes</p> <p>Yes</p>

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Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/202/2023

Development Consent Conditions
(Dwellings and Dual Occupancies)



Folder /DA No:	DA/202/2023
Property:	893 Anzac Parade, MAROUBRA NSW 2035
Proposal:	Torrens title subdivision of one lot into 2, alterations to existing dwelling, demolition of garage and granny flat and associated site 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
PS01-A300 Rev E	Martens & Associates Pty Ltd	28/06/2024	1 July 2024
PS01-A301 Rev D		28/06/2024	1 July 2024
PS01-A303 Rev C		28/06/2024	1 July 2024
PS01-A304 Rev B		30/05/2023	1 July 2024

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

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

BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

2. Consent Requirements

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

Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.

3. Security Deposits

The following security deposits requirement must be complied with prior to a

	Condition
	<p>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>
•	<p>\$2000.00 - Damage / Civil Works Security Deposit</p>
	<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>
4.	<p>Drainage</p>
	<p>An inter-allotment drainage line shall be provided over proposed Lot 2 that effectively drains proposed Lot 1 to Ferguson Avenue.</p>
	<p>Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier prior to the issuing of a construction certificate. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.</p>
	<p>The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the following requirements;</p>
	<ul style="list-style-type: none"> • A pit (450 x 450) shall be provided within Lot 1 prior to discharging into the drainage line. • A second pit shall be provided within Lot 2 & the drainage easement immediately adjacent to the Ferguson Avenue street alignment (post road widening). • The line shall be encompassed within an 1m wide drainage easement. • The discharge pipe to Council's kerb and gutter in Ferguson Avenue shall be in accordance with Council requirements & not encroach across a neighbouring property's frontage unless approved in writing by Council's Development engineering Coordinator.
	<p>Condition reason: To ensure drainage is appropriately designed.</p>
5.	<p>Carparking for Proposed Lot 1</p>
	<p>Surface water runoff from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p>
a)	<p>Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of</p>

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	Condition
	Australia (Volume 2);
b)	The surface water/stormwater is to 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 or cause a nuisance.
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; and
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.
	Condition Reason: To ensure stormwater is appropriately designed.
6.	<p>Design Alignment levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <p><u>Ferguson Avenue</u></p> <ul style="list-style-type: none"> • Graded 2.5% up from the top of the existing roll kerb at all points opposite along the full site frontage. <p>The design alignment levels at the property boundary as issued by Council and their relationship to the kerb must be indicated on the building plans for the construction certificate (<u>a construction note on the plans is considered satisfactory</u>). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.</p> <p>Condition reason: To ensure appropriate levels between the road and the development site.</p>
7.	<p>Design Alignment level fee.</p> <p>The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$183 (as of 1st July 2023). This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition reason: Required payment of prescribed fee for the issuance of levels.</p>
8.	<p>Public Utilities</p> <p>The applicant must meet the full cost for telecommunication companies, Jemena, Ausgrid and Sydney Water to adjust/relocate their services as required. This may include (but not necessarily be limited to) relocating/installing new service lines and providing new meters. The applicant must make the necessary arrangements with</p>

Condition	
	the service authorities.
	Condition reason: To ensure the necessary infrastructure requirements are being met.
9.	<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>
10.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
11.	<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 infrastructure is appropriately managed.</p>
12.	<p>Infrastructure facilities</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 necessary arrangements are made with infrastructure bodies.</p>
13.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <p>a) a <i>Construction Certificate</i> must be obtained from a Registered (Building)</p>

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	Condition
	<p>Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <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> <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
14.	<p>Dilapidation Reports</p> <p>A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the <i>Principal Certifier</i> for the development.</p> <p>The dilapidation report must be submitted to the Principal Certifier, Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
15.	<p>Construction Site Management Plan</p> <p>A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles

	Condition
	<ul style="list-style-type: none"> • tree protective measures • dust control measures • details of sediment and erosion control measures • site access location and construction • methods of disposal of demolition materials • location and size of waste containers/bulk bins • provisions for temporary stormwater drainage • construction noise and vibration management • construction traffic management details • provisions for temporary sanitary facilities • measures to be implemented to ensure public health and safety. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
16.	<p>Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
17.	<p>Demolition Work Plan</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <ol style="list-style-type: none"> Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy. The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)

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	Condition
	<ul style="list-style-type: none"> Measures and processes to be implemented to ensure the health & safety of workers and community Measures to be implemented to minimise any airborne dust and asbestos Methods and location of disposal of any hazardous materials (including asbestos) Other measures to be implemented to ensure public health and safety Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.</p> <p>Notes: <i>it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>
18.	<p>Construction Noise & Vibration Management</p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
19.	<p>Demolition & Construction Waste</p> <p>A Demolition and Construction Waste Management Plan (WMP) must be developed and implemented for the development, to the satisfaction of Council.</p> <p>The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.</p> <p>Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's website at https://www.randwick.nsw.gov.au/__data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf or contact Council Development Engineer on 9093-6881/9093-6923.</p> <p>Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.</p> <p>Condition reason: To ensure demolition and construction waste is adequately managed.</p>
20.	<p>Public Liability</p>

Condition

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

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

DURING BUILDING WORK

Condition

21. **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.

22. **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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Condition	
use of jack-hammers, driven-type piling/shoring or the like	3.00pm <ul style="list-style-type: none"> • (maximum) • Saturday - No work permitted • Sunday & public holidays - No work permitted
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> • Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for 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.

23. **Noise & Vibration**

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

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

24. **Construction Site Management**

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

- (a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.
- (b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting.
- (c) All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.
- (d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.
- (e) Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.
- (f) Excavations must also be properly guarded to prevent them from being

Condition

dangerous to life, property or buildings.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

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

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) 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.
- h) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- i) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

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

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Condition	
26.	<p>Site Access</p> <p>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 Certifier 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.</p> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
27.	<p>Excavations and Support of Adjoining Land</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
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>Survey Report</p> <p>A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
30.	<p>Road/Asset Opening Permit</p> <p>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.</p> <p>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.</p>

Condition

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

Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.

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. Council's Infrastructure, Vehicular Crossings, street verge

The applicant must meet the full cost for a Council approved contractor to:

- a. Construct a concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site to Council's specifications and requirements.
- b. Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specifications and requirements.
- c. Reconstruct 1.3m wide footpath along the full site frontage.

Condition Reason: To ensure vehicular crossing and verge are appropriately designed and installed.

33. Repair and replacement of damaged Council assets

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 Reason: To ensure rectification of any damage to public infrastructure.

34. External civil work

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

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Condition
<p>construction details.</p> <p>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.</p> <p>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 appropriate consents are obtained for works.

**DEMOLITION WORK
BEFORE DEMOLITION WORK COMMENCES**

Condition
<p>35. Demolition Work</p> <p>A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p> <p>a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.</p> <p>b) The Demolition Work Plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) • Measures and processes to be implemented to ensure the health & safety of workers and community • Measures to be implemented to minimise any airborne dust and asbestos • Methods and location of disposal of any hazardous materials (including asbestos) • Other measures to be implemented to ensure public health and safety • Date the demolition works will commence/finish. <p>The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.</p> <p>If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before</p>

Condition
<p>commencing any work.</p> <p><i>Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.</i></p> <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.</p>

DURING DEMOLITION WORK

Condition
<p>36. Demolition Work and Removal of Asbestos Materials</p> <p>Demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a <i>demolition work plan</i>, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul style="list-style-type: none"> • A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro), • Asbestos waste must be disposed of in accordance with the <i>Protection of the Environment Operations Act 1997</i> and relevant Regulations. • A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress", • Council is to be given at least two days written notice of demolition works 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. <p><i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p>Condition reason: To ensure that the handling and removal of asbestos from the</p>

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Condition	
	site is appropriately managed.
37.	<p>Dust Control</p> <p>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.</p> <p><i>Dust control measures and practices may include:</i></p> <ul style="list-style-type: none"> • <i>Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).</i> • <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i> • <i>Installation of water sprinkling system or provision hoses or the like.</i> • <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i> • <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i> • <i>Landscaping and revegetation of disturbed areas.</i> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>

PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

Condition	
38.	<p>Sydney Water</p> <p>A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).</p> <p>Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p>A Section 73 Compliance Certificate must be completed before a subdivision certificate will be issued.</p> <p>Condition reason: To ensure that the water is able to be provided to the site.</p>
39.	<p>Easements</p> <p>The applicant shall create suitable rights of carriageway, easements for services, support and stormwater lines, as required. The applicant shall be advised that the minimum easement width for any stormwater line is 0.9 metres.</p> <p>Condition reason: to ensure suitable rights of carriageway are provided for the subdivision.</p>
40.	<p>Inter-allotment Drainage Line</p>

	Condition
	<p>A Works-As-Executed drainage plan for the completed inter-allotment drainage line prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> • Finished site contours at 0.2 metre intervals; • The location size and of all stormwater pits+; • The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes; • Pipe and Pit Invert and surface levels to Australian Height Datum (AHD). • Detail of outlet to Council's street drainage system. <p>Condition reason: To ensure drainage is appropriately installed on the site.</p>
41.	<p>Road Widening</p> <p>The applicant/owner shall dedicate a 4.57m metre strip of land along the full Ferguson Street frontage for road widening purposes. Plans submitted for the subdivision certificate shall demonstrate compliance with this requirement. The applicant shall meet all costs associated with the road dedication.</p> <p>Condition reason: To require the dedication of land for road widening purposes.</p>
42.	<p>Carparking</p> <p>The hardstand carparking space for Lot 1 must be fully constructed & legally accessible. Plans submitted for the subdivision certificate shall demonstrate compliance with this requirement.</p> <p>Condition 1: To ensure parking is not lost to Lot 1.</p>
43.	<p>Subdivision Certificate</p> <p>A formal application for a subdivision certificate is required to be submitted to and approved by the Council and all conditions of this development consent are required to be satisfied prior to the release of the subdivision plans.</p> <p>Condition reason: To formalise the endorsement of the subdivision pursuant to satisfying conditions of consent.</p>

Development Application Report No. D73/24

Subject: 44 Avoca Street, Randwick (DA/531/2024)

Executive Summary

Proposal:	Alterations and additions to an existing semi-detached dwelling including partial demolition of internal walls, steps and portion of rear roof, alterations to existing fenestration/door openings, internal layout changes and alterations to driveway (Heritage Item – I263).
Ward:	North Ward
Applicant:	Michael Grimshaw
Owner:	Richard Diskin
Cost of works:	\$275,000.00
Reason for referral:	The development involves demolition works to a heritage item.

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. 531/2024 for alterations and additions to an existing heritage semi-detached dwelling, at No. 44 Avoca Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  DA.531.2024- 44 Avoca Street RANDWICK 2031 - Draft Conditions Consent

D73/24

D73/24



1. Executive summary

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

The proposal seeks development consent for alterations and additions to an existing semi-detached dwelling at No. 44 Avoca Street, Randwick.

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

The proposal is recommended for approval.

2. Site Description and Locality

The subject site is located at No. 44 Avoca Street, Randwick and is legally described as Lot 1 in DP 202777. As noted on the survey plan the site has an area of 338.2m² and is irregular in shape. The site has a 8.765m street frontage to Avoca Street, a curved northern boundary of approximately 49.93m, a southern side party wall boundary of 45.015m and a rear boundary of 5.335m.

The subject site is identified under Schedule 5 of the RLEP 2012 as a local heritage item – item No. I263 known as ‘2 storey semi-detached pair of houses’. As shown in Figures 1 and 2, the site is currently occupied by a two storey semi- detached dwelling.

Surrounding development is predominately residential and comprises of three-storey residential flat buildings, detached and semi-detached dwellings ranging from one to two storeys.



Figure 1: Subject site at 44 Avoca Street, Randwick (Source: Council's Planning Officer).



Figure 2: Image of the subject site as a pair (Source: Council's Planning Officer).

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3. Relevant history

- DA/1140/1998 – approved 05/02/1999 to replace front fence and gates to construct timber carport adjacent to northern wall of existing terrace.

4. Proposal

The proposal seeks development consent for alterations and additions to an existing semi-detached dwelling. As shown in Figures 3-15, the proposed works include:

Ground Floor

- Partial demolition of internal walls, steps and rear roof
- Alterations to existing fenestration/door openings
- Internal layout changes
- Mudroom, laundry and WC
- Kitchen and family room

First Floor

- Existing Bed 1 with fireplace, new BIR and ensuite
- Re-establishment of first-floor verandah to its original state
- Existing Bed 2 and 4 with new BIR
- Existing WC to be combined with existing bathroom
- Office and games space

External

- Alterations to driveway
- Patio to the rear with BBQ area
- New pergola with adjustable louvered roof over the rear patio
- Demolish part of existing front fence and expand driveway opening
- Extend existing concrete for new expanded driveway opening
- Demolish existing concrete paths and plinths along rear yard for new landscaping

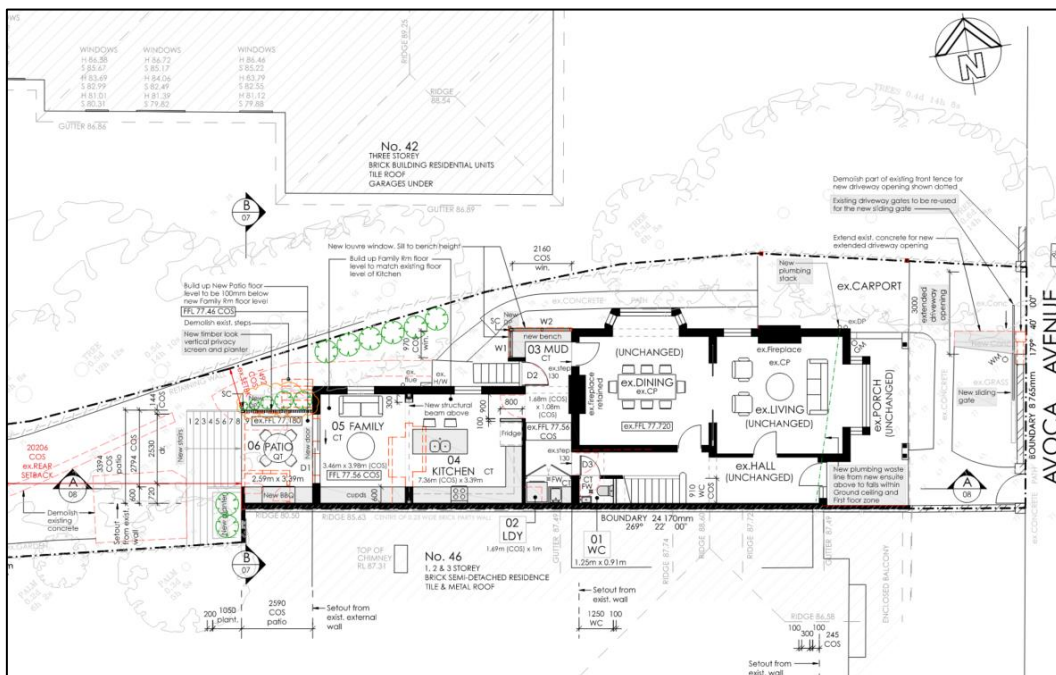


Figure 3: Ground Floor Plan (Source: edifice design).

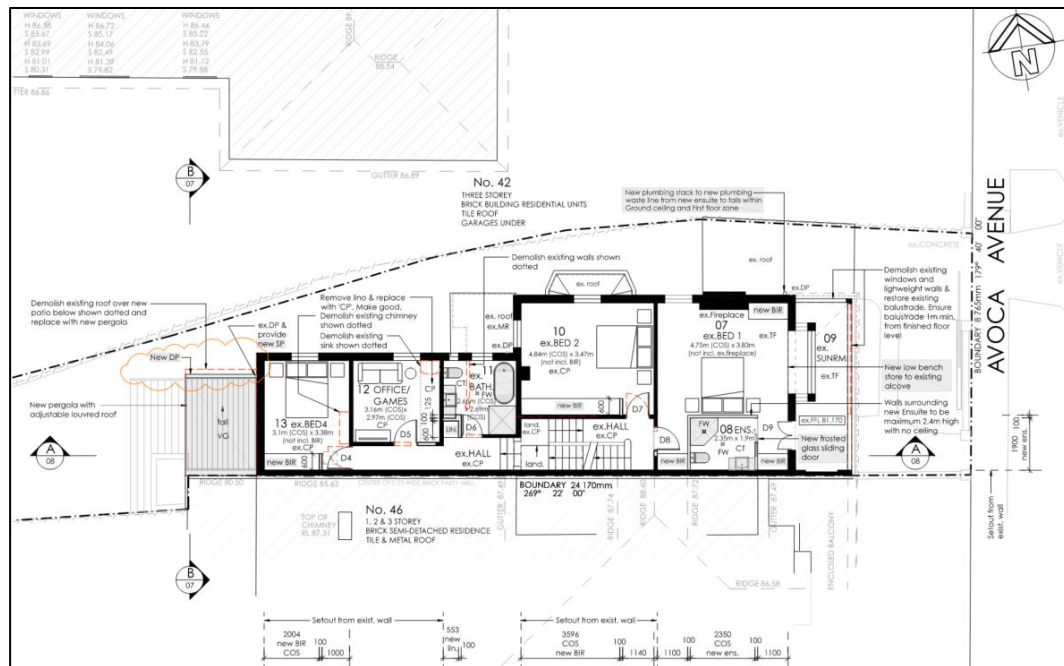


Figure 4: First Floor Plan (Source: edifice design).

