

Randwick Local Planning Panel (Public) Meeting

Thursday 24 October 2024



RANDWICK LOCAL PLANNING PANEL (PUBLIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Public) meeting will be held online via Microsoft Teams on Thursday, 24 October 2024 at 1:00 PM

Acknowledgement of Country

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

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

In respect to Privacy & Personal Information Protection Act, members of the public are advised that the proceedings of this meeting will be recorded.

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D83/24

Subject: 54 Daunt Avenue, Matraville (DA/305/2024)


Executive Summary

Proposal:	Demolition of existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works.
Ward:	South Ward
Applicant:	E Soliman
Owner:	Mr A Lim & Mrs C C Lim
Cost of works:	\$1,145,367.57
Reason for referral:	More than 10 unique submissions by way of objection were received.

Recommendation

That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/305/2024 for demolition of existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works, at No. 54 Daunt Avenue, Matraville, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/305/2024 - 54 Daunt Avenue, MATRAVILLE NSW 2036 - DEV - Randwick City Council

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1. Executive summary

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

- 11 unique submissions by way of objection were received.

The proposal seeks development consent for the demolition of existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works.

The key issues associated with the proposal relate to:

- Side setbacks of 2nd floor and ground floor garage
- 3 storey appearance from the street and resultant scale and bulk.

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

- Additional side setback of 2nd floor at the dwelling frontage on both the eastern and western side elevations.
- Replacing an external wall with a privacy screen along the western side of balcony on the second floor.
- Opening up the alfresco on the eastern side of the first floor to reduce the length of the side elevation and perceived bulk and scale of this side elevation.

2. Site Description and Locality

Site Description and Locality

The site is identified as Lot 1659 in DP 752015, commonly known as 54 Daunt Avenue, Matraville. The site is located on the northern side of Daunt Avenue, between Poulet Street and Combes Parade. The site is roughly rectangular in shape, with a 12.255m frontage on Daunt Avenue, an eastern side boundary of 52.09m, a northern rear boundary of 12.19m, and a western side boundary of 51.36m. The total site area is 629.2m². The site falls from the north (rear) to the south (frontage) by approximately 6m. The site exhibits a crossfall of 1.25m from west to east across the site frontage and approximately 0.8m across the rear from west to east.

Existing on site is a single storey detached dwelling, which will be demolished. There is existing vehicle access, including a crossover and driveway to the eastern side of the frontage.

The surrounding area is characterised by residential development, primarily consisting of detached dwelling houses.



Figure 1: Neighbouring property to the west - 52 Daunt Avenue - 2 stories above a garage level (Source: Council Officer)

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Figure 2: Eastern Neighbouring Property - 56 Daunt Avenue (Source: Council Officer)



Figure 3: 42 Daunt Avenue (Source: Council Officer)



Figure 4: 44 and 44A Daunt Avenue (Source: Google Maps)



Figure 5: 48 Daunt Avenue (Source: Council Officer)

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Figure 6: 47 and 47A Daunt Avenue (Source: Council Officer)



Figure 7: 45 Daunt Avenue (Source: Council Officer)



Figure 8: 36 Daunt Avenue (Source: Council Officer)



Figure 9: Visualisation of approved development being Constructed at 38 Daunt Avenue (Source: CDC)

From Figures 1 – 9, it is clear that Daunt Avenue has been and currently is in state of transition to a more contemporary design. There are examples of properties which are three levels, including the direct western neighbour to the subject site. The surrounding properties and neighbourhood character must be taken into account when considering the appropriateness of the subject proposal. It is considered that both neighbouring properties, 52 and 56 Daunt Avenue have not maximized their development potential.

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

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records did not reveal any recent or relevant applications for the site.

4. Proposal

Council is in receipt of a development application seeking consent for the demolition of the existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works.

The original application was received by Council on 17 April 2024. After a preliminary review and waiting to receive all submissions, Council issued a Request to Withdraw the application as it could not be supported on 19 June 2024. The issues Council had with the proposal were:

1. Unclear Gross Floor Area calculations and the incomplete and inadequate clause 4.6 statement.
2. Non-compliant side setbacks (ground floor and second floor)
3. Inappropriate integration of the 2nd floor level of the proposal
4. Lack of articulation on the side elevations of the dwelling
5. Engineers' concerns with the side setback of the driveway
6. Landscape area deficiencies (non-compliance with controls, requirement for a suitable plan, requirement for arborists report or mitigation of any impacts on trees)
7. Scale of the proposed balconies being excessive
8. Scale of cabana excessive
9. Impacts and extent of earthworks required; a dilapidation report would be conditioned by Council.
10. Height of fencing/ requirement to provide a fencing plan in elevation.
11. Provision of site survey showing neighbouring trees and the site boundaries
12. An assessment of an amended proposals impacts on overshadowing and visual privacy on neighbouring properties.

The applicant submitted amended plans and a formal response to the request on 16 July 2024.

Council attended a further site visit, with the applicant and owner on 25 July 2024 and then issued a Request for Further Information (dated 26 July 2024), which required the following:

1. Increase the second-floor front setback to generally align with 52 Daunt Avenue's second storey.
2. Increase the deep soil permeable surfaces to comply with the 45% control.
3. Increase the articulation on the side elevations.
4. Update the shadow diagrams.
5. Provide a survey plan to demonstrate the location of neighbouring trees.

On 06 August 2024, the final plans were received and considered appropriate for re-notification by Council. Following receipt of this plans, the renotification process was commenced. The assessment is based on the amended plans and documentation submitted on 06 August 2024.

During this renotification period, ending 02 September 2024, 2 submissions were received, which have been fully addressed within this assessment report. Further submissions were received before the report was finalised and are therefore also included in the assessment. As outlined on Page 30

of Councils community engagement strategy *Council will consider all submissions received within the exhibition period. Late submissions will only be considered in extenuating circumstances, and at the discretion of the Council officer assessing the proposal.* Council has used its discretion and is including the submissions received outside the submission period.