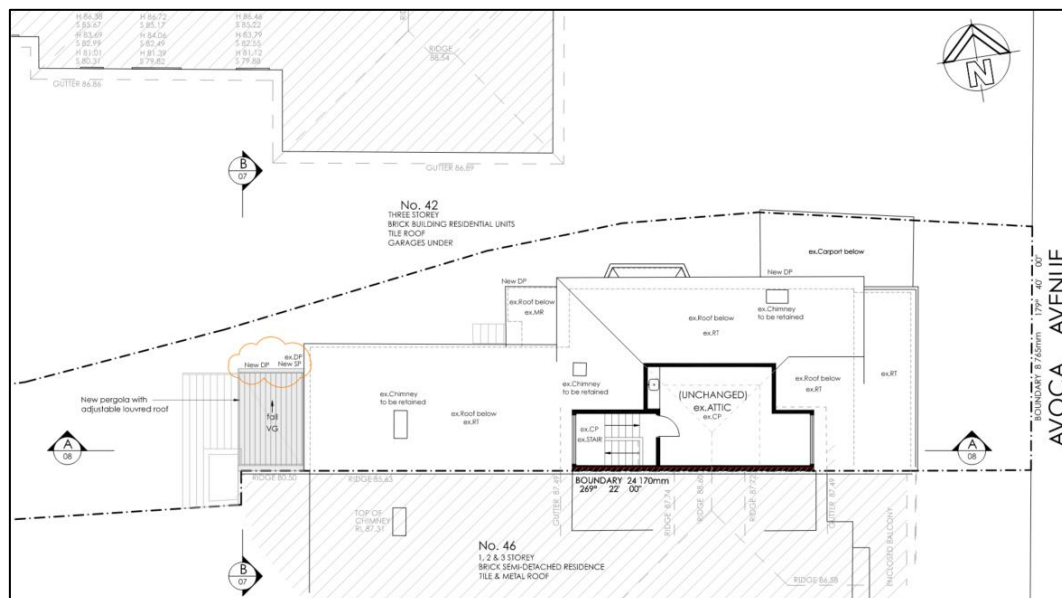


Figure 5: Attic Floor Plan (Source: edifice design).

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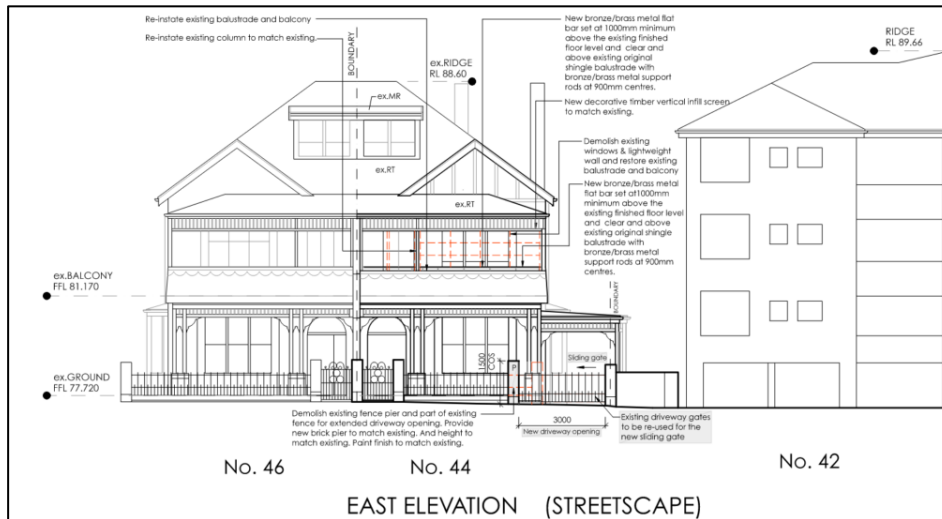


Figure 6: East elevation (Source: edifice design).

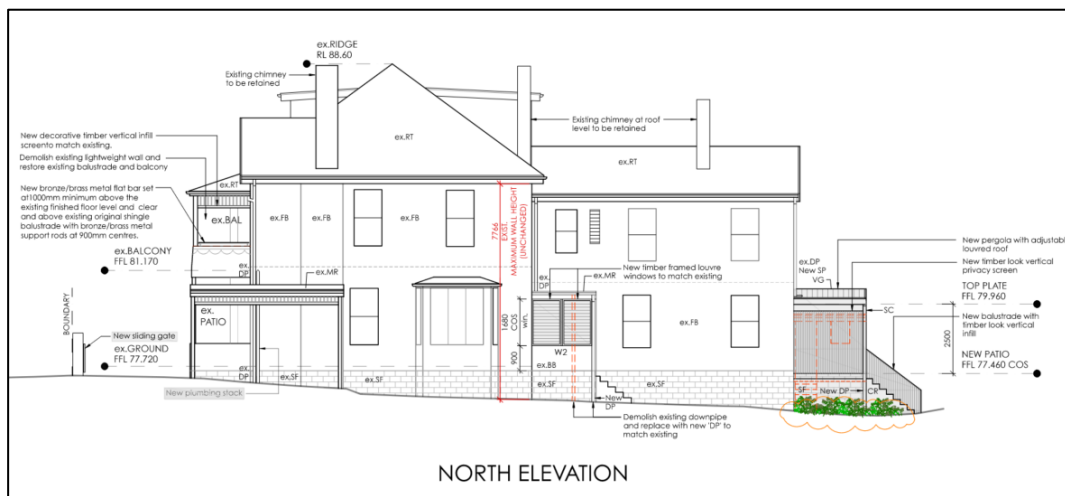


Figure 7: North Elevation (Source: edifice design).

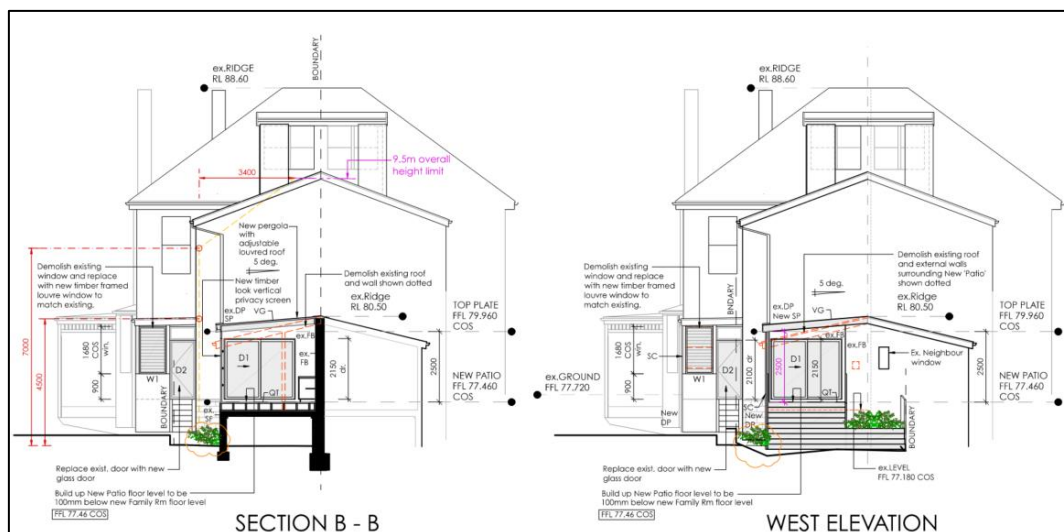


Figure 8: Rear Section and West Elevation (Source: edifice design).

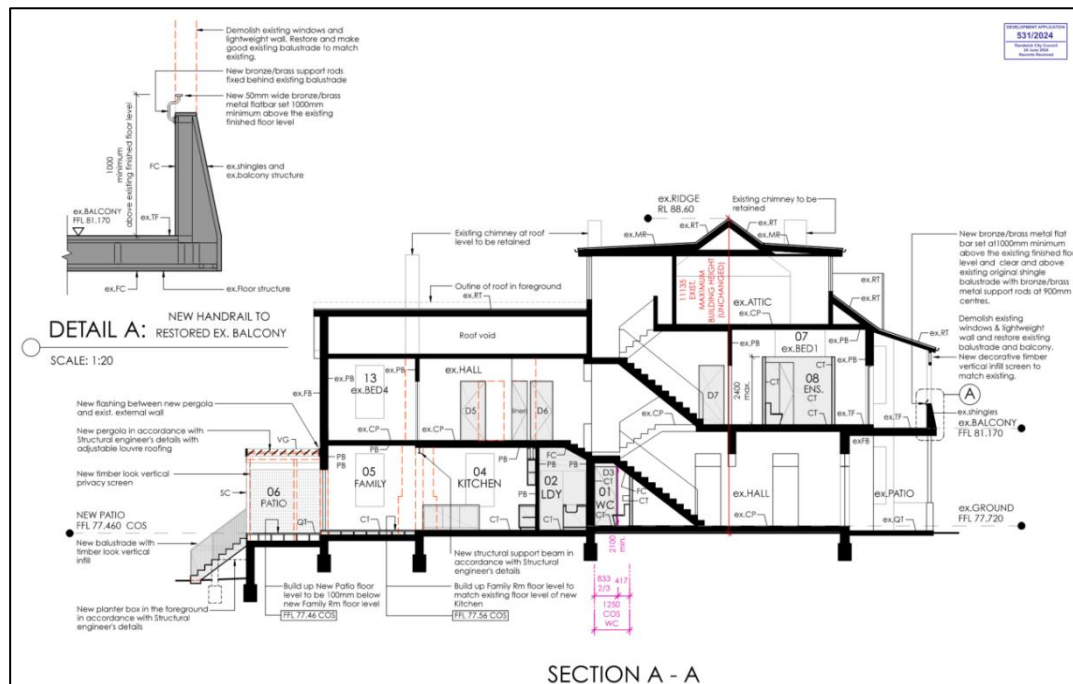


Figure 9: Side Section (Source: *edifice design*).



Figure 10: Existing first floor sunroom (Source: Council's Planning Officer).

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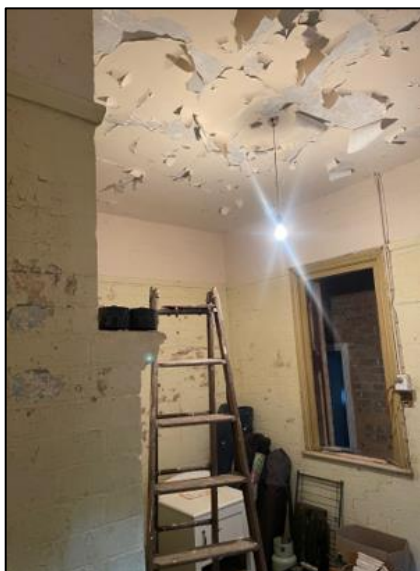


Figure 11: Existing room adjacent to rear laundry (Source: Council's Planning Officer).



Figure 12: Existing rear laundry room (Source: Council's Planning Officer).



Figure 13: Existing external layout along northern side boundary (Source: Council's Planning Officer).



Figure 14: Existing rear yard and shed (Source: Council's Planning Officer).



Figure 15: Existing rear yard and dwelling (Source: Council's Planning Officer).

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

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

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

6.4. 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 R3 Medium Density Residential under Randwick Local Environmental Plan 2012 and the proposal, being for alterations and additions to an existing semi-detached dwelling is permissible with Council's consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will enhance the day to day needs of the residents by improving the rear space for usability. The proposed alterations and additions are consistent with the dwelling's built form as well as the surrounding localities' general built form, therefore residential amenity would be maintained.

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	0.65:1 (219.61m ²).	Yes
Cl 4.3: Building height (max)	9.5m	4.5m (rear deck addition)	Yes
Cl 4.1: Lot Size (min)	275m ²	338.2m ²	Yes No subdivision is proposed

6.4.1. Clause 5.10 - Heritage conservation

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

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

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

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

Council has commenced a comprehensive review of the existing Randwick Development Control Plan 2013. Stage 1 of the RDCP 2013 review has concluded, and the new RDCP comprising Parts B2 (Heritage), C1 (Low Density Residential), E2 (Randwick) and E7 (Housing Investigation) commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of the new RDCP 2023 are applicable to the proposed development, and the proposal shall be assessed against the new DCP.

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.

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

9. Conclusion

That the application for alterations and additions to an existing semi-detached dwelling including partial demolition of internal walls, steps and portion of rear roof, alterations to existing fenestration/door openings, internal layout changes and alterations to driveway at 44 Avoca Street, Randwick 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 R3 zone in that the alterations and additions will improve usability in a manner consistent with the dwelling's and surrounding area's built form and character;
- 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; and
- The development enhances the visual quality of the public domain/streetscape.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage Planner

The Site

The subject property is known as Avoca Street Randwick, and with a legal land parcel identity as Lot 1 DP 202777. It is located on the western side of Avoca Street, between Stanley and Cowper Streets. The subject site is an irregular shaped lot with an 8.765m eastern frontage to Avoca Street, a curved northern boundary of varying length, a southern side boundary depth of 45.015m, a western rear boundary of 5.335m, and a total site area of 338.2m². The site slopes down marginally from Avoca Street to the rear.

The existing dwelling is identified as a locally listed heritage item in a group listing with the adjoining semi-detached dwelling at No. 46 Avoca Street, Randwick (I263 44-46 Avoca Street – Two-storey semi-detached pair – and listed since 1998).

The pair are described on the NSW heritage base as a magnificent two storey Edwardian semi-detached dwellings, about 1910. Unfortunately ruined by concrete roof tiles, painting of No. 46 and attic additions. No. 44 also has balcony enclosure. Otherwise, good. Most basic features retained and complex roof, verandahs, balconies, rectangular bay windows and palisade fence. Decoration is outstanding, particularly timberwork on verandahs and balconies. Also of note are shingled balcony balustrades and coloured glass panes in windows. Original tiling on verandahs. Glazing to main doors partly replaced on both dwellings.

Background

The dwelling presents in substantially original condition but is noted to have had glazed verandah infill, as well as the addition of an attic space with forward facing dormer, matching a development in its twin, and the replacement of the original roofing with concrete tiling. It is noted that the spatial components at the rear of the dwelling present as sub-standard in terms of contemporary amenity and compliance.

Proposal

The proposal aims toward a reinstatement of original historical features and forward presentation, an upgrade of several internal spaces, and a rebuild of ancillary rear spaces. In detail this includes:

- Changes to front fence pilaster (location and rebuild) and front fence and gateway for wider vehicle entryway with sliding gate, and marginally extended hardstand area.
- Ground floor forward formal component - no changes for entry porch and entry door, hallway, formal living room and dining room and stairs (except powder room under stairs).
- Ground floor central crossway section – new fenestration and bench arrangement, with demolition of existing and including side entry door and laundry change.
- Ground floor rear ancillary spaces – floor level change for kitchen and family room, demolition of existing interior fireplace, hearth, and chimney.
- Ground floor rear exterior - demolition of existing walls/roof structure for new covered patio and BBQ area to rear, including demolition of rear stairs and introduction of new stairway.
- First floor forward balcony space – removal of infill and reinstatement.
- First floor main bedroom – introduction of division wall bathroom space (without ceiling) and various storage joinery. Wider bedroom entry door.

- First floor rear – increased bathroom size including demolition of existing wall, rehang several door, part wall demolition to new office space, and demolition of chimney breast bedroom 4.
- Second floor attic space – no changes

Submission

For the purposes of this heritage assessment the development application is accompanied by the following documentation:

- A full set of architectural drawings prepared by *Edifice Design* of Robey Street Maroubra NSW, dated as 3 June 2024 (and received by Council 24 June 2024)
- A schedule of materials and finishes, prepared by *Edifice Design* of Robey Street Maroubra NSW, dated as 3 June 2024 (and received by Council 24 June 2024). The schedule is noted as lacking colour and detail.
- A DRAFT Statement of Heritage Impact, professionally prepared by *Weir Phillips Heritage and Planning* of 100 William Street Sydney, dated as 21 May 2024 (and received by Council 24 June 2024).
- A Statement of Environmental Effects (SEE), professionally prepared by *Zane Solutions Land Use Planning Services* of Belmore Road Randwick, dated as June 2024 (and received by Council 24 June 2024).

Controls

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

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

The Heritage section of Randwick Development Control Plan 2023 provides Objectives and Controls in relation to heritage properties.

Comments

The proposed works will have an acceptable impact on the heritage item for the following reasons:

- Changes to front fence pilaster (location and rebuild) and the front fence for wider vehicle entryway with sliding gate, and marginally extended hardstand area are supported. This entry is not twinned with the neighbour, the rebuild is proposed as 'like for like' quality, and the associated fencing fabric is proposed for reuse.
- The removal of original fabric in the dwelling is largely confined to the rear, and to less significant rooms and interior of the dwelling.
- Any removal of historical fabric is considered minor in scale and/or adjustment and will still enable an understanding of the original elements and floorplan of the dwelling.
- The inclusion of a WC in the existing store under the stair will retain the stair and door and will remove as little fabric as possible to construct the WC.
- Replacement of the north-side entry enclosure will replace later and non-significant fabric.

- The removal of the fireplaces within the rear wing is a removal of less significant and much modified fabric. However, the ground floor removal must include a simple but permanent interpretation strategy, including but more than the walls nibs. The removal the chimney breast on the first floor is considered acceptable in the balance of contemporary amenity. However, this should also include a simple but permanent interpretation strategy, including but greater than the wall nibs.
- It is noted that the chimney (above roof level) will be retained.
- Replacement of the roof over the outdoor area is minor in scale, is to the rear, for less significant space, and is not visible from any principal view.
- The removal of the windows and lightweight enclosure to the first-floor balcony will reinstate and conserve the original and principal elevation of the heritage item.
- The proposed ensuite and wardrobes joinery to Bed No. 1 will remove as little heritage fabric as possible and maintain an understanding of the original floorplan and ceiling, retaining key original elements such as the fireplace, bay window and French doors. These works are essentially reversible, and plumbing has minimal intervention, as well as exterior concealment.
- The proposed works to reinstate the first-floor balcony to Avoca Street will have a positive impact on the site by removing modern, intrusive fabric and restoring the building's original façade.
- Removal of the separate WC within the first-floor bathroom will only impact contemporary fabric that has already been modified by previous alterations.
- There are no proposed changes to the ground level of the principal facade or roof form, and changes to the northern elevation are minimally visible to Avoca Street, obscured by distance, the high boundary fence and mature vegetation is the garden bed at No. 42 Avoca Street. The proposed works will minimally impact the presentation of the subject site to Avoca Street. It will still be easily read as a Federation style dwelling.

Recommendation

The following conditions should be included in any consent:

- Please check the Heritage Impact Statement to make sure that it is a finalised report.
- Provide a proposed interpretation strategy – to the satisfaction of Council Planning - for the removed fireplace at the ground floor level and the chimney breast at the first-floor level (as above, simple but permanent).
- State in detail – to the satisfaction of Council Planning - a strategy for the doors, doorways, nibs and door furnishings.
- Provide schedule of colour and form – to the satisfaction of Council Planning -showing that any new windows and doors on the existing building will match the original material.
- State in detail – to the satisfaction of Council Planning - any proposed change to areas of historical flooring, or alternately state clearly that there is no change.
- State in detail – to the satisfaction of Council Planning - any change to painting in areas of historical interior walls, or alternately state clearly that there is no change.
- State – to the satisfaction of Council Planning – that any painting to the exterior of the residence that is visible to the public domain, such that the colours, materials and finishes of the external surfaces to the building are to be compatible with the existing twinned dwelling.