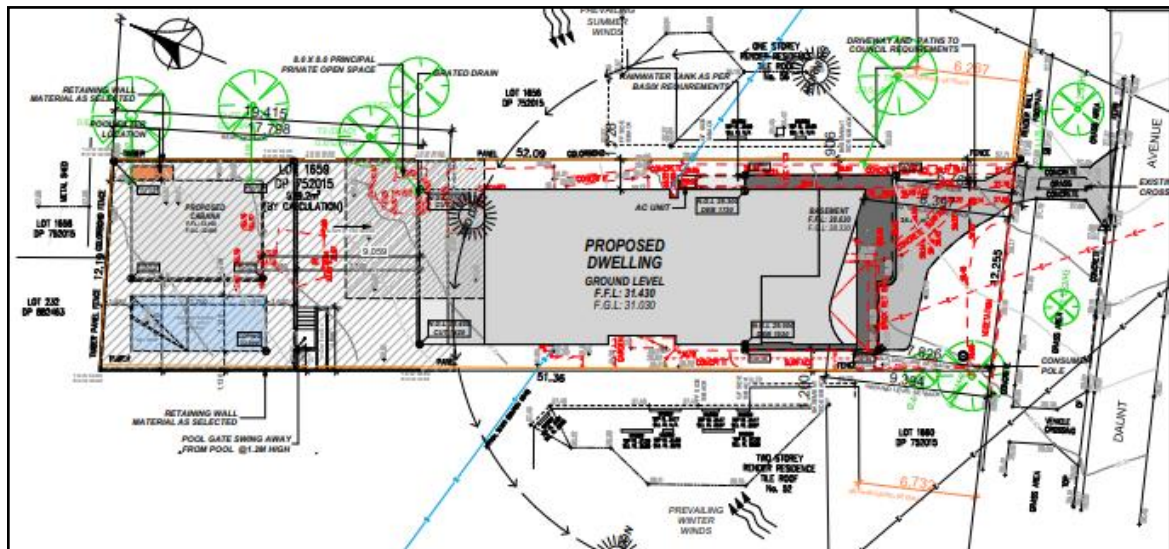


Figure 10: Site Plan for 54 Daunt Avenue - Source: Prime Design Studios

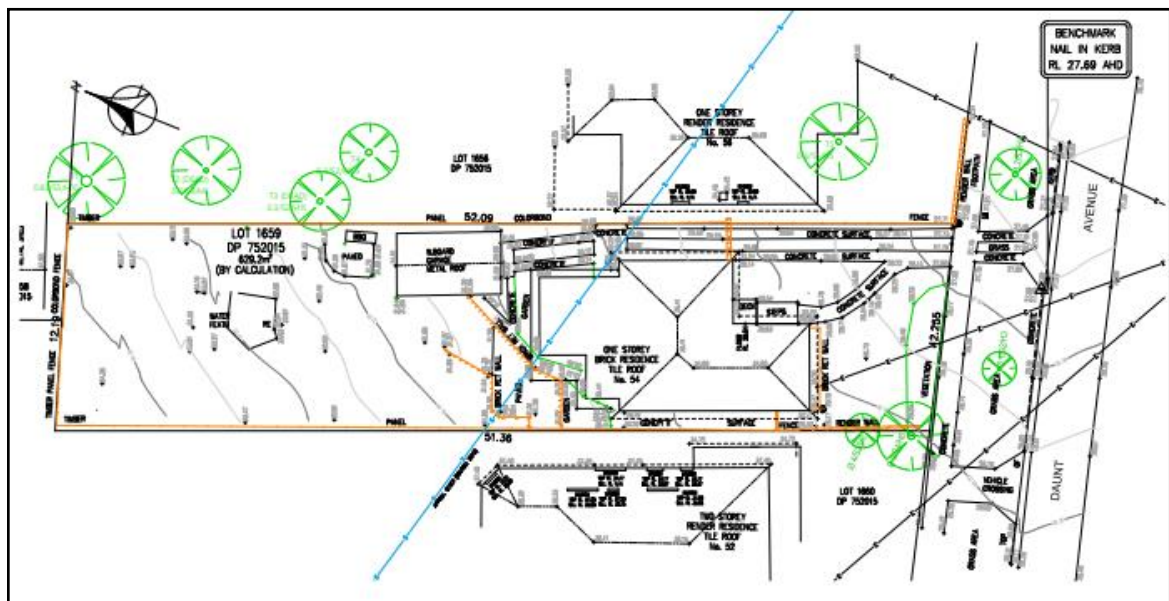


Figure 11: Current Survey Plan - 54 Daunt Avenue - Source: Innovative Surveying Associates

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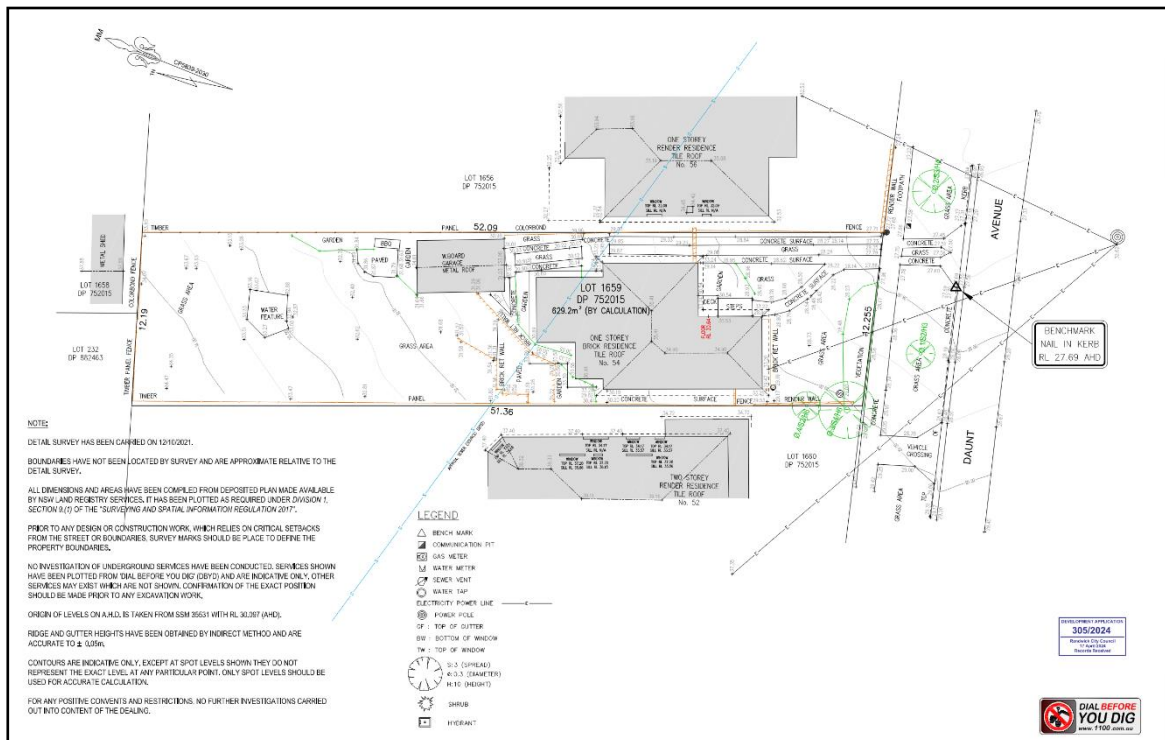


Figure 12: Detail and Level Survey - 54 Daunt Avenue (Source: Innovative Surveying Associates)

Specifically, the proposal is seeking to:

Demolish the existing structures.

Ground floor:

- Construction of a double garage
- The garage adjoins a workshop and the residences entrance and stairs.

First Floor:

- Front facing balcony.
- Foyer area
- Living room
- Bedroom
- Bathroom
- Kitchen, pantry, and living/dining area.
- Rear Alfresco

Rear Garden

- Approx. 25m² swimming pool
- Cabana, including bathroom facilities.

Second Floor

- Master bedroom with walk-in wardrobe and ensuite
- 3 other bedrooms
- Large front facing balcony
- Rumpus room with access to front balcony
- Separate bathroom and laundry
- Rear facing balcony.

Figures 13 - 20 illustrate the proposal below.

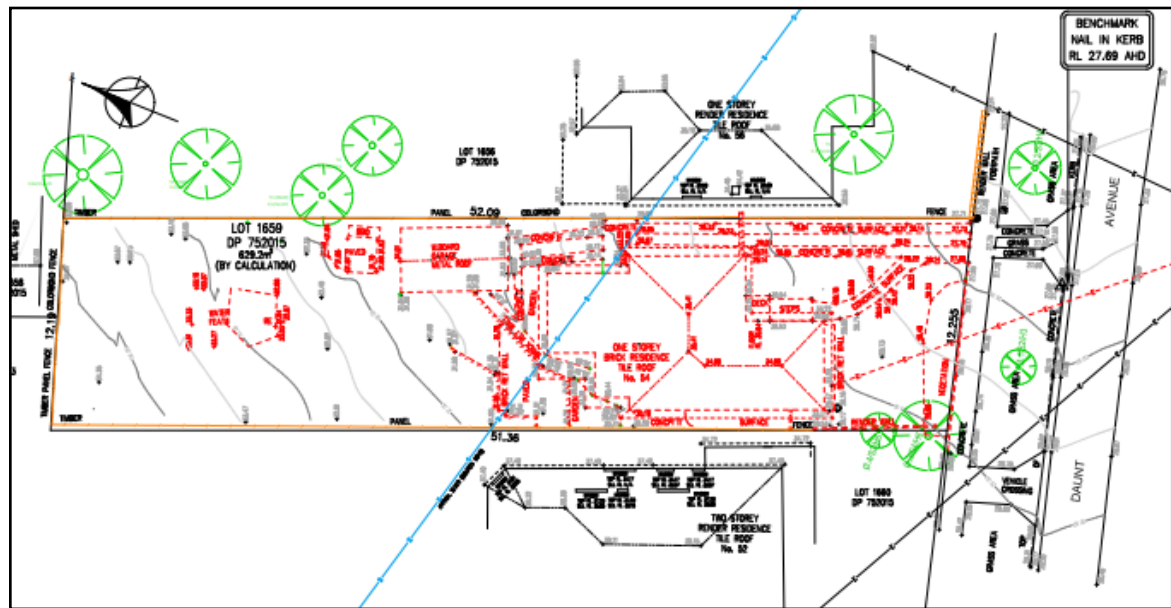


Figure 13: Demolition Plan - 54 Daunt Avenue (Source: Prime Design Studios)

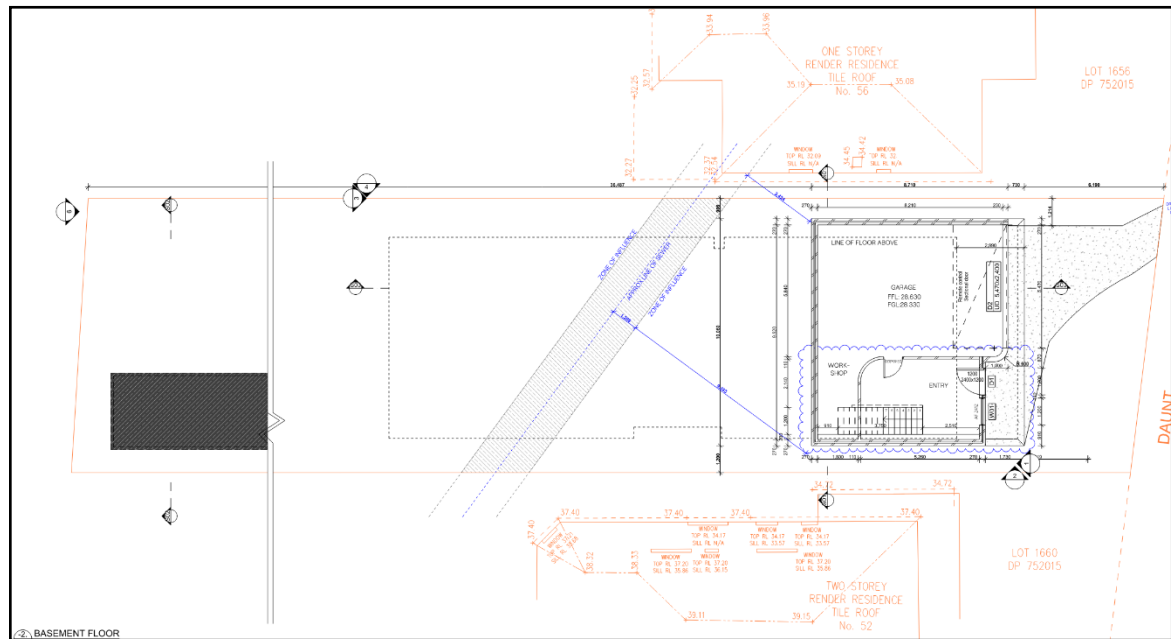


Figure 14: Garage and Ground Floor Plan - 54 Daunt Avenue (Source: Prime Design Studios)