- No historical unpainted external fabric is to be painted.
- The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.

1.2. Development Engineer

An application has been received for minor alterations and additions at the above site.

This report is based on the following plans and documentation:

- Architectural Plans by Edifice Design and dated 3.6.24;
- Statement of Environmental Effects by Zane Solutions;
- Detail & Level Survey by G.K.Wilson & Assoc.

Parking Comments

The submitted application includes the proposed widening of the driveway entrance at the front of the site to 3m.

1.3. Landscape Development Officer

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.

Appendix 2: RDCP 2023 Compliance Table

2.1 Section B2 – Heritage Conservation

The relevant provisions under Section B2 of the RDCP have been addressed by Council's Heritage Planner as referenced in Appendix 1.

2.2 Section B7 – Transport, Traffic, Parking and Access

Under section B7 of the RDCP semi-detached dwellings with 3 or more bedrooms require 2 car spaces, with tandem parking spaces permitted under the DCP controls.

The proposed development will not result in any change to the number of bedrooms and the existing carport is subject to remain unaltered. However, to improve access road widening is proposed. This is considered acceptable.

2.3 Section C1: Low Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	Classification	Zoning = R3	Yes
2	Site planning	Site = 338.2m ²	
2.1	Minimum lot size		
	Minimum lot size LEP 2012 = 275m ²	Proposed = No change to existing 338.2m ² .	N/A
2.2	Lot frontage		
	Semi-detached Dwellings		
	Semi-detached R2 & R3 = 15m parent lot, 7.5m per dwelling	Proposed = No change to existing 8.765m.	Yes
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 = 39% (130.94m ²).	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 = 37% (125.50m ²). 34% (12.88m ²) of front setback area is provided.	Yes
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	No change to existing. The subject site has no trees. Improved landscaping and planters are proposed.	Yes, based on merit assessment
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	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 = more than 6m x 6m (85.67m²).	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	Proposed = 0.65:1 (219.61m²).	Yes
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = no change to existing height of 11.92m. 4.5m (proposed rear addition).	Yes
	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 views of adjoining properties. 	Proposed = Existing floor and ceiling heights at the ground, first floor and attic are maintained. Street frontage of 2 storeys to be maintained.	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: <ul style="list-style-type: none"> 900mm for allotments with primary frontage width of less than 7m 1500mm for all other sites Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	Proposed = No change to existing front setback.	Yes
3.3.2	Side setbacks	Proposed = No change proposed to existing northern side setback of 1.492m. New patio addition has a side setback of approximately 1.63m.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)																								
	<table> <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> <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> </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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$		
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3.3.3	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <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>	Proposed = No change to existing rear setback of 20.206m.	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 • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The proposed development is consistent with the characteristics of the streetscape and surrounding natural build environment.</p> <p>The rear building elevation is suitably articulated by way of material changes, architectural elements, and landscaping.</p>	Yes																								
4.3	Alterations and additions to semi-detached and dual occupancy (attached) dwellings																										
	i) Respect and enhance architectural character of pair, including symmetry	The architectural character of the semi-	Yes																								

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	ii) Setback upper addition from street (to rear) with substantial portion of existing front intact iii) Locate upper addition behind apex of hipped roofed houses iv) Setback upper addition from gable end 100% of the height increase and retain any existing gable features and chimneys v) Design first floor with low profile roof form that is visually secondary to existing front roof. vi) Avoid exposure of existing blank party walls vii) Materials enhance character of the pair	detached dwellings would be retained from the streetscape. The re-establishment of the first floor veranda to its original form to re-instate the existing balustrade and balcony from its current enclosed space will further enhance the pair of semi-detached dwellings.	
4.5	Roof design and features		
	<i>Dormers</i> i) Dormer windows do not dominate ii) Maximum 1500mm window height from base to ridge, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. iii) Multiple dormers consistent iv) Suitable for existing <i>Clerestory windows and skylights</i> vi) Dormers occurring in the same roof plane must be similarly sized, configured, and arranged symmetrically. vii) Dormer windows may only be provided on buildings with an architectural character or style that is suitable for dormer features. ix) Any plant and equipment must be contained within the roof form or screened behind parapet walls, so that they are not readily visible from the public domain and surrounding properties.	Existing dormer attic window to remain the same.	Yes
4.6	Colours, Materials and Finishes		
	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 selected colours, materials and finishes are consistent with the locality and surrounding development. Council's Heritage Planner has imposed additional conditions.	Yes, subject to conditions
4.7	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Subterranean spaces must not be habitable iv) Step retaining walls. v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.	No earthworks are proposed.	N/A

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vii) cut and fill for POS is terraced <i>where site has significant slope:</i> viii) adopt a split-level design ix) Minimise height and extent of any exposed under-croft areas.		
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	ii) 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.	Proportion of north-facing living room windows and POS will continue to receive a minimum of 3 hours of direct sunlight.	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. ii) 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. 	Proposed = The patio addition to the rear with a pergola roof is 4.5m in height and will not result in any overshadowing onto neighbouring properties.	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	All internal habitable spaces will achieve adequate natural lighting and ventilation.	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>measures such as:</p> <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) Living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>		
5.3	Visual Privacy		
	Windows		
	<p>ii) 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>	Existing windows to remain the same, with new louver window to match existing. No privacy concerns are raised.	Yes
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	No balcony proposed. However, rear elevated deck is proposed.	Condition included to ensure the privacy screen to the northern side of the rear deck is sufficient to minimise potential overlooking into neighbouring property.
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows	No noise source is proposed to adjoin dwelling bedroom windows. Patio and BBQ addition is located at the rear.	Yes
5.5	Safety and Security		
	<p>i) Dwelling main entry on front elevation (unless narrow site)</p> <p>ii) Street numbering at front near entry.</p>	Consistent with the existing arrangement, a new sliding gate will	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	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)	increase security. Habitable windows or orientated towards the rear for passive surveillance and restoration of the existing balustrade will improve visibility to the front of the dwelling.	
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.	Existing views from neighbouring dwellings and the public domain will be maintained. There are no significant views afforded to neighbouring properties due to existing built form.	Yes
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)	No changes to existing carport other than widening the existing driveway/ vehicular access from Avoca Street to 3m.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	Proposed = Expand existing single driveway opening to 3m.	Yes
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	Durable materials are proposed and are consistent with the existing dwelling.	Yes

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
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.	Minor demolition works of the existing front fencing and pier is proposed to accommodate the new 3m driveway opening. Existing metal gate is proposed to be reused for the new sliding gate. New brick pier to match existing.	Yes
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 = No changes to existing side and rear fencing.	N/A

Responsible officer: Alyssa Chau, Environmental Planning Officer

File Reference: DA/531/2024

Development Consent Conditions (Dwellings and Dual Occupancies)



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Folder /DA No:	DA/531/2024
Property:	44 Avoca Street, Randwick
Proposal:	Alterations and additions to an existing semi-detached dwelling including partial demolition of internal walls, steps and portion of rear roof, alterations to existing fenestration/door openings, internal layout changes and alterations to driveway
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:

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Ground Floor Plan, Drawing No. DA2	Edifice Design	April 2023	22/08/24
First Floor Plan, Drawing No. DA3	Edifice Design	April 2023	22/08/24
Ex. Attic Floor Plan, Drawing No. DA4	Edifice Design	April 2023	22/08/24
East Elevation, Drawing No. DA5	Edifice Design	April 2024	24/06/24
North Elevation, Drawing No. DA6	Edifice Design	April 2023	22/08/24
West Elevation Section B-B, Drawing No. DA7	Edifice Design	April 2023	22/08/24
Section A-A, Drawing No. DA8	Edifice Design	April 2024	24/06/24
Finishes schedule Drawing No. DA9	Edifice Design	April 2023	22/08/24

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
A1745062_02	07/06/24	24/06/24

DA/531/2024

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Condition	
	<p>In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.</p> <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
2.	<p>Amendment of Plans & Documentation</p> <p>The approved plans and documents must be amended in accordance with the following requirements:</p> <p>a) The privacy screen situated on the northern side of the elevated patio area (on the ground floor) must be designed to obscure views towards the north-adjointing neighbour at No. 42 Avoca Street, Randwick. This privacy screen must be constructed with fixed lattice/slats with individual openings not more than 30mm wide; or comprise of 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.</p> <p>Amended plans must be submitted to and approved by the Principal Certifier prior to the issue of any construction certificate.</p> <p>The above amendment/s must be reflected in the final construction plans and any documentation submitted as part of any construction certificate.</p> <p>Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

Condition

The following additional information and any amendments to the approved development must be incorporated in the final construction plans and provided to Council:

- a) Provide details of the relevant strategy for the doors, doorways, nibs and door furnishings.
- b) Provide schedule of colour and form showing that any new windows and doors on the existing building will match the original material.
- c) State in detail that any proposed change to areas of historical flooring, or alternately state clearly that there is no change.
- d) State in detail that any change to painting in areas of historical interior walls, or alternately state clearly that there is no change.
- e) State that any painting to the exterior of the residence that is visible to the public domain, such that the colours, materials and finishes of the external surfaces to the building are to be compatible with the existing twinned dwelling.
- f) No historical unpainted external fabric is to be painted.
- g) The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- h) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.

Any additional information and amendments to approved plans/documents must be submitted to Council and approved by Council's Manager Development Assessment/Coordinator Development Assessment prior to the issue of any construction certificate.

The above amendment/s must be reflected in the final construction plans and any documentation submitted as part of any construction certificate.

Condition Reason: To protect the character, significance and setting of the heritage item.

6. **Section 7.12 Development Contributions**

In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$275,000.00 the following applicable monetary levy must be paid to Council: \$2,750.

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

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

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

Where:

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Condition
IDC = the indexed development cost ODC = the original development cost determined by the Council CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

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

Condition Reason: To ensure relevant contributions are paid.

7.
- Long Service Levy Payments**
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 Environmental Planning & Assessment Act 1979.

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

Condition Reason: To ensure the long service levy is paid.

8.
- Security Deposits**
The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:

- \$600.00 - Damage / Civil Works Security Deposit

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

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

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

	Condition
	Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.
9.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
10.	<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>
11.	<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 addition.</p>

	Condition
	<p>Condition Reason: To ensure the structural integrity of the building is maintained.</p>
12.	<p>Design Alignment Levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall:</p> <ul style="list-style-type: none">• Match the back of the existing Council footpath levels along the full site frontage. <p>The design alignment levels at the property boundary as issued by Council and their relationship to the Council footpath must be indicated on the building plans for the construction certificate (<u>a construction note on the plans is considered satisfactory</u>). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$191. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all relevant approvals for traffic and parking works are obtained and designed in accordance with Council requirements.</p>
13.	<p>BASIX Requirements</p> <p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
14.	<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>

Condition	
	<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.
	Condition Reason: To control and manage stormwater run-off.

15. **Fireplace and Chimney**

A proposed interpretation strategy must be provided to the satisfaction of Council's Coordinator Development Assessment/Manager Development Assessment for the removed fireplace at the ground floor level and the chimney breast at the first-floor level (as above, simple but permanent).

Condition Reason: To protect the significant, character and setting of the heritage item and to minimise potential heritage impacts.

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> <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>. <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all</p>

	Condition
	times and be made available to the Council officers and all building contractors for assessment.
	b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and
	c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i> , and the Principal Certifier and Council must be notified accordingly (in writing); and
	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.
17.	Home Building Act 1989 In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and <i>sections 69 & 71 of the 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. Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council. Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.
18.	Dilapidation Reports A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases: <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

	Condition
	<p>result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and</p> <ul style="list-style-type: none"> 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>
19.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
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>

DURING BUILDING WORK

	Condition
21.	Site Signage

Condition

<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. |
|---|

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.

22.

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

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

23. **Public Safety & Site Management**

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

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

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

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

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

	Condition
	<div><div>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.</div><div>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.</div><div>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.</div></div> <div>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</div>
24.	<div><div>Building Encroachments</div><div>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</div><div>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</div></div>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
25.	<p>Occupation Certificate Requirements</p> <p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
26.	<p>BASIX Requirements</p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
27.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>The applicant must meet the full cost for a Council approved contractor to:</p> <ol style="list-style-type: none"> Reconstruct/extend the concrete vehicular crossing opposite the vehicular entrance to the site, if required. The works are to be to Council's specifications and requirements. <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 the removal of cement slurry from Council's footpath and roadway.</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> <ol style="list-style-type: none"> 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.

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Condition	
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.

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.

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.

OCCUPATION AND ONGOING USE

Condition	
28.	<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> <p>Condition reason: To ensure the development is used for its intended purpose.</p>
29.	<p>External Lighting</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
30.	<p>Plant & Equipment</p> <p>Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

	Condition
31.	<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
32.	<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,

Condition
<ul style="list-style-type: none">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. D74/24

Subject: 349 Avoca Street, Randwick (DA137/2023)


Executive Summary

Proposal:	Alterations and additions to existing dwelling house and change of use to a Boarding House containing seven (7) double boarding rooms, with two (2) on-site car parking spaces
Ward:	East Ward
Applicant:	Anthony Betros
Owner:	Ms Sarah Aldred
Cost of works:	\$1,187,182.00
Reason for referral:	Exceeds minimum lot size development standard by more than 10%.

Recommendation

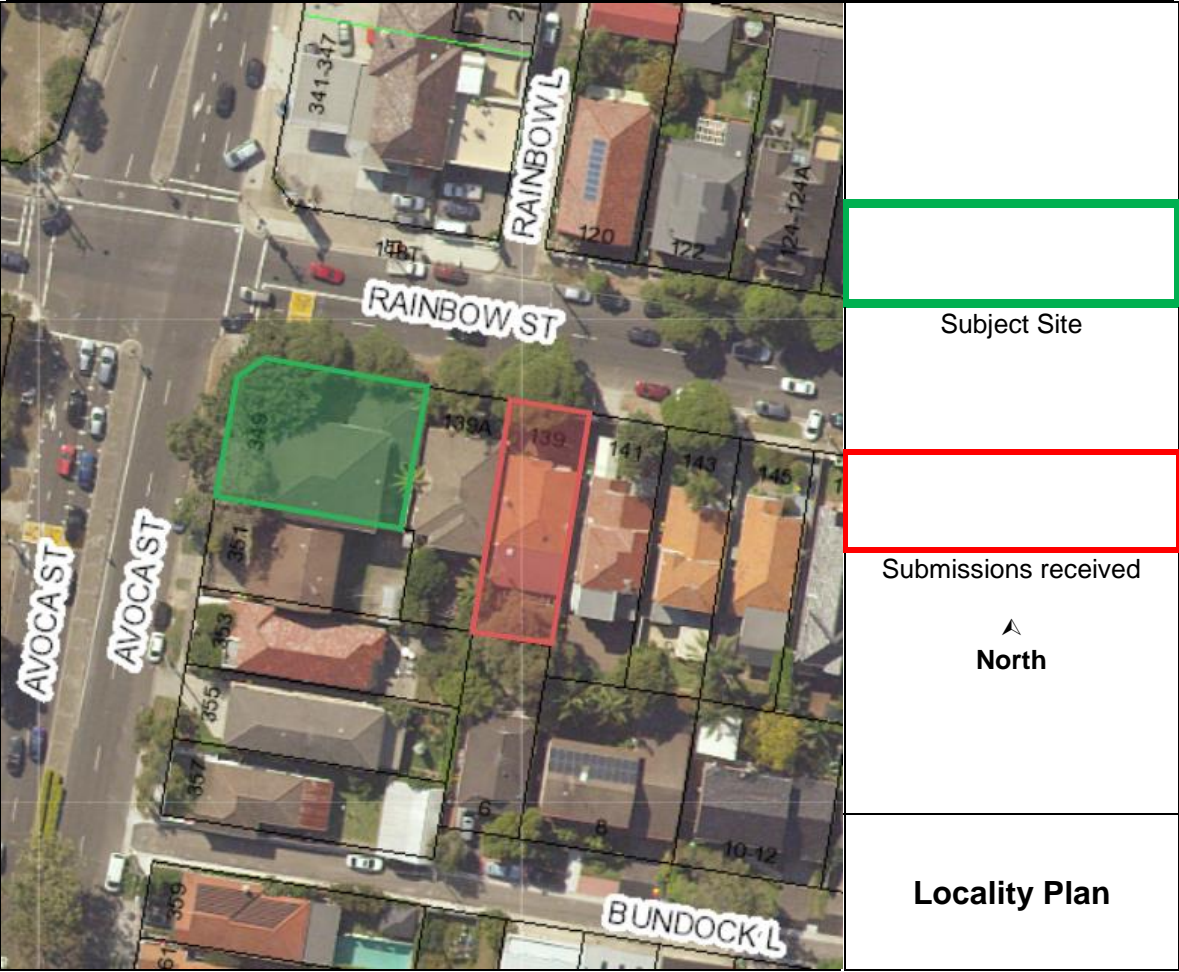
- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the minimum landscaping requirement in State Environmental Planning Policy (Housing) 2021 Clause 24(2)(c) - Non-discretionary development standards.
- B. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the minimum lot size requirement in State Environmental Planning Policy (Housing) 2021 Clause 25(1)(g)(i) -Standards for boarding houses.
- C. 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. 137/2023 for alterations and additions to the existing dwelling house and change of use to a Boarding House containing seven (7) double boarding rooms with two (2) on-site car parking spaces at No. 349 Avoca Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  Development Consent - DA/137/2023 - 349 Avoca Street, Randwick

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for minimum lot size under the State Environmental Planning Policy (Housing) 2021 by more than 10%.

The original proposal seeks development consent for alterations and additions to an existing dwelling house and change of use to a Boarding House containing eight double boarding rooms, with two (2) on-site car parking spaces.

The application was publicly notified in accordance with the Randwick Community Engagement Strategy 2019. One (1) submission in objection was received raising concerns with noise impacts, dumping of waste and parking congestion in the surrounding streets. These issues have been adequately addressed by design amendments and/or recommended conditions of consent.