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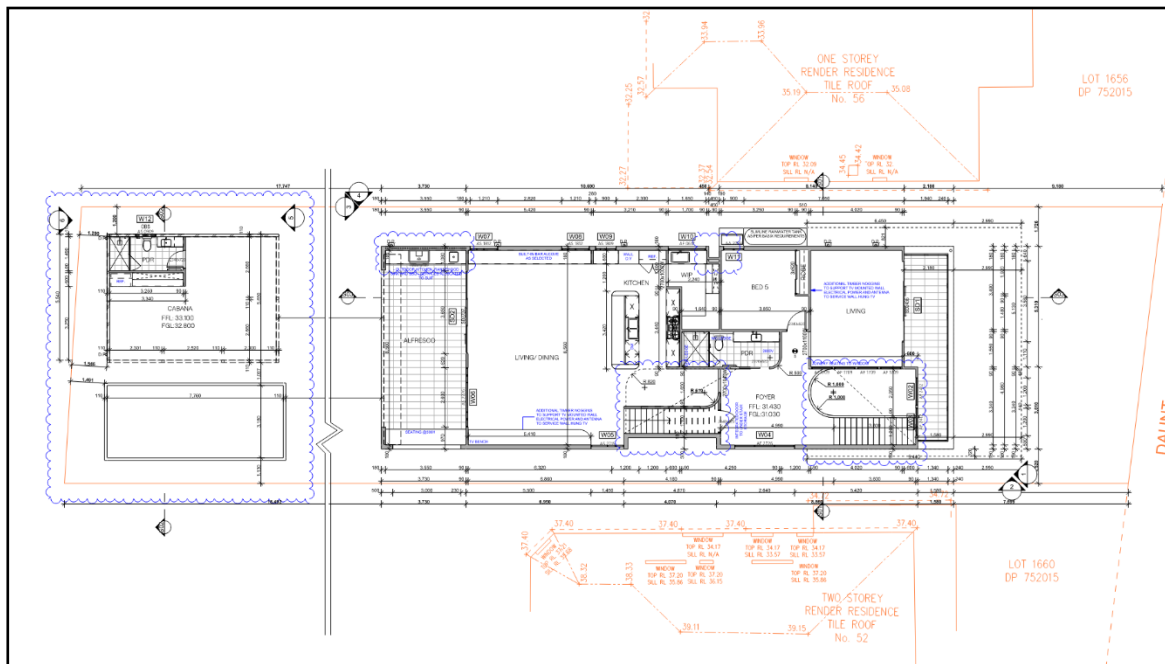


Figure 15: First Floor Plan - 54 Daunt Avenue (Source: Prime Design Studios)

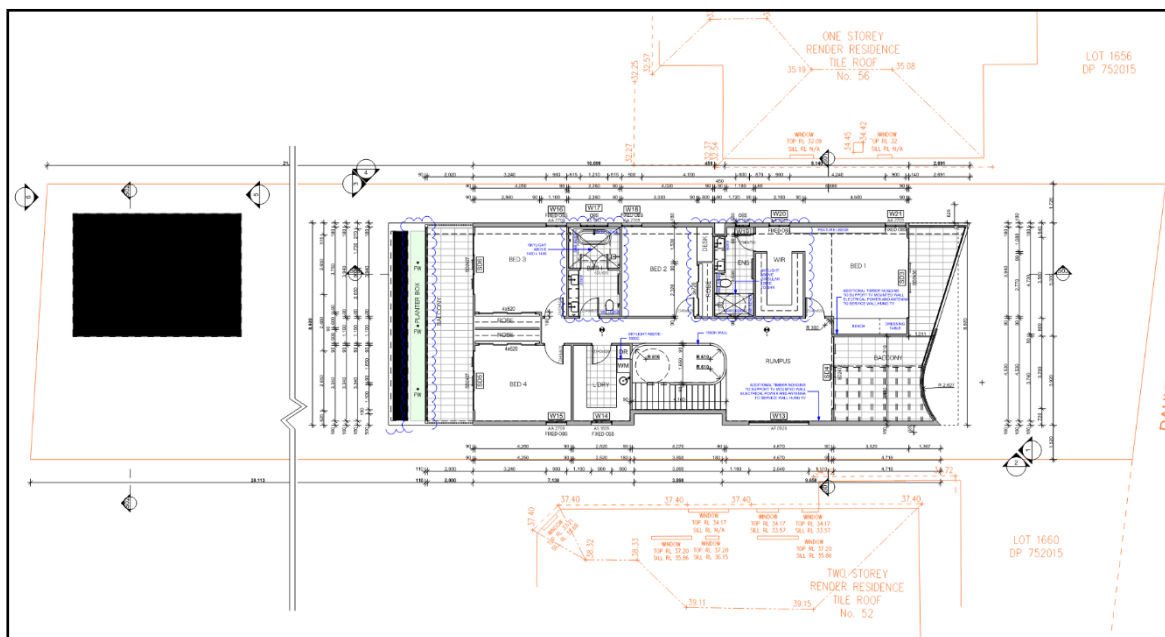


Figure 16: Second Floor Plan - 54 Daunt Avenue (Source: Prime Design Studios)

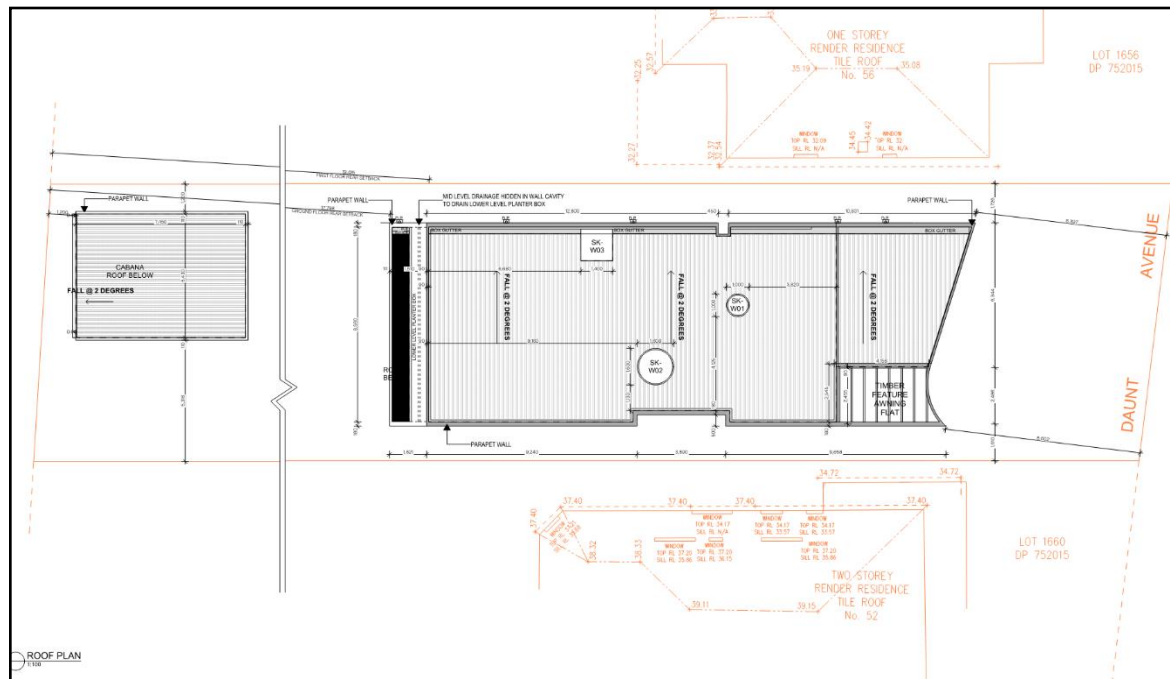


Figure 17: Roof Plan - 54 Daunt Avenue: (Source: Prime Design Studios)