The key assessment issues associated with the proposal relate to parking, internal amenity, streetscape interface, privacy impacts and non-compliance with the minimum lot size and landscaping development standards under State Environmental Planning Policy (Housing) 2021.

The proposal was amended by converting a boarding room at ground level to a communal living room, resulting in a reduction in the total number of boarding rooms to seven, a compliant parking configuration, improved internal amenity and a better streetscape outcome along Rainbow Street.

The amended proposal retains the existing building envelope and landscape setbacks along the street frontages.

The proposal predominantly complies with the affordable housing requirements under State Environmental Planning Policy (Housing) 2021. The applicant also submitted two written requests seeking an exception to the minimum lot size development standard and the minimum landscaping development standard in accordance with Clause 4.6 of Randwick Local Environmental Plan 2012. The applicant's Clause 4.6 written requests are considered well founded and can be supported in this instance.

The proposal is located close to regular public bus transport and near to University of NSW and Prince of Wales Hospital, both of which are regional facilities with significant numbers of key workers. The change of use from a large single dwelling to a boarding house is thereby considered to have a positive social benefit to the community. The proposed boarding house will be managed by a registered Community Housing Provider in perpetuity and therefore will add to stock of affordable housing in the Randwick LGA.

The proposal is recommended for approval, subject to conditions.

2. Site Description and Locality

The subject site is known as 349 Avoca Street Randwick and is legally described as Lot 1 in DP 1261732. The site is a corner allotment with a 15.79m frontage to Avoca Street to the west and a 21.87m frontage to Rainbow Street and a total site area of 463.7m².

The site contains a two storey detached dwelling house orientated towards Avoca Street and a triple garage at the Rainbow Street frontage. The adjoining properties to the east at 139A Rainbow Street and at 351 Avoca Street to the south contain two storey detached dwelling houses. Refer to **Figures 1 to 12**.

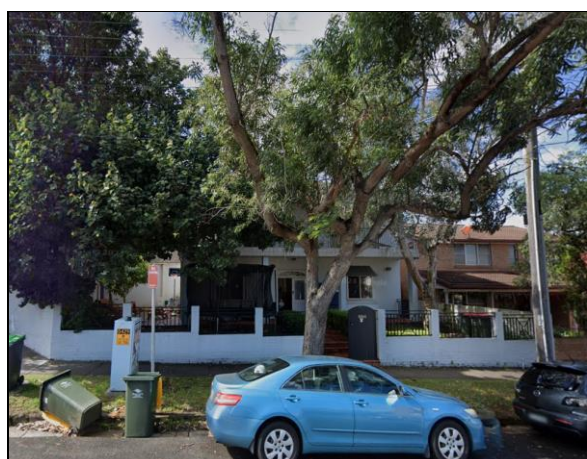


Figure 1 – Existing site viewed from Avoca Street



Figure 2 – Existing site viewed from Rainbow Street



Figure 3 – Existing view from the rear terrace to 351 Avoca Street



Figure 4 – Existing view from the rear terrace to 139A Rainbow Street

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Figure 5 – Rear (eastern) elevation



Figure 6 – Side (northern) elevation



Figure 7 – Avoca Street elevation



Figure 8 – Side setback along Rainbow Street



Figure 9 – Avoca Street frontage



Figure 10 – View from across Avoca Street



Figure 11 – Existing garage Rainbow Street



Figure 12 – View from across Rainbow Street

3. Relevant history

On 26 May 2022, Council refused an application seeking approval for alterations and additions to the existing dwelling house and conversion to an attached dual occupancy (one above the other) and strata subdivision (DA/474/2021).

4. Proposal

The originally lodged proposal is for alterations and additions to the existing dwelling house and a change of use to a Boarding House containing eight (8) double boarding rooms with two (2) on-site car parking spaces.

Amended Proposal

On 25 July 2024, the applicant submitted amended plans with the following design changes:

- conversion of a boarding room at ground level into a communal living room (resulted in the total of 7 boarding rooms);
- reconfiguration of the garage layout to allow for independent motorcycle access parking through a single sliding door and the bicycle parking through the ramp access;
- removal of the single entry gate adjacent to the garage;
- provision of additional privacy measures including:
 - a privacy screen at the southern boundary
 - retention of the eastern boundary fence
 - installation of privacy film to the Bedroom 2 window
 - a privacy screen to the northern edge of terrace to Boarding Room 2
 - extension to the planter box at the rear.

On 7 August 2024, the applicant submitted and amended ground floor plan showing updated bin storage area and a bulky waste storage area.

Extracts of the architectural plans (as amended) are provided below.

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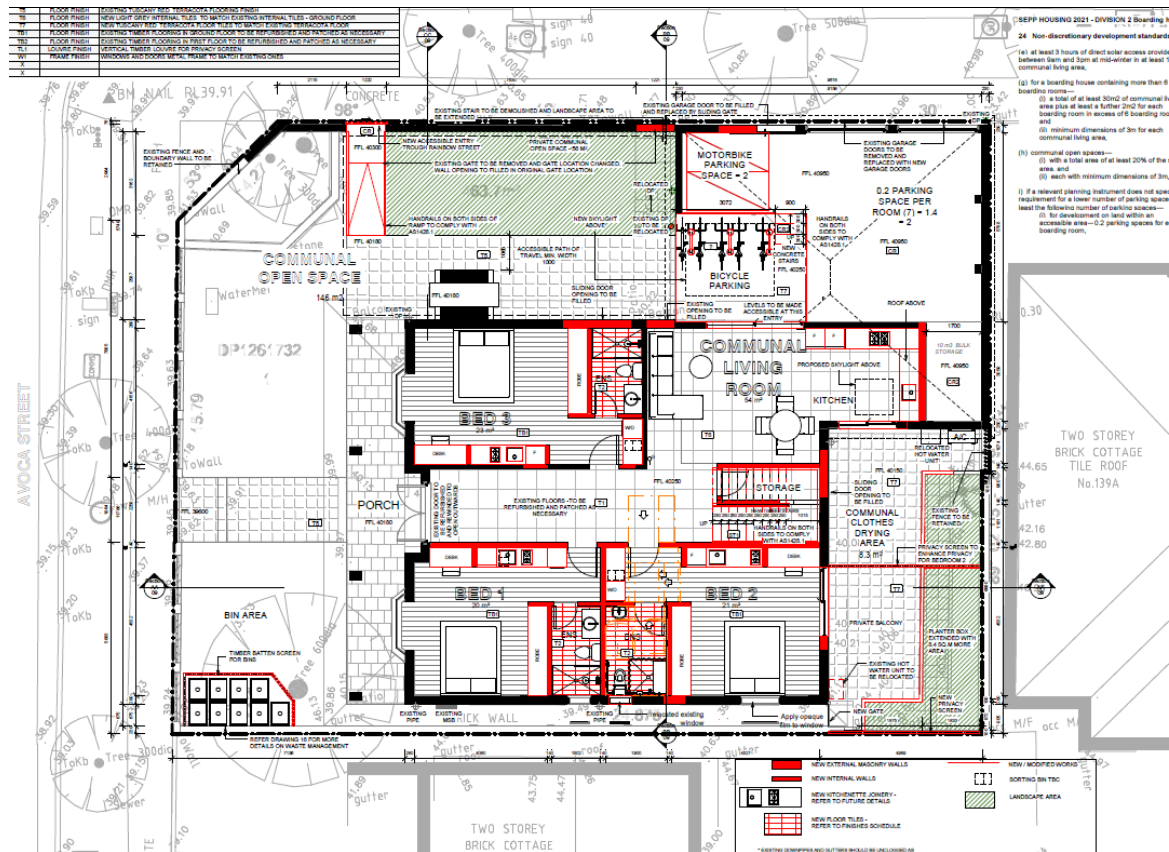


Figure 1 – Ground Floor Plan

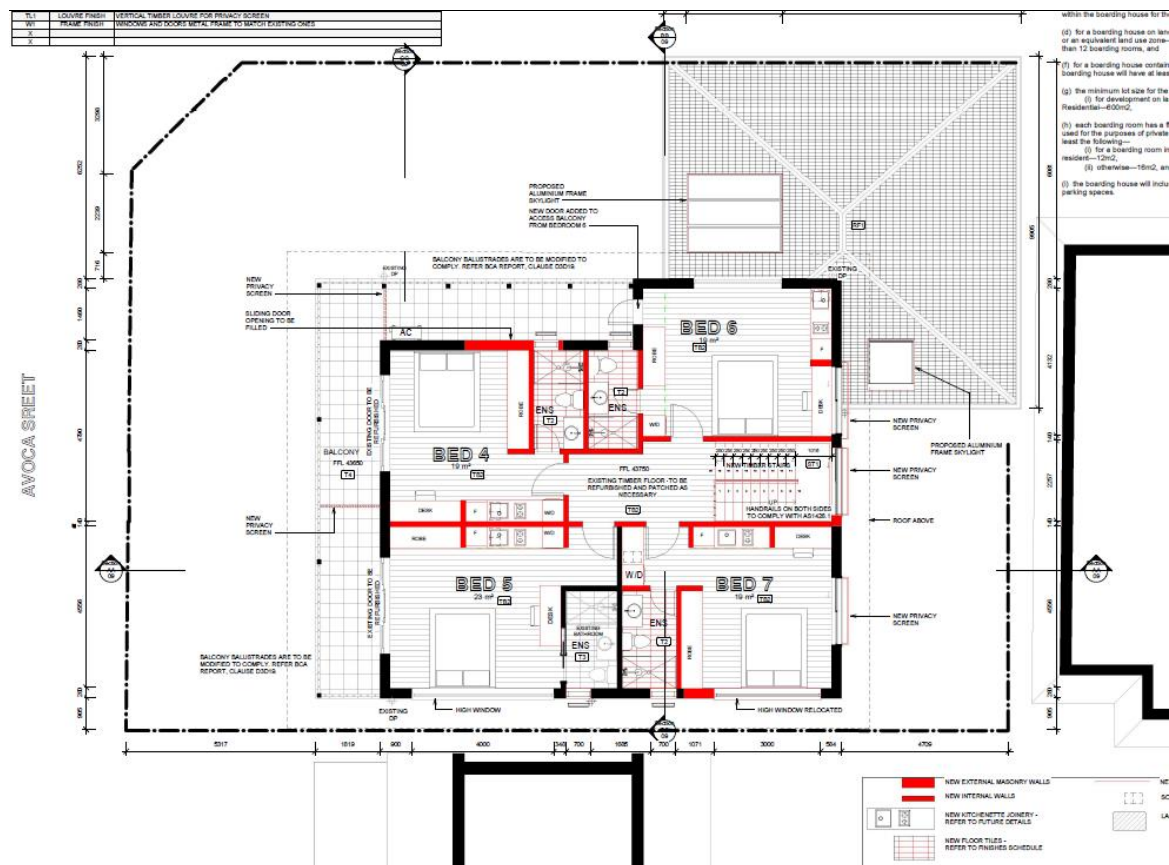


Figure 2 – First Floor Plan

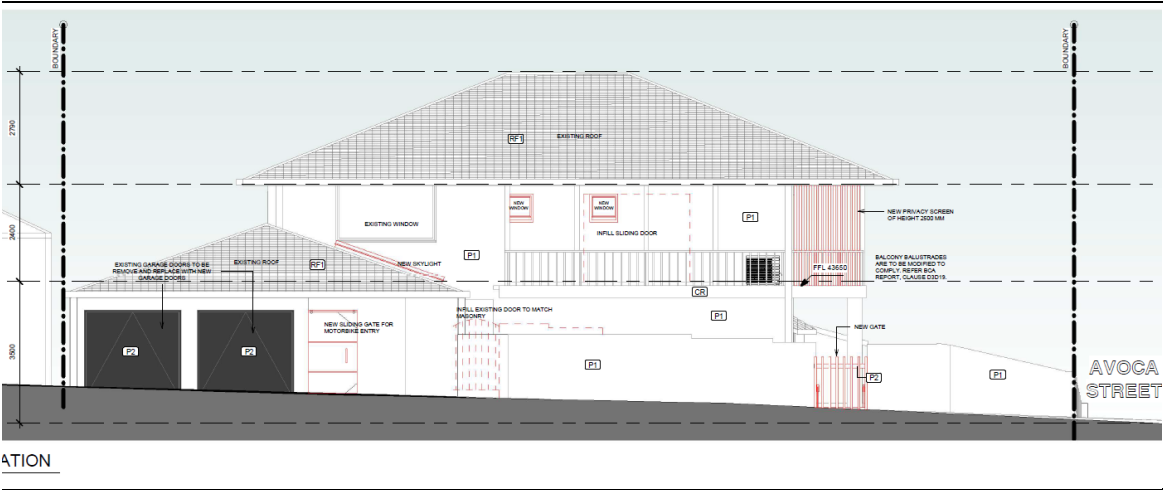


Figure 3 – South Elevation (Rainbow Street)

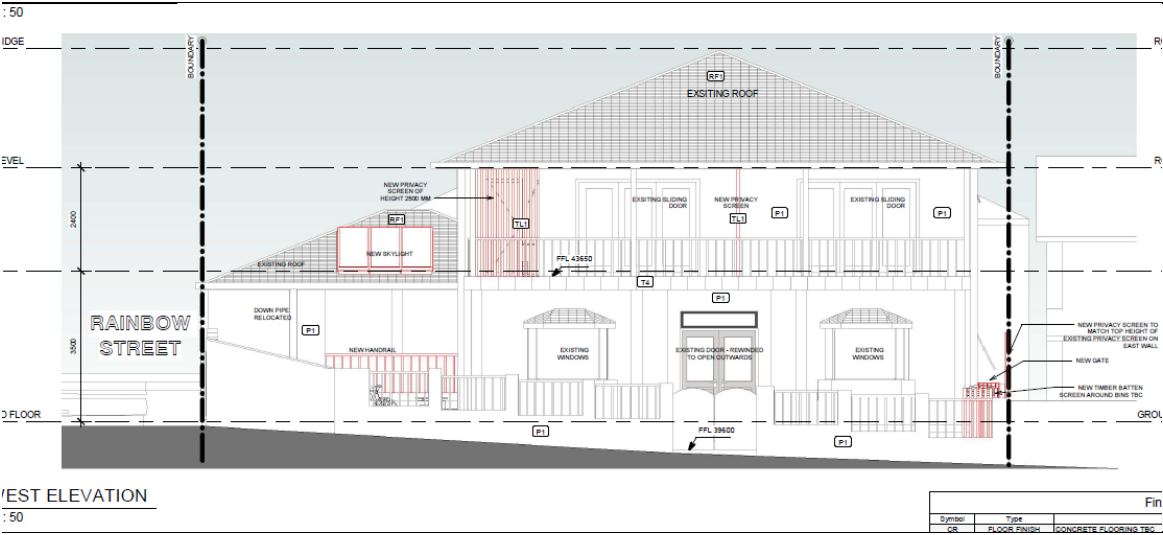


Figure 4 – West Elevation (Avoca Street)

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 submission was received as a result of the notification process:

- 139 Rainbow Street

Issue	Comment
Noise Pollution	The application is accompanied by a Plan of Management which sets out noise mitigation measures such as restrictions on outdoor music and the use of the communal areas and complaints handling procedures. In addition, standard noise conditions are included in the recommended development consent. Subject to the implementation of conditions, the proposal is not expected to result in any adverse noise impacts to the surrounding area.

Issue	Comment
Dumping of illegal garbage and pest attraction	The proposal includes a bulky waste storage area to assist with minimizing the risk of rubbish being dumped on the street. The POM includes waste management procedures to ensure a high level of cleanliness is maintained and minimise the risk for the attraction of pests.
Insufficient parking on Rainbow Street	The proposal provides adequate parking in the existing garage on the site to satisfy the parking demand generated by the proposal.

6. Relevant Environment Planning Instruments

6.1. SEPP (Housing) 2021

The proposed development is for the purpose of a boarding house and as such Chapter 2, Division 2 Boarding Houses of the SEPP Housing is applicable to the proposed development. See assessment below against Clause 24 – Non-discretionary development standards and Clause 25 - Standards for boarding houses.

Division 2 Boarding Houses

Requirement	Proposal	Compliance
23 Boarding houses permitted with consent		
(1) Development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument.	A boarding house development is permissible with consent in the R2 zone under RLEP 2012.	Yes
(2) Development for the purposes of a boarding house must not be carried out on land in Zone R2 Low Density Residential or an equivalent land use zone unless— (a) for land in the Eastern Harbour City, Central River City, Western Parkland City or Central Coast City—the land is within an accessible area, or (b) otherwise—all or part of the boarding house is within 800m walking distance of land in Zone E1 Local Centre, Zone MU1 Mixed Use, Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or an equivalent land use zone.	The site is located within 70m walking distance of a bus stop on Rainbow Street, which has at least one bus per hour servicing the stop during the daytime on weekdays and weekends.	Yes
24 Non-discretionary development standards—the Act, s 4.15		
(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of boarding houses that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. Note— See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.		

(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—		
(a) for development in a zone in which residential flat buildings or shop top housing are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 30% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,	Not Applicable	N/A
(b) if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,	A maximum FSR of 0.65:1 applies to the site under clause 4.4A(3) of RLEP 2012. The proposed development has a maximum FSR of 0.588:1.	Yes
(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	Part C2 Section 2.2.1 of RDCP 2013 establishes a minimum of 50% of the site area is to be landscaped open space for multi dwelling housing. The proposed development provides 219m ² (47%) landscaped open space equating to a variation of 5.95%. The application is accompanied by a Clause 4.6 written request seeking an exception to the development standard.	No Refer to the Key Issues section of this report.
(d) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,	Not Applicable	Yes
(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area.	The south facing kitchen window will not receive any direct sunlight at midwinter. A portion of the north facing glazed entry door will receive direct sunlight for approximately 2 hours direct sunlight, between 1:00pm and 3:00pm at midwinter and therefore does not comply with the minimum 3 hour requirement. Despite the non-compliance, the communal living room will benefit from additional light through a proposed skylight above the bicycle storage area and a roof skylight above the kitchen, ensuring an adequate level of internal amenity for future users of the communal space. The non-compliance with the solar access controls is therefore acceptable.	No, acceptable on merit

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(f) for a boarding house containing 6 boarding rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for each communal living area,	Not Applicable	Yes
(g) for a boarding house containing more than 6 boarding rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each boarding room in excess of 6 boarding rooms, and (ii) minimum dimensions of 3m for each communal living area,	A minimum 32m ² of communal living area is required. The proposed communal living area is 32m ² with a minimum dimension of 3m.	Yes
(h) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	Based on a site area of 463.7m ² , a minimum of 93m ² of communal open space is required. The proposal incorporates a communal open space area of 50m ² along the northern setback to Rainbow Street. When combined with the western setback to Avoca Street and the rear courtyard the communal open space equates to a combined area of 127m ² .	Yes
(i) if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces— (i) for development on land within an accessible area—0.2 parking spaces for each boarding room, (ii) otherwise—0.5 parking spaces for each boarding room,	The site is located within an accessible area and therefore generates a parking demand of 1.4 car spaces. The proposal provides two car spaces in a double garage accessed from Rainbow Street.	Yes
(j) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.	Not Applicable	N/A
25 Standards for boarding houses		
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—		
(a) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² , and	The gross floor area of the boarding rooms will range between 19m ² to 23m ² excluding the private kitchen and bathroom facilities.	Yes
(b) no boarding room will be occupied by more than 2 adult residents, and	A maximum of 2 residents will occupy each boarding room.	Yes
(c) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and	Adequate private bathroom and kitchen facilities will be provided in each boarding room.	Yes

(d) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and	7 boarding rooms are proposed.	Yes
(e) for a boarding house on land in a business zone—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	Not Applicable	N/A
(f) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area, and	One (1) communal living area will be provided.	Yes
(g) the minimum lot size for the boarding house is not less than— (i) for development on land in Zone R2 Low Density Residential—600m ² , or (ii) for development on other land—800m ² . (iii) (Repealed)	The existing lot area is 463.7m ² The application is accompanied by a Clause 4.6 written request seeking an exception to the development standard.	No Refer to the Key Issues section of this report.
(h) each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following— (i) for a boarding room intended to be used by a single resident—12m ² , (ii) otherwise—16m ² , and	Each boarding room has a floor area more than 16m ² , excluding the kitchen and bathroom facilities.	Yes
(i) the boarding house will include adequate bicycle and motorcycle parking spaces.	Two motorcycle and five bicycle spaces are proposed. Council's Development Engineer raised no objection in relation to motorcycle and bicycle parking.	Yes
(2) Development consent must not be granted under this Division unless the consent authority considers whether—		
(a) the design of the boarding house will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct, and	The proposed development involves the conversion of the existing single dwelling into a boarding house. There will be no visual change to the overall built form and design of the building. The landscape setbacks along the street frontages will be retained. The proposal is therefore consistent with the existing and desired future character of the surrounding area.	Yes
(b) the front, side and rear setbacks for the boarding house are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the	The proposal will not result in any change to the spatial configuration of the existing dwelling.	Yes

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minimum setback requirements for multi dwelling housing under a relevant planning instrument, (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,		
(c) if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.	Not Applicable	Yes
(3) This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	Not Applicable	Yes
26 Must be used for affordable housing in perpetuity		
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity-		
(a) the boarding house will be used for affordable housing, and	The proposal is for affordable housing.	Yes
(b) the boarding house will be managed by a registered community housing provider.	The application is accompanied by a letter from Evolve Housing – a Community Housing Provider, confirming the proposed boarding house will be managed in accordance with the Housing SEPP 2021, subject to a Property Management Agreement with the property owner.	Yes
(2) Subsection (1) does not apply to development carried out by or on behalf of the Aboriginal Housing Office or the Land and Housing Corporation.	Not Applicable	N/A
27 Subdivision of boarding houses not permitted		
Development consent must not be granted for the subdivision of a boarding house.	No subdivision is proposed.	Yes

6.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in Non-rural Areas

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

6.3. 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 accommodation and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving construction of a new dwelling are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the relevant objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community within a low density residential environment, maintain the desired future built form character and encourage affordable housing.

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)	0.65:1	0.588:1	Yes
CI 4.3: Building height (max)	9.5m	8.96m (no change to the existing)	Yes

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 6.9 – Development in Areas subject to Aircraft Noise

- (1) *The objectives of this clause are as follows—*
 - (a) *to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and its flight paths,*
 - (b) *to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
 - (c) *to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*
- (2) *This clause applies to development that—*
 - (a) *is on land that—*
 - (i) *is near the Sydney (Kingsford Smith) Airport, and*
 - (ii) *is in an ANEF contour of 20 or greater, and*
 - (b) *the consent authority considers is likely to be adversely affected by aircraft noise.*
- (3) *Before determining a development application for development to which this clause applies, the consent authority—*
 - (a) *must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
 - (b) *must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*
 - (c) *must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*

The subject site is located in ANEF 20 under Aircraft Noise 2039. The applicant submitted an Acoustic report which addresses the potential impacts associated with aircraft noise and includes

recommendations to minimise acoustic impacts to future residents. No concerns were raised by Council's Environmental Health officer in relation to noise impacts.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standards contained within the SEPP Housing 2021.

Clause	Development Standard	Proposal	Proposed Variation (m2)	Proposed variation (%)
CI 24(2)(c) Non-discretionary development standards Development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument.	Part C2 Section 2.2.1 of RDCP 2013 establishes a minimum of 50% of the site area is to be landscaped open space for multi dwelling housing. (231.85 m ²)	219m ² (47%)	12.85m ²	5.95%
CI 25(1)(g) Standards for boarding houses The minimum lot size for the boarding house is not less than-for development on land in Zone R2 Low Density Residential-600m2	600m ²	463.7m ²	136.3m ²	22.7%

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 Landscaping Requirements under State Environmental Planning Policy (Housing) 2021 Non-discretionary development standard (C124(2)(c))

The applicant's written justification for the departure from the non-discretionary landscaping development standard is contained in **Appendix 2**.

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

The applicant's written request seeks to justify the contravention of the landscaping 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 landscaping development standard are not specified in the Housing SEPP. The applicant's Clause 4.6 written request to vary the development standard therefore relies on the principles of the Housing SEPP.

The applicant addressed each of the Housing SEPP principles as follows:

- (a) *enabling the development of diverse housing types, including purpose-built rental housing,*

The variation to the minimum landscaped area facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people.

- (b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*

The variation will facilitate the provision of affordable housing. Registered housing provider Evolve Housing will manage the seven (7) boarding rooms, which will provide housing to vulnerable members of the community.

- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*

The variation to the minimum landscaped area requirement does not compromise the ability to provide a reasonable level of amenity that will be afforded to the residents. A reasonable level of amenity is afforded through the provision of compliant sunlight, cross ventilation, communal open space, and communal living areas, boarding room sizes, and parking. Furthermore, the proposal outperforms the 25% deep soil area of the multi-dwelling housing provision of Part C2 of the DCP.

- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*

The variation in the minimum landscaped area enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east) and major centre shopping facilities (Westfield Bondi Junction, plus Royal Randwick shopping centre) Randwick and Kingsford Light Rail Stations, plus Prince of Wales Hospital. On this basis, the variation in the minimum landscaped area will provide for the delivery of affordable housing where established infrastructure and services are located.

- (e) *minimising adverse climate and environmental impacts of new housing development,*

The modest nature of the development will not generate any adverse climate or environmental impacts. Given the retained front, side, and rear setbacks, along with compliant building height and FSR, solar access is retained to the existing dwellings to the south and east. On this basis, the minimum landscaped area variation will not be responsible for any adverse climate and environmental impacts.

- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*

The minimum landscaped area variation enables the alterations and additions, including partial internal demolition of the existing two-storey dwelling house and the reconfiguration and change of use to provide a two-storey boarding house development with seven (7) double boarding rooms. In this regard, the existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.

- (g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*

Not Applicable

- (h) *mitigating the loss of existing affordable rental housing.*

The proposed alterations and additions to a dwelling house plus change of use development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of affordable housing available in the locality, contributing to improved housing choice and affordability.

Assessing officer's comment: The applicant's Clause 4.6 written request seeking an exception to the non-discretionary landscaping development standard contends that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal is consistent with the principles of the Housing SEPP 2021.

The Housing SEPP defers to the landscaped open space requirements for multi-dwelling housing under Part C2 of Section 2.2 of RDCP 2013. The objectives of the landscape open space control seek to ensure the development provides adequate space for recreational activities and the growing of vegetation and appropriate stormwater outcomes and site amenity. The proposal retains the landscaped setbacks along the street frontages providing good natural rainwater filtration and the opportunity for the growing of plants and trees to improve site amenity. The communal outdoor space is suitably configured to allow passive recreation activities for the boarding house residents. In conclusion, the applicant's written request has adequately demonstrated that compliance with the landscaping development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- *High degree of compliance with the key development standards*
- *Compliance with the 25% deep soil area requirement of the multi-dwelling housing provisions of Part C2 of the Randwick DCP 2013.*
- *Absence of unreasonable impact from the variation*
- *The proposal still achieves the objectives of the R2 Low-density residential zone and that of the development standard*
- *Notwithstanding the minimum landscaped area variation, the proposed boarding house represents an orderly and economical use of the site, with no adverse environmental impacts above and beyond that of a compliant landscaped area*
- *The minor variation to the minimum landscaped area facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people*
- *The proposed alterations and additions development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.*
- *The extent of the affordable rental housing crisis is illustrated in the following Australian Financial Review and Guardian Australia news articles.*

...

The proposal will provide a suitable design and amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act). The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the minimum landscaped area variation in this instance.

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

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

To determine whether the proposal will be in the public interest, an assessment against the underlying objectives of the landscaping development standard and R2 low density zone is provided below.

Assessment against objectives of landscaping development standard

For the reasons outlined above, the development is consistent with the objectives of the landscaping development standard.

Assessment against objectives of the R2 zone

The objectives of the R2 zone are:

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

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

Assessing officer's comment: The proposed development will provide for the housing needs of the community, maintain the desired future built form character and encourage affordable housing.

The development is consistent with the objectives of the landscaping development 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 landscaping standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

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

7.2. Exception to the Minimum lot size development standard under State Environmental Planning Policy (Housing) 2021 (CI25(1)(g)(i))

The applicant's written justification for the departure from the minimum lot size development standard is contained in **Appendix 2**.

5. 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 lot size development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The objectives of the lot size development standard are not specified in the Housing SEPP 2021. The applicant's Clause 4.6 written request to vary the development standard therefore relies on the principles of the SEPP.

The applicant has addressed each of the principles as follows:

- (i) *enabling the development of diverse housing types, including purpose-built rental housing,*

The variation to the minimum site area facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people.

- (j) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*

The variation will facilitate the provision of affordable housing. Registered housing provider Evolve Housing will manage the seven (7) boarding rooms, which will provide housing to vulnerable members of the community.

- (k) *ensuring new housing development provides residents with a reasonable level of amenity,*

The variation to the minimum lot size requirement does not compromise the ability to provide a reasonable level of amenity for the residents. This amenity is afforded through the provision of compliant sunlight, cross ventilation, communal open space, communal living areas, boarding room sizes, and parking.

- (l) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*

The variation in the minimum lot size enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east) and major centre shopping facilities (Westfield Bondi Junction, plus Royal Randwick shopping centre) Randwick and Kingsford Light Rail Stations, plus Prince of Wales Hospital. On this basis, the variation to the minimum site area will provide for the delivery of affordable housing where established infrastructure and services are located.

- (m) *minimising adverse climate and environmental impacts of new housing development,*

The modest nature of the development will not generate any adverse climate or environmental impacts. Given the retained front, side, and rear setbacks, along with retained compliant building height and FSR, solar access is retained to the existing dwellings to the south and east. On this basis, the minimum lot size variation will not be responsible for any adverse climate and environmental impacts.

- (n) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*

The minimum lot size variation enables the alterations and additions, including partial internal demolition of the existing two-storey dwelling house and the reconfiguration and change of use to provide a two-storey boarding house development with seven (7) double boarding rooms. In this regard, the existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.

- (o) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*

Not Applicable

- (p) *mitigating the loss of existing affordable rental housing.*

The proposed alterations and additions to a dwelling house plus change of use development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of affordable housing available in the locality, contributing to improved housing choice and affordability.

Assessing officer's comment: The applicant's Clause 4.6 written request seeking an exception to the minimum lot size development standard contends that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal is consistent with the principles of the Housing SEPP.

The Housing SEPP does not contain objectives in relation to the minimum lot size control. The objectives of the minimum lot size subdivision control under RLEP 2012 seek to minimise the impact of subdivision on the amenity of neighbouring properties, protect natural and heritage features, including trees and views and ensure the size is suitable for its purpose. The proposal

would not result in any adverse environmental impacts to the adjoining properties in terms of view loss, overshadowing, privacy and visual bulk. The boarding rooms will have good internal amenity and adequate facilities for the future occupants. The site is therefore suitable for its intended purpose. In conclusion, the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard is unreasonable or unnecessary in the circumstances of the case.

6. 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 landscaping development standard as follows:

- *High degree of compliance with the key development standards*
- *Absence of unreasonable impact from the variation*
- *The proposal still achieves the objectives of the R2 Low-density residential zone and that of the development standard*
- *Notwithstanding the minimum lot size variation, the proposed boarding house represents an orderly and economical use of the site, with no adverse environmental impacts above and beyond that of a compliant lot size*
- *The minor variation to the minimum lot size facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people. One of the objectives of the R2 zoning is to encourage housing affordability. Housing affordability is a current issue, particularly for essential workers. The subject site is located in close proximity to UNSW and Prince of Wales Hospital, both of which are regional facilities with significant numbers of key workers. The change of use from a large single dwelling to a boarding house is thereby considered to have a positive social benefit to the community. The proposed seven (7) rooms are 58% of the potential 12 rooms permitted in the R2 Low Density Residential zone.*
- *The proposed alterations and additions to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.*
- *The extent of the affordable rental housing crisis is illustrated in the following Australian Financial Review and Guardian Australia news articles:*

...

The proposal will provide a suitable design and amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act). The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the minimum lot size variation in this instance.

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

7. 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 underlying objectives of the minimum lot size development standard and R2 low density zone is provided below.

Assessment against objectives of landscaping development standard

For the reasons outlined above, the development is consistent with the objectives of the minimum lot size development standard.

Assessment against objectives of the R2 zone

The objectives of the R2 zone are:

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

Assessing officer's comment: The proposed development will provide for the housing needs of the community, maintain the desired future built form character and encourage affordable housing.

The development is consistent with the objectives of the lot size development standard and the R2 low density Residential zone. Therefore, the development will be in the public interest.

8. 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 minimum lot size standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

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

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	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	The issues raised in the submission have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Non-compliance with the Landscaping Development Standard

Division 2 Clause 24(2)(c) of the Housing SEPP defers to the landscaped open space requirements under Part C2 of Section 2.2 of RDCP 2013. A minimum landscaping requirement of 50% applies to the proposed development. The proposal provided 219m² which represents a departure of 5.95%. The Applicant submitted a Clause 4.6 written request seeking an exception to the development standard under RLEP 2012. The proposal will maintain the existing landscape setbacks to the street frontages and improve the overall landscape regime for the site. The Applicant's Clause 4.6 written request seeking an exception to the development standard is well founded and is therefore supported.

Non-compliance with the Minimum Lot size Development Standard

Division 2 Clause 25(1)(g)(i) of the Housing SEPP establishes a minimum lot size of 600m² for boarding houses in the R2 zone under RLEP 2012. The site has an area of 436.7m² which represents a departure of 22.7%. The Applicant submitted a Clause 4.6 written request seeking an exception to the development standard under RLEP 2012. The proposal would not result in any adverse environmental impacts to the adjoining properties and the site is suitable to accommodate seven boarding rooms with appropriate internal amenity and adequate facilities for the future occupants. The Applicant's Clause 4.6 written request seeking an exception to the development standard is well founded and is therefore supported.

Visual Privacy

Part C2 Section 5.3 of RDCP 2013 establishes the privacy controls for medium density development. The proposed development has the potential for overlooking the adjoining properties to the east and south from the ground floor terrace and upper level windows along the side elevations.

Views are currently attained from the existing terrace across the top of the boundary fence to the rear of the adjoining properties at 139A Rainbow Street and 351 Avoca Street. The adjoining properties are approximately 1m below the subject site. The proposal incorporates an L shaped planter box in the southeastern corner of the rear ground floor terrace, which provides a physical separation of 1m to the southern boundary and 1.8m to the eastern boundary. The planter box will assist in mitigating the potential for overlooking to the rear of the adjoining properties and improve the privacy outcome compared to the existing situation. In addition, a lightweight privacy is proposed on top of the boundary fence.

The configuration and size of the existing window openings along the southern elevation will be retained, although two windows (one at ground and the other at first floor) will be shifted slightly. The upper level window is a highlight configuration and therefore it does not pose a significant privacy risk.

The configuration of existing windows along the eastern elevation will also generally be retained, except for a modification to the size of two windows (one at ground and one at the first floor). The ground floor window will be replaced with a glazed sliding door providing access from boarding room 2 to the adjoining private terrace. The modified first floor window is to a stairwell, which is a circulation space and does not pose a significant privacy risk. In any event, the first floor windows are setback 5m from the eastern boundary and views are to a blank wall and across the top of the roof of the adjacent dwelling. No privacy screening is warranted to the ground or first floor windows along the eastern elevation.

Building Code of Australia

The application is accompanied by a Building Code of Australia (BCA) report, prepared by Western Sydney Building Certifiers, assessing the proposal for compliance with the Deemed to Satisfy Provisions of the BCA. The report concludes that compliance with the BCA can be achieved subject to:

- *All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).*
- *Access and services for people with disabilities shall be provided to the buildings, in accordance with the requirements of the Access to Premises Standard 2010 and the National Construction Code. Detailed plans, documentation and specification must accompany the application for a Construction Certification to the satisfaction of the Certifying Authority.*
- *Pursuant to Clause 64 of the Environmental Planning and Assessment Regulation 2021, all existing areas of the buildings must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):*
 - *Compartmentation and separation – Part C2;*
 - *Construction of exits – Part D2;*
 - *Fire fighting equipment – Part E1;*

- *Smoke hazard management – Part E2;*
- *Emergency lighting, exit signs and warning systems – Part E4;*
- *Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PC be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.*

A condition is included requiring the development to comply with the recommendations in the BCA report.