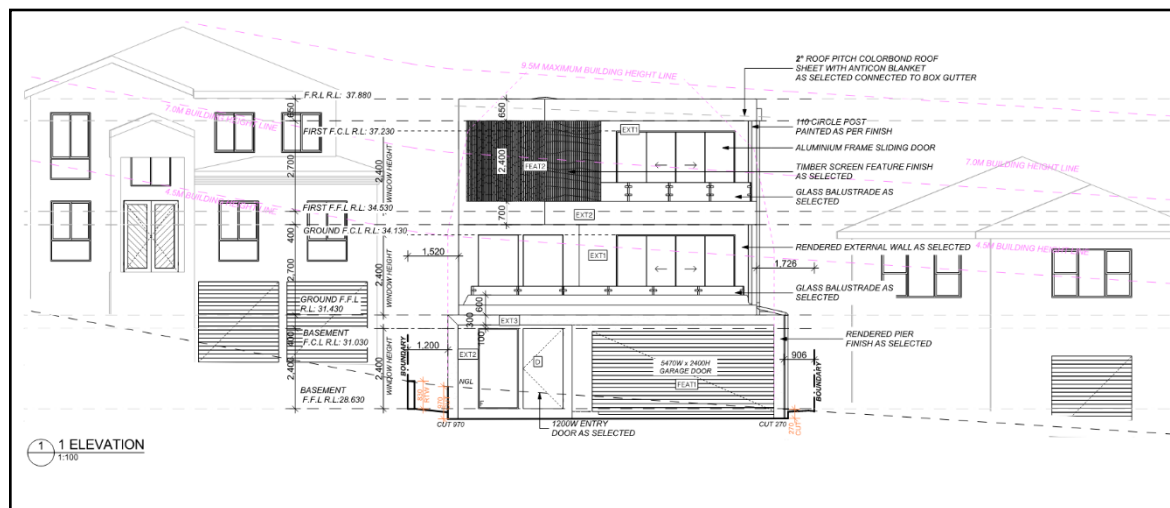


Figure 18: South Elevation (Streetscape) - 54 Daunt Avenue (Source: Prime Design Studios)

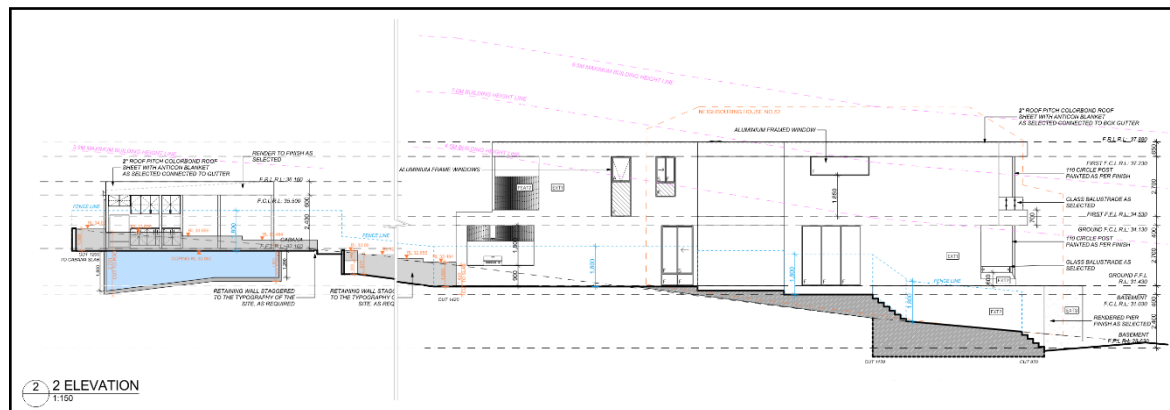


Figure 19: Western Elevation - 54 Daunt Avenue: (Source: Prime Design Studios)

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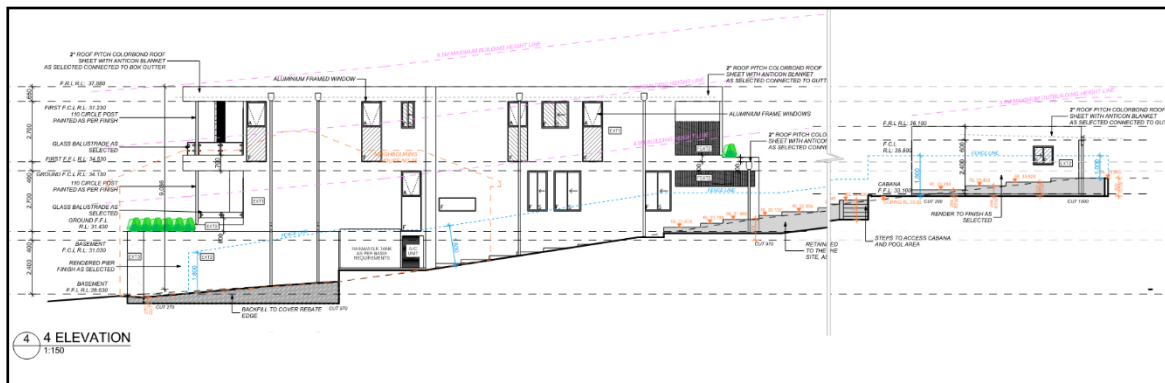


Figure 20: Eastern Elevation - 54 Daunt Avenue

5. Notification

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

- 56 Daunt Avenue – Owners Submission
- 56 Daunt Avenue – Planners submission
- 52 Daunt Avenue – Planners Submission

All parties listed above reviewed the amended plans and provided submissions on the amended development.

The concerns raised in the second submission period are addressed in detail.

5.1. Renotification

The proposal was renotified between 12 – 28 August 2024, the following submissions were received as a result of the notification.

- 56 Daunt Avenue – Owners Submission
- 56 Daunt Avenue – Planners submission
- 52 Daunt Avenue – Planners Submission
- 62 Daunt Avenue
- 62 Daunt Avenue
- Unknown Address
- Unknown Address
- 2 Flanders Street, Matraville

It should be noted that a late submission was received on 22 September on behalf of 143 Perry Street, Matraville. The submission raised concerns regarding a non-complying development, consistency with the local area and impact upon the streetscape. These issues and concerns have also been raised in other submissions which are addressed in detail below.

56 Daunt Avenue- (02 September 2024)

Issue	Comment
Over shadowing of rear garden.	<p>The blocks have their rear gardens facing to the north. Therefore, the only overshadowing is in the afternoon. The submitters property will receive compliant sunlight access, being greater than 3 hours of direct sunlight on 21 June.</p> <p>The development control plan requirements for overshadowing (residential development) are contained in Section 5.1 of Part C1 of the Randwick Development Control Plan. I note the requirement for shadow diagrams on 21 June, not in the summer.</p>
Proximity and height of cabana to side boundary with 56 Daunt Avenue.	<p>The Cabana is setback by 1.2m from the common property boundary.</p> <p>A condition has been included that excavation must be set back by 1m from the boundary with 56 Daunt Avenue for the construction of the cabana.</p> <p>The initial excavations for the new retaining walls mentioned above must be performed by hand and inspected by Councils Landscape Officer.</p>
Setback of garage along common boundary.	<p>The garage is setback by 906mm from the eastern boundary. This is considered to be an acceptable variation to the side setback controls, which can be varied if deemed to meet the objectives.</p> <p>Furthermore, there is a provision in Section 6.3 which allows for the side setback of parking facilities to be varied if it is considered acceptable with the following objectives:</p> <ul style="list-style-type: none"> - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing. <p>The location of the existing crossover, setback of driveway from the boundary and ability to have a double garage all help to justify this variation.</p>
No consideration to stepping the design and overshadowing caused by second floor.	<p>A condition has been included to increase the side setbacks of the upper floor at the front of the dwelling. A further condition will open up the western side elevation reducing the perceived bulk and helping to step the design.</p> <p>Overall, the second floor is stepped back considerably, when compared to the ground floor.</p> <p>The external wall line of the second floor is in general alignment with the second floor of 52 Daunt Avenue.</p> <p>The setback and streetscape appearance of the dwelling is covered in detail in the key issues section.</p> <p>The overshadowing is limited to the afternoon and the proposal is fully compliant with the solar impacts on neighboring properties.</p> <p>The proposal is compliant with the building height and Floor Space Ratio Development Standards.</p>