10. Conclusion

That the application for alterations and additions to existing dwelling house and change of use to a Boarding House containing seven (7) double boarding rooms, with two (2) on-site car parking spaces be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the principles and relevant requirements for Boarding Houses contained within the State Environmental Planning Policy Housing 2021.
- The Clause 4.6 written request seeking an exception to the landscaping development standard under Division 2 Clause 24(2)(c) of State Environmental Planning Policy Housing 2021 is well founded and can be supported.
- The Clause 4.6 written request seeking an exception to the lot size development standard under Division 2 Clause 25(1)(g)(i) of State Environmental Planning Policy Housing 2021 is well founded and can be supported.
- The proposal is consistent with the relevant objectives contained within the Randwick Local Environmental Plan 2012 and the relevant requirements of the Randwick Development Control Plan 2013.
- The proposal is consistent with the specific objectives of the R2 zone under Randwick Local Environmental Plan 2012 in that it will provide for the housing needs of the community, maintain the desired future built form character of the area and encourage affordable housing.
- The scale and design of the proposal is suitable for the location and compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape with improved landscape outcomes along the street frontages.
- The change of use from a large single dwelling to a boarding house will have a positive social benefit to the community.
- The boarding house will add to the stock of affordable housing in the Randwick Local Government Area.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Environmental Health

Council's Environmental Health officer provided the following comments.

Proposed Development:

The use of redevelopment as a boarding house with 7 rooms and associated facilities.

Comments:

Management Plan:

A Management Plan submitted with this application has been noted.

Land Contamination:

Based on the historical use of the site the SEE has confirmed there is no evidence of contamination, and the current use is a residential premises and historically used as such.

Acoustics

Acoustic report prepared by Koikas Acoustics dated 11/4/2023 provides design recommendations in section 5.6 and operational recommendations in section 6.4.1.

6.4.1 General Recommendations

- *Time limits are to be placed such that the outdoor communal area (patio) is not to be occupied after 10 pm and/or before 8 am.*
- *The Northern window in the communal living area is to remain closed during the Evening and Night times (between the hours of 6 pm and 7 am, or between 6 pm and 8 am on Sundays and Public holidays).*
- *The Western sliding door in the communal living area is to remain closed during the Night time (between the hours of 10 pm and 7 am, or between 10 pm and 8 am on Sundays and Public holidays)*
- *All glazing areas in the communal living area are to be constructed with a minimum of 6.38 mm laminated glass.*
- *All glazing and window areas should be installed as per the recommendations provided in Section 5.6.3 of this Report.*
- *Music is not to be played in the outdoor communal area (patio).*
- *Music and the TV will be played at a level upon which general conversation between residents can be readily overheard. A reasonable decibel level would be a spatially averaged LAeq 70 dB.*
- *Signs should be placed in the communal open spaces reminding occupants to manage their noise levels in consideration of the surrounding residential neighbours*

Appropriate conditions have been included in this report.

1.2. Development Engineer

Council's Environmental Development Engineer provided the following comments.

General Comments

The issues previously raised by Development Engineering in email dated 1st September 2023 have been satisfactorily addressed by the amended plans. No further objections are raised to the development subject to the comments and conditions provided in this report.

Parking Provision Comments

Under Clause 68 (e) Part 3 of State Environmental Planning Policy (Housing) 2021 being a non-discretionary standard, parking is to be provided for boarding houses (Co Living) at the following rates unless a relevant planning instrument specifies a lower number;

- (i) *For development on land in an accessible area – 0.2 parking spaces for each private room, or*
- (ii) *Otherwise – 0.5 parking spaces for each private room.*

An accessible area is defined as

For the amended proposal comprising of 7 boarding rooms and within an accessible area.;

*Parking Required = 0.2 x 7
 = 1.4
 = say 2 spaces*

Parking Proposed = 2 spaces (complies)

The proposed development will not increase parking demand on the site above the two spaces already being generated by the existing 5 bedroom dwelling which has been provided for in the proposed development.

Motorbike and bicycle Parking

The housing SEPP does not specify a specific rate for motorbike and bicycle parking . Clause 69 (h) of the Housing SEPP 2021 being standards for Co-living Housing states;

(h) The co-living housing will include adequate bicycle and motorcycle parking spaces

Notwithstanding, Part B7 of the Randwick DCP does specify the following rates for boarding houses;

- *1 motorcycle space per 5 rooms*
- *1 bike space per 2 rooms + 1 visitor space per 10 rooms*

As the number of boarding rooms is now 7 this will require the provision of 4 bicycle and 1 motorbike spaces when rounded.

The submitted amended plans now demonstrate compliance with this requirement and are satisfactory.

Parking Layout Comments

The car and motorbike spaces comply with the minimum dimensions required by Australian standard 2890.1

It is a little unclear how the motorbike spaces will be accessed when the two vehicle spaces are occupied. As the garage is over 5.8m long internally there may be sufficient room to access the vehicle access doors from the motorbike spaces behind parked vehicles. Alternatively, the sliding gate opening, which appears to be 1.2m wide (wide enough for a motorbike) , may be used however this is not directly opposite the vehicle crossing which cannot be widened due to the presence of a Council Street tree. Notwithstanding the path of travel from this gate would only involve an approximate 1.5m length on the Council footpath before accessing the crossing, this is not considered critical and can be accepted in this instance

In consideration of these aspects there are no further objections to the development from a parking perspective.

Drainage Comments

Stormwater runoff from the (redeveloped portion) site shall be discharged either:

- a) *To the kerb and gutter along the site frontage by gravity (preferably without the use of a*

charged system); OR

b) To a suitably sized infiltration area.

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

Waste Management Comments

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

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

Comments on the number of Waste Bins

Council's Waste Management guidelines specify the following waste generation rates for boarding houses in Appendix A page A3 .

- 9L per occupant per day for normal garbage (red lid)
- 3L per occupant per day for recycling (yellow lid)

There are no specific requirements for green waste however since March of 2021 Council has introduced a Garden Organic Food organic (FOGO) collection service. The general rate adopted for residential development is 1 x 240L FOGO bin per 12 rooms.

There has also been some diversion from normal garbage to FOGO hence a reduced rate of

- 7L per occupant per day has been adopted for garbage (red lid)

For normal garbage and assuming worst case of all rooms having two occupants (being a total of 14 occupants). Assuming weekly collection for garbage the waste generated is;

*Waste Generation (garbage) = 14 x 7 x 7 (weekly)
= 686L*

Number of 240L bins required = 686/240 = 2.85 = 3 x 240L bins (red lid)

For recycling and assuming worst case of all rooms will have two occupants (being a total of 14 occupants and assuming fortnightly collection).

*Waste Generation (garbage) = 14 x 3 x 14 (fortnightly)
= 588L*

Number of 240L bins required = 588/240 = 2.45 = 3 x 240L bins (yellow lid)

*Total Number of BINS required = 3 (normal) + 3(recycling) + 1(FOGO)
= 7 x 240L BINS*

Total Number of BINS provided = Provision for 9 bins (satisfactory)

Landscape Comments

There is a row of three established, 6-10m tall Lophostemon confertus (Brush Box) on the Rainbow Street verge, comprising one just past the eastern site boundary and existing driveway, in front of the neighbouring site at no. 139A, then back directly in front of this development site, one just to the west of the vehicle crossing, and then one more towards the corner of Avoca Street, which are all automatically protected by the DCP, and as they are also part of a single species avenue planting along both sides of the street, as a group, are recognised as the main feature of the streetscape, so need to remain.

Both the eastern aspect of the central tree and the western aspect of the eastern tree have already been cleared away from the domestic wires that connect near the eastern site boundary, and as this area is directly above the driveway, further clearance pruning to allow for the works does not appear necessary.

While there are no new external works along this frontage that would pose a direct threat to their preservation, minor protection measures still need to be imposed to avoid secondary impacts such as damage by trucks, deliveries and similar, especially as this area will be the main point of access during works.

The other two similarly sized Gum Trees around on the Avoca Street verge, being one centrally across the width of this frontage then one more just past the southern boundary have both had their eastern aspects heavily lopped away from the overhead wires, but as they will remain unaffected given their distance from both the access and all works, no conditions are needed.

Within the front setback of this development site, in a dedicated stone bordered garden bed, right in the northwest corner, are two mature, 8m tall co-joined Hibiscus tiliaceus (Cottonwoods), which are also protected by the DCP and provide valuable visual and acoustic screening and privacy from the busy intersection and public domain.

The plans show the pedestrian gate will be relocated from its current position against the western wall of the existing garage to now be placed just to the east of these trees, with an internal ramp to then also be provided, and while the Architectural Plans show them as being retained in-situ, the Landscape Plans then propose their removal and replacement with new trees and other planting.

However, any works associated with the new gate opening will be in an area that is already occupied by the existing brick fence, so no impacts would result from this component, with the same also applying to the internal access ramp given its distance away and the fact it is regarded as a minor scope of works.

As such, there are not seen to be any valid reasons or justification to support their removal, particularly given their importance and function at this prominent location, and as such, relevant conditions requiring their retention have been imposed in this report.

Still in this front setback, to the south of those described above, along the southern boundary, and directly adjacent the southwest corner of the existing dwelling/porch is a mature Eucalyptus sp (Gum Tree) of poor health and condition as its eastern aspect has been heavily and repeatedly cleared away from the house which has affected its form and balance/stability.

The same as what was described above also applies here, in that despite the Architectural Plans showing its retention, the Landscape Plans then contradict this by nominating it for removal, presumably to allow for the new bin storage area to be provided in this same location.

However, the situation and circumstances with this tree are vastly different to the two Hibiscus discussed above as its location within a 2 metres radius of the western elevation of the house (scaled off the survey to be only 1.25m) automatically makes it exempt from the DCP, meaning that conditions formally requiring its protection/retention cannot be legally imposed as it is already eligible for removal at any time, without consent, even irrespective of these works.

D74/24

So, in this case, no objections can be raised to its removal as shown, with the replacement feature shown just to its west deemed to provide suitable compensation, with the other plantings indicated for elsewhere throughout the site to provide a superior outcome for future occupants in terms of the quality of open space and quantity of canopy trees provided.

D74/24

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

Clause 4.6 (Minimum Landscaped Area)

349 Avoca Street Randwick

**CLAUSE 4.6 VARIATION REQUEST TO MINIMUM LANDSCAPED AREA DEVELOPMENT
STANDARD PURSUANT TO PART 2 DIVISION 2 BOARDING HOUSES OF STATE
ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021**

349 AVOCA STREET RANDWICK

*Alterations and additions to an existing dwelling house with change of use to a Boarding House
containing seven (7) double boarding rooms, with two (2) on-site garage car parking spaces*

PREPARED BY

ABC PLANNING PTY LTD

JULY 2024

*Clause 4.6 (Minimum Landscaped Area)**349 Avoca Street Randwick*

**CLAUSE 4.6 VARIATION REQUEST TO MINIMUM LANDSCAPED AREA DEVELOPMENT
STANDARD PURSUANT TO PART 2 DIVISION 2 BOARDING HOUSES OF STATE
ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021**

This Clause 4.6 variation request has been prepared to accompany the Development Application that seeks the alterations and additions and refurbishment to an existing dwelling house with change of use to a Boarding House containing seven (7) double boarding rooms, with two (2) on-site garage car parking spaces, at Lot 1 in DP 1261732, commonly known as No. 349 Avoca Street, Randwick.

The proposed boarding house development is permissible pursuant to Part 2 Division 2 Boarding Houses of State *Environmental Planning Policy (Housing) 2021* (Housing SEPP), as boarding houses are permissible in the R2 Low-Density Housing Zone, pursuant to *Randwick Local Environmental Plan, 2012* (RLEP2012), and the site is in an accessible area.

The proposal seeks the alterations and additions to an existing dwelling house for change of use to a Boarding House containing seven (7) double boarding rooms, with two (2) on-site garage car parking spaces. The proposal, as described in the accompanying plans, includes the following:

- Partial internal demolition and reconfiguration of the existing dwelling house containing seven (7) double bedrooms
- Landscaping
- Alterations and additions plus refurbishment development to provide seven (7) boarding rooms with communal rooms, including:

Ground Floor Level

- 3 x double boarding rooms, each with kitchenette, plus ensuite, and laundry facilities
- 56m² communal living room
- 146m² communal open space
- Entrance lobby
- Garbage room
- Clothes drying facilities
- 2 x garage car parking spaces
- 2 x motorcycle parking spaces
- 5 x bicycle storage spaces
- Stair access
- Outdoor seating.

Level 1

- 4 x double boarding rooms, each with kitchenette, plus ensuite, and laundry facilities
- Stair access.

Clause 4.6 (Minimum Landscaped Area)349 Avoca Street Randwick

The proposal results in non-compliance with Section 24(2) (c) - Standards for Boarding Houses within Division 2 Boarding Houses of the Housing SEPP, which requires development on land in Zone R2 Low-Density Residential to provide the minimum landscaping requirements for multi-dwelling housing under a relevant planning instrument. In this regard, Part C2, Medium Density Residential of the Randwick DCP 2013, requires multi-dwelling housing to provide a minimum of 50% of the site area as landscaped open space.

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 Housing SEPP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the Randwick LEP 2012:

Clause 4.6 Exceptions to development standard

(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 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.

Note—

The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,

Clause 4.6 (Minimum Landscaped Area)349 Avoca Street Randwick

(c) clause 5.4,
 (caa) clause 5.5,
 (ca) clause 6.16(3)(b)

This Clause 4.6 variation has been prepared in accordance with the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023. This Clause 4.6 variation request outlines the nature of the exceedance to the minimum landscaped area development standard and provides an assessment of the relevant matters in Clause 4.6 of the Randwick LEP 2012.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to the minimum landscaped area is unreasonable or unnecessary in the circumstances and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying Clause 4.6(3) of the Randwick LEP 2012. This Clause 4.6 variation request also demonstrates that the proposed development will be consistent with the objectives of the minimum landscaped area development standard and the zoning of the site.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Section 24(2) (c) - Standards for Boarding Houses within Division 2 Boarding Houses of the Housing SEPP, which requires development on land in Zone R2 Low-Density Residential to provide the minimum landscaping requirements for multi-dwelling housing under a relevant planning instrument. In this regard, Part C2, Medium Density Residential of the Randwick DCP 2013, requires multi-dwelling housing to provide a minimum of 50% of the site area as landscaped open space.

The proposal is for 47% (219m²) of the site to be provided as landscaped area, being a minor 5.95% (13.85m²) variation from the 50% (232.85m²), pursuant to the Housing SEPP and Part C2 Medium Density Residential provisions of the Randwick DCP 2013.

Justification for Contravention of the Development Standard

This Clause 4.6 variation 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:

4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

5-Part test

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-Part Test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The 5-Part Test is summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

1. **objectives of the development standard are achieved notwithstanding the non-compliance**
2. *underlying objective or purpose is not relevant to the development*
3. *underlying objective or purpose would be defeated or thwarted if compliance was required*
4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
5. *zoning of the land on which the development is proposed was unreasonable or inappropriate.*

An applicant only needs to satisfy at least one part of the 5-Part Test, not all 5 parts.

Assessment: Despite the non-compliance with the minimum landscaped area development standard, the proposal is consistent with the principles of the Housing SEPP and the Randwick LEP 2012 zoning, demonstrated as follows:

Table 1: Consistency with the Principles of the Housing SEPP Policy, notwithstanding the 7% (32.48m²) minimum landscaped area variation

<i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i>	The variation to the minimum landscaped area facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people.
<i>(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,</i>	The variation will facilitate the provision of affordable housing. Registered housing provider Evolve Housing will manage the seven (7) boarding rooms, which will provide housing to vulnerable members of the community.
<i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i>	The variation to the minimum landscaped area requirement does not compromise the ability to provide a reasonable level of amenity that will be afforded to the residents. A reasonable level of amenity is afforded through the provision of compliant, sunlight, cross ventilation, communal open space, and communal living areas, boarding room sizes, and parking. Furthermore, the proposal outperforms the 25% deep soil area of the multi-dwelling housing provision of Part C2 of the DCP.
<i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i>	The variation in the minimum landscaped area enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east) and major centre shopping facilities (Westfield Bondi Junction, plus Royal Randwick shopping centre) Randwick and Kingsford Light Rail Stations, plus Prince of Wales Hospital. On this basis, the variation in the minimum landscaped area will provide for the delivery of affordable housing where established infrastructure and services are located.

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<i>(e) minimising adverse climate and environmental impacts of new housing development,</i>	The modest nature of the development will not generate any adverse climate or environmental impacts. Given the retained front, side, and rear setbacks, along with retained compliant building height and FSR, solar access is retained to the existing dwellings to the south and east. On this basis, the minimum landscaped area variation will not be responsible for any adverse climate and environmental impacts.
<i>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</i>	The minimum landscaped area variation enables the alterations and additions, including partial internal demolition of the existing two-storey dwelling house and the reconfiguration and change of use to provide a two-storey boarding house development with seven (7) double boarding rooms. In this regard, the existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.
<i>(g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,</i>	N/A
<i>(h) mitigating the loss of existing affordable rental housing.</i>	The proposed alterations and additions to a dwelling house plus change of use development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of affordable housing available in the locality, contributing to improved housing choice and affordability.

Compliance with the Key Non-Discretionary Standards

Assessment: Variation to the minimum landscaped area does not compromise the ability of the site to achieve compliance with other key design and amenity criteria, including:

- FSR
- Solar access
- Communal living area
- Communal open space
- Boarding room size and dimensions
- Parking.

Absence of Unreasonable Impact from the Variation

Assessment: The proposed minimum landscaped area variation is not responsible for any unreasonable external impacts on the streetscape, public domain, or any adjoining property's amenity. In this regard, the retained siting and design of the built form on the subject site does not unreasonably generate any additional adverse amenity impacts in relation to:

- Visual bulk and scale
- Overshadowing
- Visual or acoustic privacy
- Loss of views
- Parking.

Despite the non-compliance, the proposal achieves the objectives of the zoning, as demonstrated in the following tables:

Table 2: Assessment against the Objectives of the Development Standard and Land Use zone

Consistency with the objectives of the Standard	
Objectives	Assessment
Nil	N/A
Consistency with the objectives of the R2 Low Density Residential Zone	
Objectives	Assessment
<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.• To enable small-scale business uses in existing commercial buildings.	<p>The proposed minimum landscaped area variation does not conflict with the zone objectives as it enables the provision of affordable housing in the form of seven (7) boarding rooms within a low-density residential environment.</p> <p>The existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.</p> <p>The proposed alterations and additions to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.</p> <p>The variation in the minimum landscaped area enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east), major centre shopping facilities (Westfield Bondi Junction and Royal Randwick shopping centre), Randwick and Kingsford Light Rail Stations, and Prince of Wales Hospital. On this basis, the variation in the minimum landscaped area will provide for the delivery of affordable housing where established infrastructure and services are located.</p>

4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The scope of environmental planning grounds is wide, as exemplified by the court cases (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [10]).

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

- High degree of compliance with the key development standards
- Compliance with the 25% deep soil area requirement of the multi-dwelling housing provisions of Part C2 of the Randwick DCP 2013.
- Absence of unreasonable impact from the variation
- The proposal still achieves the objectives of the R2 Low-density residential zone and that of the development standard
- Notwithstanding the minimum landscaped area variation, the proposed boarding house represents an orderly and economical use of the site, with no adverse environmental impacts above and beyond that of a compliant landscaped area
- The minor variation to the minimum landscaped area facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people
- The proposed alterations and additions development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.
- The extent of the affordable rental housing crisis is illustrated in the following Australian Financial Review and Guardian Australia news articles:

<https://www.afr.com/politics/federal/unprecedented-rental-crisis-may-lead-to-essential-worker-exodus-20230405-p5cy7x>

<https://www.theguardian.com/australia-news/2023/mar/24/early-career-essential-workers-unable-to-afford-house-prices-anywhere-in-sydney-and-melbourne>

The proposal will provide a suitable design and amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act). The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the minimum landscaped area variation in this instance.

Conclusion

This Clause 4.6 variation request is considered to adequately address the relevant matters under Clause 4.6. It demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances (Clause 4.6(3)(a)) and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

The proposal is consistent with the objects of Section 1.3 of the EP&A Act by promoting the following:

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- delivery and maintenance of affordable housing (Section 1.3(d))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3(g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

The proposed development will be in the public interest because it is consistent with the objectives of the minimum landscaped area development standard under Randwick LEP 2012.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at No. 349 Avoca Street, Randwick and is requested to be looked upon favourably by the consent authority.

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**CLAUSE 4.6 VARIATION REQUEST TO MINIMUM LOT SIZE DEVELOPMENT STANDARD
PURSUANT TO PART 2 DIVISION 2 BOARDING HOUSES OF STATE ENVIRONMENTAL
PLANNING POLICY (HOUSING) 2021**

349 AVOCA STREET RANDWICK

*Alterations and additions to an existing dwelling house with change of use to a Boarding House
containing seven (7) double boarding rooms, with two (2) on-site garage car parking spaces*

PREPARED BY

ABC PLANNING PTY LTD

JULY 2024

Clause 4.6 (Minimum Lot Size)349 Avoca Street Randwick

**CLAUSE 4.6 VARIATION REQUEST TO MINIMUM LOT SIZE DEVELOPMENT STANDARD
PURSUANT TO PART 2 DIVISION 2 BOARDING HOUSES OF STATE ENVIRONMENTAL
PLANNING POLICY (HOUSING) 2021**

This Clause 4.6 variation request has been prepared to accompany the Development Application, which seeks to alter, add to, and refurbish an existing dwelling house with a change of use to a Boarding House containing seven (7) double boarding rooms and two (2) on-site garage parking spaces at Lot 1 in DP 1261732, commonly known as No. 349 Avoca Street, Randwick.

The proposed boarding house development is permissible pursuant to Part 2 Division 2 Boarding Houses of *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), as boarding houses are permissible in the R2 Low-Density Housing Zone, pursuant to *Randwick Local Environmental Plan, 2012* (RLEP2012), and the site is in an accessible area.

The proposal seeks alterations and additions to an existing dwelling house for a change of use to a boarding house containing seven (7) double boarding rooms, with two (2) on-site garage car parking spaces. The proposal, as described in the accompanying plans, includes the following:

- Partial internal demolition and reconfiguration of the existing dwelling house containing seven (7) double bedrooms
- Landscaping
- Alterations and additions plus refurbishment development to provide seven (7) boarding rooms with communal rooms, including:

Ground Floor Level

- 3 x double boarding rooms, each with a kitchenette, plus ensuite and laundry facilities
- 56m² communal living room
- 146m² communal open space
- Entrance lobby
- Garbage room
- Clothes drying facilities
- 2 x garage car parking spaces
- 2 x motorcycle parking spaces
- 5 x bicycle storage spaces
- Stair access
- Outdoor seating.

Level 1

- 4 x double boarding rooms, each with a kitchenette, plus ensuite and laundry facilities
- Stair access.

The proposal results in non-compliance with Section 25 (g) - Standards for Boarding Houses within Division 2 Boarding Houses of the Housing SEPP, which requires a minimum lot size of 600m² for land in an R2 Low-Density Residential zone. 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 Housing SEPP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the Randwick LEP 2012:

Clause 4.6 Exceptions to development standard

(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 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.

Note—

The *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 6.16(3)(b)

This Clause 4.6 variation has been prepared in accordance with the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023.

This Clause 4.6 variation request outlines the nature of the exceedance to the minimum lot size development standard. It provides an assessment of the relevant matters in Clause 4.6 of the Randwick LEP 2012.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to minimum lot size is unreasonable or unnecessary in the circumstances and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying Clause 4.6(3) of the Randwick LEP 2012. This Clause 4.6 variation request also demonstrates that the proposed development will be consistent with the objectives of the minimum lot size development standard and the zoning of the site.

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Section 25 (g)—Standards for Boarding Houses within Division 2 Boarding Houses of Housing SEPP, which requires a minimum lot size of 600m² for land in the R2 Low-Density Residential zone.

The proposal is for a 463.7m² lot size, with a 22.7% (136.3m²) variation from the minimum lot size numerical development standard of 600m², pursuant to the Housing SEPP.

Justification for Contravention of the Development Standard

This Clause 4.6 variation 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:

4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

5-Part test

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-Part Test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The 5-Part Test is summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

- 1. objectives of the development standard are achieved notwithstanding the non-compliance**
- 2. underlying objective or purpose is not relevant to the development**

Clause 4.6 (Minimum Lot Size)349 Avoca Street Randwick

3. *underlying objective or purpose would be defeated or thwarted if compliance was required*
4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*
5. *zoning of the land on which the development is proposed was unreasonable or inappropriate.*

An applicant only needs to satisfy at least one part of the 5-Part Test, not all five parts.

Assessment: Despite the non-compliance with the minimum lot size development standard, the proposal is consistent with the principles of the Housing SEPP development standard and the Randwick LEP 2012 zoning, as demonstrated in the following tables:

Table 1: Consistency with the Principles of the Housing SEPP Policy, notwithstanding the 22.7% (136.3m2) lot size variation

<i>(a) enabling the development of diverse housing types, including purpose-built rental housing,</i>	The variation to the minimum lot size facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people.
<i>(b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,</i>	The variation will facilitate the provision of affordable housing. Registered housing provider Evolve Housing will manage the seven (7) boarding rooms, which will provide housing to vulnerable members of the community.
<i>(c) ensuring new housing development provides residents with a reasonable level of amenity,</i>	The variation to the minimum lot size requirement does not compromise the ability to provide a reasonable level of amenity for the residents. This amenity is afforded through the provision of compliant sunlight, cross ventilation, communal open space, communal living areas, boarding room sizes, and parking.
<i>(d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,</i>	The variation in the minimum lot size enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east) and major centre shopping facilities (Westfield Bondi Junction, plus Royal Randwick shopping centre) Randwick and Kingsford Light Rail Stations, plus Prince of Wales Hospital. On this basis, the variation in the minimum lot size will provide for the delivery of affordable housing where established infrastructure and services are located.
<i>(e) minimising adverse climate and environmental impacts of new housing development,</i>	The modest nature of the development will not generate any adverse climate or environmental impacts. Given the retained front, side, and rear setbacks, along with retained compliant building height and FSR, solar access is retained to the existing dwellings to the south and east. On this basis, the minimum lot size variation will not be responsible for any adverse climate and environmental impacts.
<i>(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,</i>	The minimum lot size variation enables the alterations and additions, including partial internal demolition of the existing two-storey dwelling house and the reconfiguration and change of use to provide a two-storey boarding house development with seven

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	(7) double boarding rooms. In this regard, the existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.
(g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,	N/A
(h) mitigating the loss of existing affordable rental housing.	The proposed alterations and additions to a dwelling house plus change of use development to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of affordable housing available in the locality, contributing to improved housing choice and affordability.

Compliance with the Key Non-Discretionary Standards

Assessment: Variation to the minimum lot size does not compromise the ability of the site to achieve compliance with other key design and amenity criteria, including:

- FSR
- Solar access
- Communal living area
- Communal open space
- Boarding room size and dimensions
- Parking.

Absence of Unreasonable Impact from the Variation

Assessment: The proposed minimum lot size variation is not responsible for any unreasonable external impacts on the streetscape, public domain, or any adjoining property's amenity. In this regard, the retained siting and design of the built form on the subject site does not unreasonably generate any additional adverse amenity impacts in relation to:

- Visual bulk and scale
- Overshadowing
- Visual or acoustic privacy
- Loss of views
- Parking.

Despite the non-compliance, the proposal achieves the objectives of the zoning, as demonstrated in the following tables:

Table 2: Assessment against the Objectives of the Development Standard and Land Use zone

Consistency with the objectives of the Standard	
Objectives	Assessment
Nil	N/A
Consistency with the objectives of the R2 Low Density Residential Zone	
Objectives	Assessment
<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.To enable small-scale business uses in existing commercial buildings.	<p>The proposed minimum lot size variation does not conflict with the zone objectives, as it enables the provision of affordable housing in the form of seven (7) boarding rooms within a low-density residential environment.</p> <p>The existing built form is essentially retained, which, along with new landscaping within the site, will add to the long-term visual amenity and scenic quality of the surroundings and make a positive visual impact on the streetscape over time.</p> <p>The proposed alterations and additions to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.</p> <p>The variation in the minimum lot size enables the provision of seven (7) high-quality boarding rooms located within walking distance of bus services, recreation areas (Bangor Park is 700m to the east), major centre shopping facilities (Westfield Bondi Junction and Royal Randwick shopping centre), Randwick and Kingsford Light Rail Stations, and Prince of Wales Hospital. On this basis, the variation in the minimum lot size will provide for the delivery of affordable housing where established infrastructure and services are located.</p>

4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The scope of environmental planning grounds is wide, as exemplified by the court cases (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [10]).

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

- High degree of compliance with the key development standards
- Absence of unreasonable impact from the variation
- The proposal still achieves the objectives of the R2 Low-density residential zone and that of the development standard
- Notwithstanding the minimum lot size variation, the proposed boarding house represents an orderly and economical use of the site, with no adverse environmental impacts above and beyond that of a compliant lot size
- The minor variation to the minimum lot size facilitates the provision of affordable housing in the form of a boarding house, with the proposal for seven (7) double boarding rooms capable of accommodating 14 people. One of the objectives of the R2 zoning is to encourage housing affordability. Housing affordability is a current issue, particularly for essential workers. The subject site is located in close proximity to UNSW and Prince of Wales Hospital, both of which are regional facilities with significant numbers of key workers. The change of use from a large single dwelling to a boarding house is thereby considered to have a positive social benefit to the community. The proposed seven (7) rooms are 58% of the potential 12 rooms permitted in the R2 Low Density Residential zone.
- The proposed alterations and additions to provide a seven (7) boarding room development capable of accommodating 14 lodgers will increase the stock and range of housing available in the locality, contributing to improved housing choice and affordability.
- The extent of the affordable rental housing crisis is illustrated in the following Australian Financial Review and Guardian Australia news articles:

<https://www.afr.com/politics/federal/unprecedented-rental-crisis-may-lead-to-essential-worker-exodus-20230405-p5cy7x>

<https://www.theguardian.com/australia-news/2023/mar/24/early-career-essential-workers-unable-to-afford-house-prices-anywhere-in-sydney-and-melbourne>

The proposal will provide a suitable design and amenity in terms of the built environment and represent the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act). The building envelope and design of the proposal respond appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the minimum lot size variation in this instance.

Conclusion

This Clause 4.6 variation request is considered to adequately address the relevant matters under Clause 4.6. It demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances (Clause 4.6(3)(a)) and that there are sufficient

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environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

The proposal is consistent with the objects of Section 1.3 of the EP& A Act by promoting the following:

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- delivery and maintenance of affordable housing (Section 1.3(d))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

The proposed development will be in the public interest because it is consistent with the objectives of the minimum lot size development standard under Randwick LEP 2012.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at No. 349 Avoca Street, Randwick and is requested to be looked upon favourably by the consent authority.

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Appendix 3: DCP Compliance Table

3.1 Section B6: Recycling and Waste Management

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
4.	On-Going Operation		
	(iv) Locate and design the waste storage facilities to visually and physically complement the design of the development. Avoid locating waste storage facilities between the front alignment of a building and the street where possible.	The waste bins are located within the front alignment along Avoca Street. The provision of a waste area at the front is acceptable given the existing constraints.	No, acceptable on merit.
	(v) Locate the waste storage facilities to minimise odour and acoustic impacts on the habitable rooms of the proposed development, adjoining and neighbouring properties.	The waste area will be appropriately screened and located away from the habitable rooms of the adjacent dwelling.	Yes
	(vi) Screen the waste storage facilities through fencing and/or landscaping where possible to minimise visual impacts on neighbouring properties and the public domain.	The waste storage area will be screened with timber battens.	Yes
	(vii) Ensure the waste storage facilities are easily accessible for all users and waste collection personnel and have step-free and unobstructed access to the collection point(s).	The waste area will be easily accessible from the boarding rooms and level access available to the collection point on the street.	Yes
	(viii) Provide sufficient storage space within each dwelling / unit to hold a single day's waste and to enable source separation.	Each boarding room is capable of providing space for a bin	Yes
	(ix) Bin enclosures / rooms must be ventilated, fire protected, drained to the sewerage system and have lighting and water supply.	Outdoor bin area proposed	NA

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3.	Parking & Service Delivery Requirements		
	Car parking requirements: <ul style="list-style-type: none"> 1 per 5 boarding room 1 per resident manager 	2 provided	Yes

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	Motorcycle requirements: adequate number required under the SEPP.	2 provided	Yes
4. Bicycles			
	Bicycle requirements: adequate number required under the SEPP.	5 provided	Yes

3.3 Section C4: Boarding houses

DCP Clause	Controls	Proposal	Compliance
1	Building Design		
	<p>Boarding rooms <i>Orientate to receive the maximum amount of sunlight.</i></p> <p><i>Provide a balcony, terrace or window opening to outdoor areas for natural light and ventilation; and</i></p> <p><i>Where provided, private open space in the form of a balcony or terrace must have a minimum useable area of 4 square metres</i></p>	<p>All boarding rooms will receive adequate sunlight at mid-winter.</p> <p>All boarding rooms will have adequate light and ventilation through balcony/terrace and window openings.</p> <p><i>Ground Level</i> Boarding Room 2 will have direct access to a private terrace.</p> <p>Bedrooms 1 and 3 will have indirect access to a communal porch.</p> <p><i>First Floor</i> Bedrooms 5 and 6 will have direct access to a private balcony.</p>	Yes
	<p>Outdoor Communal Open Space <i>Provide for all boarding houses, with a minimum total area of 20 square metres and a minimum dimension of 3 metres;</i></p> <p><i>Provide at ground or podium level in the form of a courtyard or terrace area, accessible to all residents; Locate and orientate to maximise solar access;</i></p> <p><i>Incorporate both hard and soft landscaped areas;</i></p>	<p>127m² and minimum dimension of 3m.</p> <p>The communal open space is located at ground level along the northern setback area of the site.</p> <p>The communal open space includes deep soil landscape area and a covered hardstand terrace.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>Provide shared facilities such as fixed outdoor seating benches, barbecues and the like to allow social interaction; and</i></p> <p><i>Provide partial cover for weather protection, such as pergola, canopy or the like, where it does not cause unreasonable overshadowing on adjoining properties.</i></p>	<p>Table and seating provided.</p> <p>Partial cover provided by balcony above.</p>	<p>Yes</p> <p>Yes</p>
	<p>Indoor Communal Facilities <i>Provide with a minimum dimension of 3 metres and a minimum total area of 20 square metres or 1.2 square metres/resident, whichever is greater (48m²); and</i></p> <p><i>Orientate to maximise solar access and have a northerly aspect where possible.</i></p>	<p>32m² for 14 residents.</p> <p>The communal outdoor space is located on the northern side of the building.</p>	<p>Yes</p>
	<p>Communal Kitchen Bathroom and Laundry Facilities <i>For all boarding houses, provide communal kitchen, bathroom and laundry facilities where they are easily accessible for all residents, unless these facilities are provided within each boarding room;</i></p> <p><i>For development of over 12 boarding rooms without en suite bathrooms, provide separate bathroom facilities for male and female residents;</i></p> <p><i>Locate and design any communal laundry room to minimise noise impact on boarding rooms and neighbouring properties; and</i></p> <p><i>Where possible, locate clothes lines to maximise solar access while not compromising the street amenity or usability of communal open space.</i></p>	<p>Bathrooms are provided in each room</p> <p>A communal kitchen is provided in the ground level communal room.</p> <p>A plan of management accompanies the DA.</p> <p>No communal laundry</p> <p>Drying areas with solar access is located at the rear of the site.</p>	<p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p>
	<p>Safety and Crime Prevention <i>Locate building entry points and internal entries to living areas where they are clearly visible from common spaces;</i></p> <p><i>Locate a habitable living area (such as lounge room, kitchen, dining or bedroom) to allow general observation of the street and communal open space;</i></p> <p><i>Separate ground level private open space from public and common areas by measures such as open fencing or low-level plants; and</i> <i>Select trees and low-lying shrubs that do not interfere with sight lines nor provide opportunities for concealment or entrapment.</i></p>	<p>The design of the boarding house incorporates measures in accordance with CPTED principles such as natural surveillance, access control and space management.</p>	<p>Yes</p>
	Visual and Acoustic Amenity and Privacy		