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Issue	Comment
Articulation – is there sufficient articulation, recesses and changes of materials.	<p>Conditions have been included to increase the side setbacks of the second floor on both the eastern and western elevations. This will also increase the articulation of the proposal.</p> <p>Furthermore, the external wall for the balcony on the second floor is conditioned to be a 1.6m high privacy screen, which also increases articulation and reduces the bulk.</p> <p>Finally, a condition for the rear alfresco eastern privacy screen to be increased in size has been included. This will add additional articulation.</p> <p>The topography of the land results in a two-storey built form at the rear. The proposal also includes significant vertical articulation, with the garage have lesser side and front setbacks compared to the first and second floor level.</p> <p>The articulation, recesses, windows and balconies are considered to appropriately address the articulation.</p> <p>The proposal complies with the control that side elevations should be divided into sections of 12m or less.</p>
Setback of driveway and size of garage.	<p>The plans show the driveway setback 1.2m from the common boundary with 56 Daunt Avenue.</p> <p>It is agreed that the maximum internal width for a double garage in the DCP is 6m.</p>
Landscaping requirements	<p>Pursuant to section 4.15 of the EP&A Act, Council must be flexible in the application of DCP controls, and has discretion to vary controls in the Randwick Development Control plan based on the merit. This includes sufficient justification and the proposal shown to comply with the objectives.</p> <p>The following comments were provided by Council's Landscape Officer:</p> <p><i>A slight deficiency in deep soil area could be considered reasonable in this case given the sloped topography and resulting need for terracing and retaining walls in order to maximise accessibility and usability of the private open space, and whilst the podium planters at both the front and rear are not counted as deep soil, they will contribute to the overall landscaping/planting provided at the site.</i></p> <p><i>Combined also with the requirement for additional planting and canopy trees that have been conditioned in this report, it is considered that a suitable result can be achieved for this development.</i></p>
Earthworks	<p>A dilapidation report for surrounding properties including 56 Daunt Avenue has been included as a condition of consent.</p> <p>The landscape officer has included a condition that the excavation be set back by 1m in the rear eastern corner of the back yard to mitigate impacts to the <i>Brachychiton acerifolius</i> (Illawarra Flame Tree).</p> <p>Earthworks (excavation and fill) and retaining walls are required to facilitate the development. These are considered in detail in the key issues section of this report.</p>

Issue	Comment
Boundary Survey	<p>Council has received a Survey Plan with the Development Application, which was prepared by Innovative Surveying Associates, dated 14 October 2021 and Amended 31 March 2022.</p> <p>The survey is a detail and level survey and contains a note stating that the Survey has been plotted in accordance with Division 1, Section 9.(1) of the "Surveying and Spatial Information Regulation 2017.</p> <p>It is noted that the survey also states that boundaries have not been located by survey and are approximate relative to the detail survey. However, these dimensions and areas have been compiled from deposited plans through the NSW Registry Services.</p> <p>The Survey was undertaken by an independent professional company and Council has no reason to doubt the accuracy of the plan. The survey meets the requirements for consideration of a Development Application.</p> <p>Surrounding property owners can obtain their own boundary survey if they wish to dispute the accuracy. However, this is a civil matter outside the parameters of a Development Application.</p> <p>It is noted that 52 Daunt Avenue has obtained an additional survey, which generally showed the boundaries to be located in the same place. The Boundary fence was shown to be set within 54 Daunt Avenues property.</p>
Visual privacy from proposed windows	<p>The visual privacy impacts from every window facing 56 Daunt Avenue have been considered in the key issues section of this report for completeness.</p> <p>Councils' visual privacy controls are in Section 5.3 of Part C1 of the Randwick Development Control Plan. The controls relate to living and habitable room windows being located to minimise direct viewing of existing habitable room windows in adjacent dwellings.</p> <p>The proposal demonstrates compliance with this.</p>
Size of Cabana	<p>The cabana has been reduced from 104m² to 77m². A reduction of over 25m². The cabana has been condition to remain open on two sides and must not be converted into habitable space.</p>
Is the fencing exempt and how does it align with the boundaries.	<p>Fencing at a height of 1.8m is exempt. The location of boundary fencing is administered under the Dividing Fences Act 1991 and is a Civil Matter.</p>

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Issue	Comment
<p>Council to facilitate a meeting with the architect to work on an agreeable design based on the following:</p> <ul style="list-style-type: none"> - Complies to council regulations - Is not bulky and overbearing - maintains rear setback - moves the cabana - minimise overshadowing. 	<p>The Architect/Applicant has obtained a copy of the submission and advised Council that they are not willing to mediate with the submitter.</p> <p>The Architect/Application considers their proposal should be reviewed by Council in its current form.</p> <p>Council has therefore addressed all of the points within the submission from 56 Daunt Avenue and proceeded with a determination recommendation for the Randwick Local Planning Panel to consider.</p>

56 Daunt Avenue – Planning Submission

Issue	Comment
<p>Floor Space Ratio – Storage area, Alfresco and Cabana should be included in the GFA calculations.</p>	<p>The LEP allows for the exclusion of car parking to meet councils requirements, including access to that parking. Therefore, 32.4m² can be excluded from the garage. It is acknowledged that the LEP has precedence over the DCP regarding storage areas exclusion from FSR. The garage is not a basement.</p> <p>The Alfresco is open to the rear, as shown on the Floor Plan. The area is also mostly open to the west. The area is correctly excluded from GFA. The alfresco has been conditioned to remain open to the rear. The eastern side of the Alfresco has been opened up by an additional 800mm (enclosed by privacy screen as opposed to a wall).</p> <p>The Cabana is completely open on two sides, it is rightly excluded from FSR. It has been conditioned to remain open on two sides.</p> <p>It is noted that the 6m² should have been included in the FSR, however, the proposal was shown to be approx. 44.83m² below the FSR limit of 377m².</p> <p>The proposal is compliant with the FSR of 0.6:1. Therefore, no clause 4.6 required.</p> <p>Council considers that the proposal is consistent with the Clause 4.4 (Floor Space Ratio) objectives in the RLEP.</p> <p>The conditioned changes resulting in an increased side setback on the second floor will also reduce the Floor Space Ratio. This also increases the articulation.</p> <p>Please see Councils calculations of GFA in this report for further information.</p>
<p>How will it comply with the swimming pool fencing requirements.</p>	<p>Conditions of consent have been included requiring compliance with the swimming pool fencing requirements.</p>

Issue	Comment
Privacy and overshadowing from Cabana	<p>The shadow diagrams demonstrate acceptable overshadowing impacts. Shadows are limited to the afternoon. The outbuilding complies with the height controls and is appropriately setback from the boundary.</p> <p>Council's site visit confirmed that there will not be visual privacy impacts from the cabana.</p> <p>The area where the cabana is sited will be excavated, resulting in a lower finished floor level, compared to the existing ground level.</p>
Non-climbable zone of swimming pool fencing.	<p>The concerns regarding a non-climbable zone are unclear. The approval contains conditions which require full compliance with the swimming pool fencing requirements.</p> <p>The fencing must comply with the Building Code of Australia, as per the conditions in this report.</p>
Deep Soil Permeable Surfaces and canopy cover.	<p>The proposal has a minor departure from the deep soil permeable surfaces requirement in the DCP. This has been reviewed and commented on by the landscape officer, who has conditioned improvements to the landscape plan.</p>
Geotechnical report	<p>A condition requiring: <i>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</i> Has been included.</p> <p>There are additional earthworks and dilapidation conditions, which must be complied with.</p>
Privacy – windows, rear balcony and cabana area will result in substantial visual privacy impacts.	<p>All windows on the first-floor northern side elevation are frosted to a height of at least 1.6m.</p> <p>A full assessment of the privacy impacts of windows has been conducted in the key issues section of this report.</p> <p>The rear balcony is oriented to the rear of the property. The balcony has privacy screens along both the eastern and western side elevations.</p> <p><u>Cabana</u> – there are no windows facing 56 Daunt Avenue, just a blank wall. The wall is setback 1.2m from the boundary.</p> <p>Council has conducted a site inspection and there are no unreasonable privacy impacts.</p>
Setbacks -	<p>The ground level garage non-compliance is determined to be acceptable on merit to Council, noting that parking facilities can encroach on side setbacks controls.</p> <p>The side setbacks are discussed in detail in the key issues section of this report.</p>

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Issue	Comment
Height of Building – Recess the top level and integrate into the roof form.	<p>Council does not consider the garage level to be a basement.</p> <p>The two-storey appearance can be varied, as discussed in the key issues section. Furthermore, the top level has been setback to provide alignment with 52 Daunt Avenue's second floor level, noting the skewed front boundary.</p> <p>The proposal is not considered to be out of context for the area, as demonstrated in the locality section of this report.</p> <p>The comments regarding the objectives of the building height development standard are considered flawed. The proposal complies with the maximum building height and demonstrates acceptable privacy, overshadowing, views, and articulation. Furthermore, there are similar developments on the same street.</p>
Visual Impact – 3 storey appearance.	<p>The property is two stories at the rear. The property has a 17.7m rear setback and complies with the 12m modules of side elevations for articulation, resulting from the conditioned changes.</p>
Character of the area	<p>The character of the area has been demonstrated in the site description and locality section of this report.</p> <p>As shown in Figures 1 – 9, Daunt Avenue has been and currently is in state of transition to a more contemporary design. There are numerous properties which are three levels, including the direct western neighbour to the subject site.</p>
Cut and fill – considered excessive for the cabana and garage.	<p>The proposal complies with the Floor Space Ratio Development Standard and the cabana complies with all controls.</p> <p>The excavation for the cabana must be setback from the common boundary with 56 Daunt Avenue by 1m.</p> <p>There is excavation required to facilitate the garage, however, this is not considered excessive, and the cut is limited to approximately 1m on the eastern side.</p>
Impact on Trees	<p>Council's Landscape Officer has reviewed the proposal, their comments can be seen in the referrals section of this report. All suggested conditions have been adopted.</p> <p>The condition to set back the excavation from the the <i>Brachychiton acerifolius</i> (Illawarra Flame Tree) is considered to mitigate any impacts on this tree.</p>

Issue	Comment
Demolition and Construction	<p>The earthworks, cut and fill to facilitate the cabana is required to be setback from the common boundary between 54 and 52 Daunt Avenue by 1m.</p> <p>The cut to facilitate the garage level is considered acceptable and is less than 1m on the eastern side (where encroaching on side setback control).</p> <p>The cut required to facilitate the garage will result in the exterior of the building along the eastern boundary being somewhat backfilled, so maintain a similar ground level to existing.</p> <p>In accordance with the earthworks requirements, the retaining walls are stepped to follow the topography of the site.</p> <p>A dilapidation report has been included as condition of consent and so have construction management conditions.</p>
Acoustic impact	An acoustic report for the cabana and swimming pool is not required.
Overshadowing	The proposal fully complies with the controls for overshadowing of the subject and neighbouring properties.
Survey Details	The Survey was undertaken by an independent professional company and Council has no reason to doubt the accuracy of the plan. The survey meets the requirements for consideration of a Development Application.
Articulation of side elevations	Conditions have been included to increase the articulation. This includes increasing the side setback of the 2 nd floor at the front on the dwelling on both sides. In addition to opening up the balcony on the western elevation of the 2 nd floor. Finally, the Alfresco's eastern wall is now broken up.
Size of the balconies	<p>The balconies are considered to meet the building design control (Section 4.1, control vii) that there are of a size and configuration that is appropriate to the proportions of the building, without excessively increasing its visual bulk.</p> <p>In contrast, the balconies add visual interest and articulation to the dwelling. It is noted that the proposal is 45m² below the maximum FSR. The balconies help to add articulation and outdoor space to the proposal. The amenity impacts of the balconies have been considered.</p>

52 Daunt Avenue

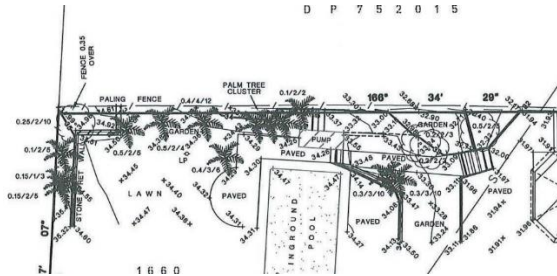
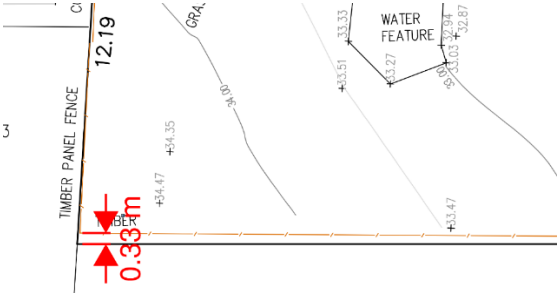
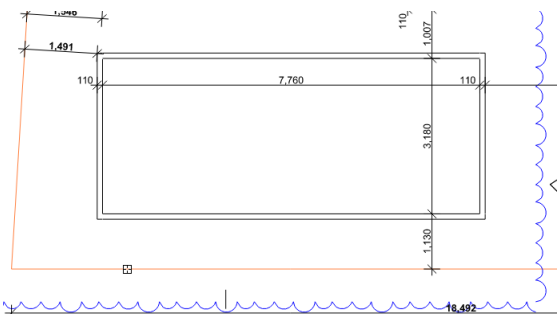
Issue	Comment
Floor Space Ratio	<p>The Cabana and Balconies are excluded from GFA in accordance with the Randwick Local Environmental Plan 2012.</p> <p>The proposal is compliant with the Floor Space Ratio of 0.6:1. This is permitted by Clause 4.4A in the RLEP.</p> <p>The calculations of GFA are shown in the key issues section below.</p> <p>The cabana and alfresco have been conditioned to remain open and not to be converted into habitable space. Therefore, these areas are rightly excluded from the Floor Space Ratio calculations.</p>

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Issue	Comment
Setbacks, streetscape impacts – 3 Storey Appearance	<p>As noted, the 2nd floor side setback is non-compliant with the Randwick Development Control Plan (Part C1 – Section 3.3.2).</p> <p>The approval includes conditions to increase the side setbacks in the areas of non-compliance, being the eastern and western side elevations at the front of the 2nd floor. This improves the perceived bulk.</p> <p>The 3 floor is acceptable based on the building height (Section 3.2) control iv) which states that an alternative design from the two-storey height and street frontage may be acceptable based on</p> <ul style="list-style-type: none"> - Site topography - Site orientation - Allotment dimensions - Flood requirements - Potential impacts on the visual amenity, solar access, privacy, and views of the adjoining properties. <p>This is justified in the key issues section of this report. The site exhibits a large change in levels (topography). The impacts on visual amenity, solar access, privacy, and views have been demonstrated to be appropriate.</p>
Deep Soil	<p>The main differences between the originally proposed plans and the current plans are: reduced cabana size, less paved area, increased side setback of the garage on the western side.</p> <p>Council's Landscape Officer provided the following comments:</p> <p><i>A slight deficiency in deep soil area could be considered reasonable in this case given the sloped topography and resulting need for terracing and retaining walls in order to maximise accessibility and usability of the private open space, and whilst the podium planters at both the front and rear are not counted as deep soil, they will contribute to the overall landscaping/planting provided at the site.</i></p>
Canopy Cover	<p>Council's Landscape Officer has conditioned additional planting and canopy trees and considers that with these conditions a suitable outcome for canopy cover is achieved.</p>
Excavation and impacts on trees along the common boundary (both within the property of 52 and 54 Daunt Avenue).	<p>Council's landscape officer conducted a site inspection on 05 September 2024 to confirm the location of trees on 52 and 56 Daunt Avenue.</p> <p>The Landscape Officer has provided a series of conditions of consent to ensure the retention of vegetation and trees where applicable. The detailed assessment and comments provided by the landscape officer are provided in Appendix 1.</p> <p>Further comments were obtained from Council's Landscape Officer, specifically commenting on the impacts on the trees within 52 Daunt Avenue which are provided below:</p> <ul style="list-style-type: none"> • <i>Council is unable to impose formal protection measures or require design changes to accommodate the vegetation at no.52 as they don't meet the minimum threshold for protection in our own DCP, due to either small size or being exempt species, so we have to remain silent on them;</i> • <i>If the dividing fence needs to be relocated further to the west into no.52 than what it does currently, Council cannot object to that</i>

Issue	Comment
	<p><i>within the DA process as it's purely a civil matter between both property owners.</i></p> <ul style="list-style-type: none"> <i>If there's vegetation in the way of the relocated dividing fence they are allowed to trim it out of the way (within reason) – whether that's roots or branches/leaves etc. a condition of consent has been included to address this requirement.</i> <i>The root systems of those within no.52 would have already been contained/deflected by the existing walls & terraces within their own site, as shown in the photos in their own submission. The logs/sleepers running parallel to the common boundary, below surface level;</i> <i>Different species have different tolerances to root pruning/disturbance, with the various Palms & Giant Bird of Paradise within no.52 known to be resilient to this type of thing, even more so because of their relatively young age class;</i> <i>No.52's own survey indicates that one of the Cocos Palms is actually located with the development site (54 Daunt Avenue). If that is the case, the applicant for no.54 can remove it as part of these works, and the conditions allow for that;</i> <i>Some of the paving, logs and similar that are within no.52 will also need to be removed to accommodate the new dividing fence & wall back on the true boundary location, but this is the same principle as the vegetation, Council can't impose conditions on this.</i> <i>If they were major/protected trees Council would be allowed to specify that any dividing barrier, wall etc be placed placed/stepped around their trunks & roots, like I've done for the other tree on the opposite side, within no.56 to the east.</i> <p><i>Additionally, the Palm at the front of no.52, also on the common boundary is protected by the DCP, so even though this wasn't raised as a concern, Council has imposed conditions for its preservation.</i></p>
<p>Location of the boundary fence between 52 and 54 Daunt Avenue.</p>	<p>The survey provided in the submission in Annexure 1, shows that the boundary fence is not located on the boundary. It shows that the fence is located within 54 Daunt Avenue's land at the rear.</p> <p>Both the survey provided in the submission and the survey provided by the applicant show that this fence is approximately 0.35m east of the common boundary at the very rear of the properties.</p> <p>The Figures below show both surveys.</p> <p>These surveys show that the boundary fence was constructed in the wrong location. The applicant is entitled to construct the boundary fence on the boundary. Council's landscape officer has reviewed the submission and conducted a site inspection at 54 Daunt Avenue, including looking over the fence and taking photos of the trees in 52 Daunt Avenue.</p> <p>Council's Landscape Officer has reviewed the impacts on the trees at 52 Daunt Avenue.</p>