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DCP Clause	Controls	Proposal	Compliance
	<p><i>Indicative locations of facilities and appliances for bathrooms, kitchens and laundries must be clearly shown on the DA plans/drawings;</i></p> <p><i>Locate kitchen, dining room, lounge room and outdoor open space adjacent to or directly accessible from each other;</i></p> <p><i>Locate similar uses (such as bedrooms or bathrooms) back-to-back, to minimise internal noise transmission;</i></p> <p><i>Provide screen fencing, plantings and acoustic barriers where practicable to screen noise and reduce visual impacts;</i></p> <p><i>Where possible locate the main entry point at the front of the site, away from the side boundary and adjoining properties;</i></p> <p><i>Locate communal open space, balconies and windows to bedrooms or communal areas, to minimise overlooking, privacy and acoustic impacts on adjoining properties.</i></p> <p><i>An acoustic report prepared by a suitably qualified acoustic consultant must be submitted for new development or conversions /intensifications with an increase in resident numbers. The report must: establish the existing background noise levels; identify all potential noise sources from the operation of the premises, including any mechanical plant and equipment; estimate the level of potential noise emission; establish desirable acoustics performance criteria; and recommend any mitigation measures (such as sound proofing construction and/or management practices) required to achieve relevant noise criteria.</i></p>	<p>The acoustic and visual privacy of adjoining residential property will be mitigated by provision of a planter box to the terrace at ground level. The upper level windows do not pose a significant privacy risk due to generous setback to the boundaries and high level configuration above the floor level.</p> <p>Main entry point is located along the Avoca Street frontage.</p> <p>The communal open space is located along the Rainbow Street frontage.</p> <p>An Acoustic report was submitted with the application. Council's Environmental Health officer raised no objection to the proposal in terms of noise impacts.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>Management Plan</p> <p><i>Submit a Management Plan with all DAs for new and existing boarding houses, that addresses the general requirements outlined in the Management Plan section in Part B, and the following specific requirements:</i></p> <p><i>Criteria and process for choosing residents. Preference should be given to people on low and moderate incomes;</i></p>	<p>The applicant has provided a plan of management that accompanies the application.</p> <p>The boarding house will be managed by a registered Community Housing provider.</p>	<p>Yes</p> <p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	<p><i>A schedule detailing minimum furnishings for boarding rooms, provision of facilities and appliances for kitchens, bathrooms and laundry rooms and maximum occupancy of each room;</i></p> <p><i>House rules, covering issues such as lodger behaviour, visitor and party policies, activities and noise control, use and operation hours of common areas (e.g. communal open space and living rooms) and policies for regulating smoking and consumption of alcohol and illicit drugs;</i></p> <p><i>Professional cleaning and vermin control arrangements for at minimum, the shared facilities, such as kitchens and bathrooms;</i></p> <p><i>Public notice and signs, including:</i></p> <p><i>A sign showing the name and contact number of the manager/caretaker, placed near the front entry and in a visible position to the public; Clear display of fixed room identification number for each boarding room; and Internal signage prominently displayed in each boarding room and/or communal living areas informing maximum number of lodgers per room, house rules, emergency contact numbers for essential services, annual fire safety statement and current fire safety schedule and emergency egress routes and evacuation plan.</i></p> <p><i>The manager/caretaker must maintain an up-to-date accommodation register with information on residents' details, length of stay, etc. and provide to Council officers upon request.</i></p>	<p>No individual furniture is permitted.</p> <p>This is addressed in the Plan of Management.</p> <p>This is addressed in the Plan of Management.</p> <p>This is addressed in the Plan of Management.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Conditional.</p>

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As there are no specific envelope controls that apply to boarding houses such as setbacks, wall height etc., the relevant provisions of Part C2 of the RDCP, which control the building design of medium density residential development can be used as a guide. However, the proposed development involves the conversion of the existing dwelling into a boarding house, resulting in no change to the existing building envelope in terms of height, bulk and scale. In that regard, no assessment is warranted against the building design controls in Part C2 of RDCP. Furthermore, there will be no additional overshadowing or unreasonable privacy impacts to the adjoining residential properties. In terms of the shortfall in landscaping, this aspect has been adequately justified in the applicant's Clause 4.6 written request.

Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/137/2023

Development Consent Conditions (Boarding House)



Folder /DA No:	DA/137/2023
Property:	349 Avoca Street, RANDWICK NSW 2031
Proposal:	Alterations and additions to existing dwelling house and change of use to a Boarding House containing seven (7) double boarding rooms, with two (2) on-site car parking spaces
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
DWG 02 Existing and Demolition Ground Floor Plan Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 03 Existing and Demolition Ground Floor Plan Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 04 Ground Floor Plan Rev 5	Derek Raithby Architecture	07/24	7 August 2024
DWG 05 Level 1 Floor Plan Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 07 Elevation North and East Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 08 Elevation South and West Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 09 Sections Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 12 Finishes Schedule Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 14 Site Management Plan Rev 5	Derek Raithby Architecture	07/24	1 August 2024
DWG 16 Operational Waste Management Plan Rev 5	Derek Raithby Architecture	07/24	7 August 2024

Amendment of Plans & Documentation

2. The approved plans and documents must be amended in accordance with the following requirements:
 - a. Provide a detailed architectural plan of the boundary fencing along the street frontages recommended in the Acoustic Report, prepared by Koikas Acoustics, dated 11 April 2023. The boundary fence must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping to avoid continuous blank walls.

The plan must be submitted to Council for approval by Council's Manager Development Assessment.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

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

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

Consent Requirements

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

External Colours, Materials & Finishes

4. 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.

Section 7.12 Development Contributions

5. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$1,187,182 the following applicable monetary levy must be paid to Council: \$11,871.80.

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:

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

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

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

Security Deposit

7. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

• \$1,000 - 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.

Stormwater Drainage

8. Surface water runoff from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifier and details are to be included in the construction certificate:-
- Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
 - The surface water/stormwater is to be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance;
 - External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
 - Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.

Sydney Water

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

The plans must be approved by Sydney Water prior to demolition, excavation or construction commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in to apply.

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/tapin>

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

Waste Management

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

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

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

Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's website at;
https://www.randwick.nsw.gov.au/data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf

11. The waste bin storage area shall be sized to contain a minimum of 7 x 240 litre bins (comprising 3 garbage bins, 3 recycle bins and 1 FOGO and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.

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Acoustic Privacy

12. Noise emissions from plant and equipment and the use and operation of the development including structure borne noise must satisfy the relevant noise criteria in the *Protection of the Environment Operations Act 1997* and Environment Protection Authority guidelines and details to demonstrate compliance with the relevant noise criteria and acoustic design requirements shall be included in the construction certificate.
13. The Construction Certificate plans shall be reviewed by a suitably qualified consultant in acoustics and design requirements and be certified as compliant with section 5.6 of Koikas Acoustics report dated 11th April 2023 or as required by the acoustic consultant based on reviews of the final construction certificate plans. Details of compliance shall be provided to the certifying authority prior to the issuing of a construction certificate.

Amended Landscape Plans

14. The Landscape Plans by Conzept Landscape Architects, dwg LPDA 23 – 161, sheets 1-4, rev F dated 25/07/24 must be amended to now comply with the following requirements:
 - a. Show retention of the two Cottonwoods in the northwest corner of the development site, **as their removal as indicated on Sheets 1-2 is not supported** given their importance to the streetscape as well as the privacy and amenity of future occupants at this busy intersection, with any works associated with the new pedestrian gate and internal access ramp to their east deemed to be minor in nature;

Refer also to 'Protection of trees within site' later in this report.
 - b. Amend the Planting Plan and Plant Schedule for the northwest site corner to reflect the requirement specified in point 'a' above.

Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the revised scheme submitted for the Construction Certificate complies with the requirements specified above, with both this written statement and amended plans to then be submitted to, and be approved by, the Principal Certifier.

Street Tree Protection

15. To ensure retention of the three mature *Lophostemon confertus* (Brush Box) that are located on Council's Rainbow Street verge, comprising one just past the eastern site boundary, in front of the neighbouring site at no.139A, then back in front of this development site, being one just to the west of the existing vehicle crossing, then one also near the corner of Avoca Street in good health, the following measures are to be undertaken:
 - a. All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown in relation to the site and all new works.
 - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar across this frontage must be setback a minimum **3 metre** radius from their trunks, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.
 - c. All Construction Certificate plans must show that the existing vehicle

crossing will be retained in its current position and not be expanded further to the west due to the presence of the street tree in this same area.

- d. Prior to the commencement of any site works, their trunks (and any lower branches where needed) must be physically protected by wrapping layers of geo-textile, underfelt, hessian, carpet or similar, from ground level to a minimum height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- e. This protection must be installed prior to the commencement of demolition and construction works and shall remain in place until completion, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION - DO NOT REMOVE".
- f. **The applicant is not authorised to perform any other works to these trees and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning, and prior to any Occupation Certificate.**
- g. 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 around their trunks, with all Site Management Plans to comply with this requirement.
- h. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to Occupation Certificate.

Protection of trees within site

- 16. To also ensure retention of the two *Hibiscus tiliaceus* (Cottonwoods) that are located within this development site, in the northwest site corner in good health, the following measures are to be undertaken:
 - a. Council does not support their removal as shown on the Landscape Plans due to the benefits they provide to the streetscape and the privacy and amenity of future occupants, so all documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown in relation to the site and all new works.
 - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar within the site must be setback at a minimum **3 metre** radius from their trunks, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.
 - c. All Construction Certificate plans must show that the existing sandstone wall/garden edge to their south and east will be retained in-situ, with all works associated with the new/relocated pedestrian gate and internal access ramp to be performed to the east of this wall.

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- d. Both trees are to be physically protected (as one group) by the installation of 1.8 metre high steel mesh/chainwire fencing panels, which shall be located along the line of the existing sandstone wall/garden edge to their south and east (or as allowed by their canopies), then matching up with the western and northern site boundaries so as to completely enclose them for the duration of works.
 - e. This fencing must be installed prior to the commencement of demolition and construction works and shall remain in place until completion, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ) - DO NOT REMOVE/ENTER".
 - f. 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 around their trunks, with all Site Management Plans to comply with this requirement.
 - g. Where roots are encountered which are in direct conflict with the approved works associated with the relocated pedestrian gate and internal access ramp, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible.
 - h. Ground levels within a 3 metres radius of the trees must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil.
 - i. 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.

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

17. 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.

The applicant must comply with the recommendations of the BCA Report, prepared by Western Sydney Building Certifiers dated 30 July 2024 Rev A in relation to fire upgrade works.

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

18. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):

- a) a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

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

Home Building Act 1989

19. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and sections 69 & 71 of the *Environmental Planning and Assessment Regulation 2021*, in relation to residential building work, the requirements of the *Home Building Act 1989* must be complied with.

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

Dilapidation Reports

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

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

Noise & Vibration Management Plan

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

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

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

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

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

Construction Site Management Plan

22. 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

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

Demolition Work & Hazardous Materials

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

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

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

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

Notes: *it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves*

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

Public Liability

25. 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

26. 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.
27. 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.

NOTE: The existing overhead power feed between the mains distribution pole in Avoca Street and the development site shall remain or be relocated to an underground (UGOH) connection. No Permanent Private Poles are to be installed. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out any required works to the requirements and satisfaction of Ausgrid and at no cost to 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

28. 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

29. 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

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

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

Noise & Vibration

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

Construction Site Fencing

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

Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.

Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land and excavations must be properly guarded to prevent them from being dangerous to life or property.

All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*
- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

Site Management

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

- D74/24
- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
 - b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
 - c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
 - d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
 - e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
 - f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
 - g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

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

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

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

Dust Control

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

Dust control measures and practices may include:

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

Site Accessway

34. 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

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

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

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

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

Excavations & Support of Adjoining Land

36. 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

37. 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.

Building Encroachments

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

Site Works

39. All hazardous or intractable wastes arising from the works must be removed, managed and disposed of in accordance with the requirements of WorkCover NSW and the Environment Protection Authority, including:

- *Work Health and Safety Act 2011 and associated Regulations;*
- *Protection Of the Environment Operations Act 1997 (NSW) and*
- *NSW DECC/EPA Waste Classification Guidelines (2008).*

40. Any fill material that is imported to the site must satisfy the requirements of the NSW *Protection of the Environment Operations (Waste) Regulation 2014* and the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2008). Fill material must meet the relevant requirements for Virgin Excavated Natural Material (VENM) or be the subject of a (general or specific) Resource Recovery Exemption from the EPA.

Details of the importation of fill and compliance with these requirements must be provided to the satisfaction of the Environmental Consultant and Site Auditor.

Road / Asset Opening Permit

41. 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.

Ausgrid Power Feed Connection

42. Should the existing overhead power feed from the Ausgrid Power Pole need to be reconnected to the site during any stage of building works it is to comply with either of the following methods:
- From the power pole directly to the façade of dwelling/s, similar to the existing connection, to the satisfaction of Ausgrid
 - Relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements.

Note: A temporary private power pole at the front of the site is permitted during construction but must be removed at the completion of works. 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.

Tree Management

43. Approval is granted for removal of the *Eucalyptus sp* (Gum Tree) located in the front setback of this development site, towards the southern boundary, directly adjacent the southwest corner of the existing dwelling/covered porch, given its poor health and condition due to heavy clearance lopping of its eastern aspect, which has reduced its safe lifespan, but also given that it is already exempt from the DCP due to its location within a 2 metre radius of the house, meaning it is already eligible for removal, at any time, without consent, irrespective of this application/works, with this approval being subject to full implementation of the adopted Landscape Plans and associated re-planting.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

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

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

Post-construction Dilapidation Report

44. 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:

- 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
- 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

45. 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

46. 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

47. 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

48. 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 Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

Noise Control Requirements & Certification

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

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

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

Street and/or Sub-Address Numbering

50. 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.

Acoustic Report

51. 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 EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations and additional reports requested as part of the consent conditions issued for this development), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.

Plan of Management (acoustic)

52. A plan of management (POM) shall be prepared detailing all required acoustic operational requirements. The POM shall be reviewed and approved by a suitably qualified acoustic consultant to ensure all operational acoustic measures have been incorporated. Details of compliance shall be provided to the certifying authority prior to the issuing of an occupation certificate.

Affordable Housing

53. The boarding house must be used for affordable housing and managed by a registered Community Housing Provider in perpetuity in accordance with the requirements under the State Environmental Planning Policy (Housing) 2021. A Property Management Agreement between a registered Community Housing Provider and the landowner must be submitted to Council prior to the issue of an Occupation Certificate.

Council's Infrastructure, Vehicular Crossings, street verge

54. 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.
55. 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 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.

Landscape Certification

- 56. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the AMENDED Landscape Plans by Conzept Landscape Architects, dwg LPDA 23 – 161, sheets 1-4, rev F dated 25/07/24, and any relevant conditions of consent.
- 57. Suitable strategies shall then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

OPERATIONAL CONDITIONS

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

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

Use of parking spaces

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

Fire Safety Statement

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

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

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

External Lighting

60. 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.

Environmental Amenity

61. The use and operation of the site must not cause any environmental pollution, public nuisance or, result in an offence under the *Protection of the Environment Operations Act 1997*, associated Regulations, Guidelines and Policies.
62. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

63. The manager/caretaker must establish and maintain a formal and documented system for the recording and resolution of complaints made to the premises by residents or any other affected constituents. All complaints are to be attended to in a courteous and efficient manner and referred promptly to the onsite manager or other site manager. The appropriate remedial action, where possible, is to be implemented immediately and management is to contact the complainant within 48 hours to confirm details of action taken.
64. Upon reasonable prior notice, management must make available the incident book to the police and/or Council authorised officers.
65. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of vibration or damage to other properties.
66. An acoustic report, prepared by a suitably qualified and experienced consultant in acoustics, must be provided to the Council **within 3 months of the issuing of an occupation certificate**, which demonstrates and confirms that the relevant provisions of the *Protection of the Environment Operations Act 1997* and the noise criteria and requirements contained in this consent has been satisfied (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.
67. The use and operation of the premises shall not give rise to a public nuisance.
68. There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997*.
69. The use of the indoor and outdoor communal area/s is restricted to between 8:00am to 9:30pm Monday to Sunday inclusive.
70. Signs shall be placed in the communal open spaces reminding occupants to manage their noise levels in consideration of the surrounding residential neighbours.
71. The operation of the boarding house is to be undertaken in accordance with the detailed Plan of Management dated July 2024 prepared by ABC Planning Pty Ltd. times.

- 72. Music is not to be played in the outdoor communal area /s.
- 73. Boarding Houses and other types of Shared Accommodation must comply with the *Local Government (General) Regulation 2005* and the *Boarding Houses Act 2012* and the premises must also be registered with NSW Fair Trading and Council (as applicable) prior to issuing an occupation certificate.
- 74. Any changes to the proposed operation of the business may be subject to further development consent and/or a report may also be required to be obtained by a suitably qualified and experienced consultant in acoustics certifying the operation complies with the relevant noise criteria.

Occupancy and Management

- 75. The maximum permanent resident occupancy is 14 persons.
- 76. The manager/caretaker of the student house/boarding house accommodation must be a responsible person over the age of 18 years and must be a permanent occupant.
- 77. A notice shall be placed near the entrance to the property in a visible position to the public advising of the manager's name and after hours contact number.
- 78. Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management as updated in accordance via conditions) and that no variation shall be permitted without the further concurrence of Council.

Occupant Record

- 79. The owner or owner's agent shall maintain a record of all residents with details of their names, length of stay & number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.

Lease Agreement

- 80. All residents in the boarding house are to sign a lease or licence agreeing to comply with the Plan of Management (as updated in accordance with conditions) for the boarding house.

Maintenance

- 81. The individual rooms, common areas, shared facilities and yard are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.

Affordable Housing

- 82. The boarding house must be used for affordable housing and managed by a registered Community Housing Provider in perpetuity in accordance with the requirements under State Environmental Planning Policy (Housing) 2021.