D83/24

Issue	Comment
	 <p>Figure 21: Survey Provided in the submission (52 Daunt Avenue)</p>  <p>Figure 22: Survey provided by the applicant in the Development Application</p>
Visual privacy, fencing	<p>Window (W04) on the first-floor foyer is considered to be a large window. However, the western elevation plan details the 1.8m high boundary fence which will obscure much of the view.</p> <p>The top of the fence is 1.4m higher than the FFL of the room where this window is.</p> <p>This is a low use space, being the foyer between two sets of stairs. The FFL of this room is 31.43, whereas the sill of the window at 52 Daunt Avenue is 33.57, being over 2m higher.</p> <p>Therefore, the privacy impacts of the window on 52 Daunt Avenue are negligible.</p> <p>The assertion that the pool coping is within 0.2m of the common boundary is not considered to be accurate by Council.</p>  <p>Figure 23: Location of the pool in comparison to the common boundary with 52 Daunt Avenue (Source: Applicants plans)</p>
Other issues – overshadowing.	The overshadowing complies with the requirements in the DCP.

62 Daunt Avenue - 2 separate submissions.

Issue	Comment
Privacy on neighbouring properties.	<p>A thorough assessment of the visual privacy impacts on neighbouring properties has been conducted in the key issues section of this report. This demonstrated appropriate consideration has been given to visual privacy from the dwelling.</p> <p>The cabana and pool area are contained within an excavated area and will not pose unreasonable visual or acoustic privacy impacts on neighbouring properties.</p>
Size of the dwelling – impacts on sunlight access for neighbouring properties.	<p>The dwelling complies with both the Floor Space Ratio and Building Height Development Standards.</p> <p>The proposal has demonstrated that sunlight access will be maintained for adjoining properties in accordance with the Randwick Development Control Plan requirements.</p>
Height and bulk impact impacts on privacy and sunlight	<p>The dwelling complies with both the Floor Space Ratio and Building Height Development Standards. These are contained with the Randwick Local Environmental Plan 2012.</p> <p>The bulk of the proposal has been reduced by conditions which increase the side setbacks of the upper levels and open up external walls.</p> <p>The proposal complies with the privacy and sunlight access requirements for neighbouring properties.</p>
Does not fit with the ambiances of the street.	A neighbour locality assessment is contained in section 2 of this report. The proposal is not out of character with this. The proposal generally complies with the DCP which sets the desired future character for the local government area.

Unknown Address – 2 separate submissions

Issue	Comment
Excessive in bulk, height, and scale	<p>The dwelling complies with both the Floor Space Ratio and Building Height Development Standards. These are contained with the Randwick Local Environmental Plan 2012.</p> <p>The bulk of the proposal has been reduced by conditions which increase the side setbacks of the upper levels and open up external walls.</p>
Not in keeping with the neighbourhood.	A neighbour locality assessment is contained in section 2 of this report. The proposal is not out of character with this. The proposal generally complies with the DCP which sets the desired future character for the local government area.
Set precedence for future developments	The proposal is not considered to set an undesirable precedence because it generally complies with the Randwick Development Control Plan and Randwick Local Environmental Plan. All variations have been appropriately justified based on site characteristics.
3 – storey development is not in keeping with homes	A neighbour locality assessment is contained in section 2 of this report. The proposal is not out of character with this. The proposal is able to vary the 2-storey appearance in accordance with the building height

along Daunt Avenue and surrounding neighbourhood.	<p>(Section 3.2) control iv) which states that an alternative design from the two-storey height and street frontage may be acceptable based on</p> <ul style="list-style-type: none"> - Site topography - Site orientation - Allotment dimensions - Flood requirements - Potential impacts on the visual amenity, solar access, privacy, and views of the adjoining properties. <p>As previously discussed, the proposal demonstrates it is acceptable to have a 3-storey appearance.</p>
Height of proposed building and minimal articulation.	<p>The proposed maximum height is below the building height development standard.</p> <p>Conditions have been included to increase the articulation to meet Councils controls.</p>

2 Flanders Avenue, Matraville

Issue	Comment
Does not comply with the regulations set by Council.	<p>The proposal generally complies with the controls in the DCP, any departure is suitably justified.</p> <p>The proposal complies with all development standards in the Randwick Local Environmental Plan 2012.</p>
3 storey home exceeds the limits of surrounding properties, will set a concerning precedent.	There are multiple other three level homes on Daunt Street. This proposal is not considered to set a precedent. The proposal generally complies with the controls.
Proposal doesn't provide a legitimate explanation for exemption from regulations – privacy, shading and setbacks.	<p>The proposal complies with the requirements for privacy and overshadowing.</p> <p>The setback non-compliances are the side setbacks on the ground and 2nd floor. This has been justified in the key issues section of this report.</p>

6. Relevant Environment Planning Instruments

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.

6.1 Relevant Environment Planning Instruments

SEPP (Resilience and Hazards) 2021

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

The subject site has only previously been used for 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.

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 Randwick Local Environmental Plan 2012 (LEP)

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

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will:

- Provide for the housing needs of community within a low-density residential environment, noting it is a single dwelling on a >600m² plot of land.
- It recognises and responds to the surrounding streetscape and built form, noting the neighbour character addressed at the beginning of this report. The proposal generally complies with the current DCP and will contribute to the desired future character of the area.
- The amenity of the residents has been demonstrated to be protected.

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

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Floor Space Ratio (Maximum)	0.6:1	0.53:1	Yes
Height of Building (Maximum)	9.5m	9.25m	Yes

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

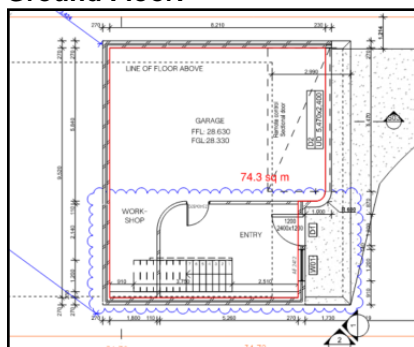
The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

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

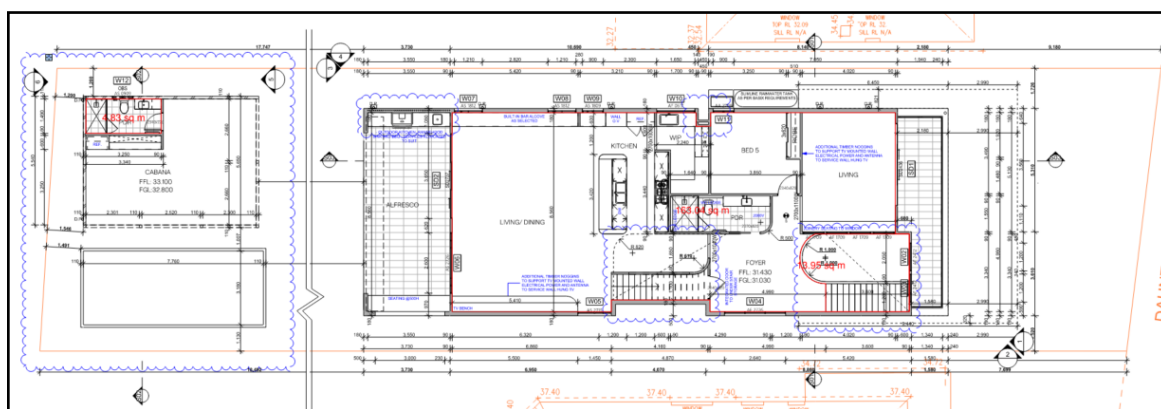
8.1. Discussion of key issues

Floor Space Ratio

Detailed Gross Floor Area Calculations were carried out to confirm the Floor Space Ratio of this proposal.

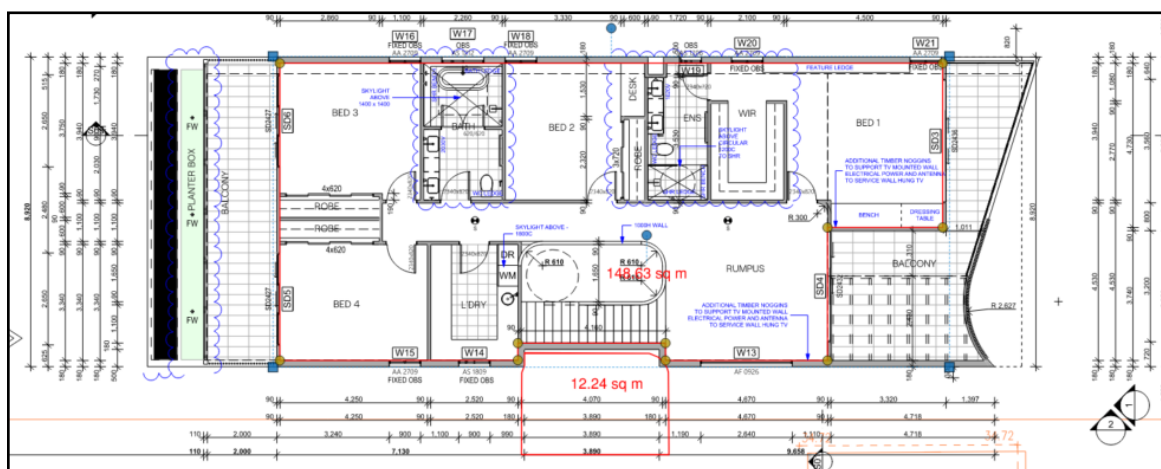
Ground Floor:**Figure 24:** Ground Floor - Council Gross Floor Area calculation - 54 Daunt Avenue

As can be seen in the Figure above, the total area is 74.3m², however, an area of 32.4m² can be excluded for car parking in accordance with the Randwick Local Environmental Plan 2012.

First Floor**Figure 25:** First Floor - Council Gross Floor Area calculation - 54 Daunt Avenue

As can be seen in the Figure above, the total floor areas are:

- 163m² for the main dwelling, however, 13.95m² can be excluded as void space above the stairs.
- 4.83m² for the bathroom in the cabana.

Second Floor**Figure 26:** Second Floor - Council Gross Floor Area Calculation - 54 Daunt Avenue

As seen in the Figure above, the total floor area is 148.63m², however an area of 12.24m² can be excluded because it is void space above the stairs.

Total GFA

Ground Floor: $(74.3\text{m}^2 - 32.4\text{m}^2 = 41.9\text{m}^2)$ + First Floor: $(163\text{m}^2 + 4.83\text{m}^2 - 13.95\text{m}^2 = 153.88\text{m}^2)$ + Second Floor: $(148.63\text{m}^2 - 12.24\text{m}^2 = 136.39\text{m}^2) = \text{Total: } 332.17\text{m}^2$.

Therefore, the FSR is $332.17\text{m}^2 / 629.2\text{m}^2 = 0.528:1$, which complies with the Floor Space Ratio Maximum of 0.6:1, as per Clause 4.4A in the Randwick Local Environmental Plan 2012. The proposal is for a dwelling house in the R2 on a site larger than 300m², therefore the FSR of 0.6:1 applies.

It is also noted that by increasing the side setbacks on the 2nd floor the FSR will be slightly reduced.

The voids on the first and second floor are considered to be large areas. However, it is noted that even if these areas were included in the GFA the FSR would still be compliant. Therefore, it is considered that excluded areas aren't adding unreasonable bulk and scale.

Side setbacks**Ground Floor:**

The proposal is compliant to the west, with a side setback of 1.2m. The proposal is considered acceptable on merit to the east, with a side setback of 906mm from the common boundary to the garage.

The existing crossover will be retained. This 906mm setback accommodates a 5.47 wide double garage and works with the gradients required by the Development Engineer.



Figure 27: Property frontage and driveway at 54 Daunt Avenue (Source: Google Maps)

First Floor

The proposal is fully compliant with the side setback controls.

Second Floor

The side setback controls are based on the calculation table below.

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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$

Figure 28: Side setback controls Randwick Development Control Plan - Part C1

The property frontage is 12.25m wide.

East

The eastern side setback on the 2nd floor is 1.726m.

At the rear of the property the height of the building is less than 7m. Therefore, the rear 6.5m of the dwelling fully complies with the side setback.

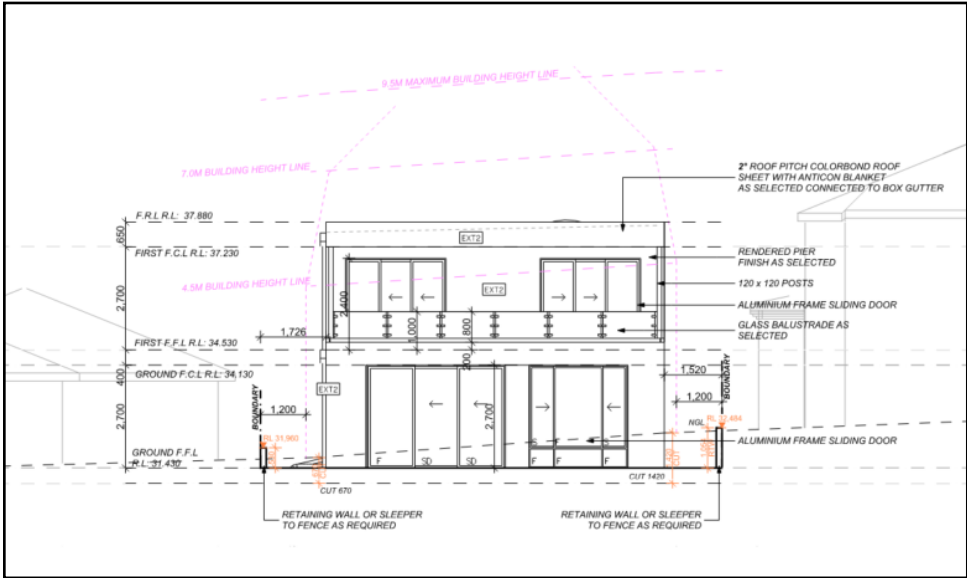


Figure 29: Rear elevation - demonstrating that the dwelling is compliant with side setback controls (Source: Prime Design)

The front portion does not comply with the numerical calculation for the side setback and is therefore considered on merit, against the objectives of the setbacks controls.

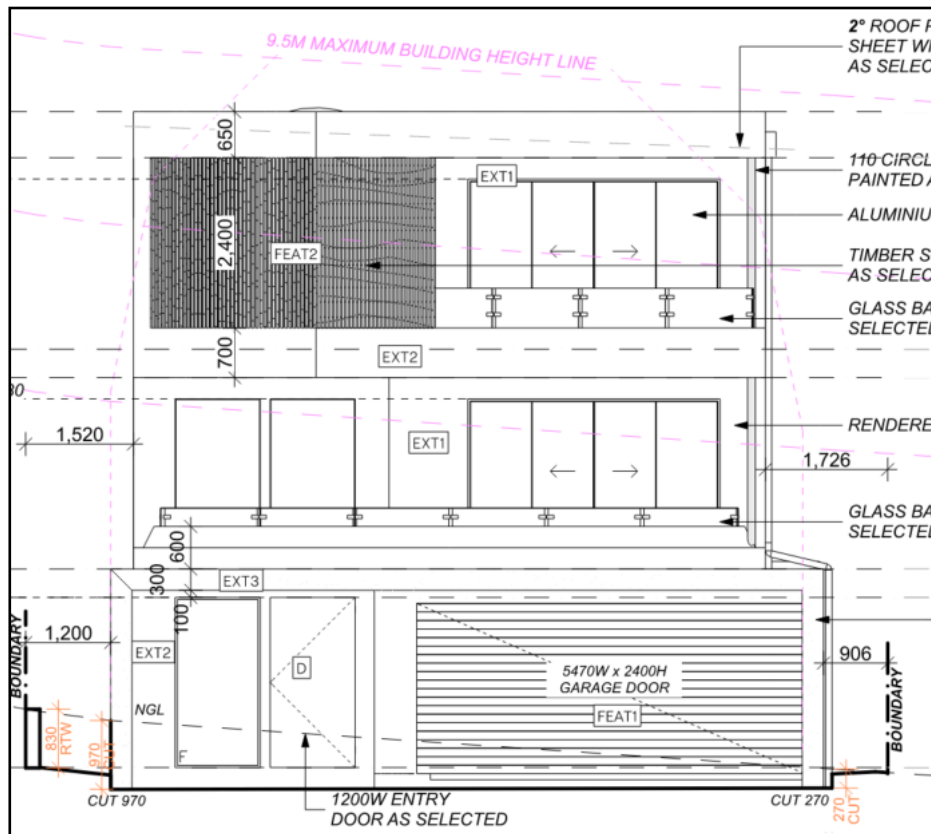


Figure 30: Front (southern) elevation - 54 Daunt Avenue - Demonstrating the numerically non-compliant side setback sections (Source: Prime Design)

The Figure above demonstrates the area of non-compliance with the numerical controls, shown in Pink.

West

The western side setback on the 2nd floor is 1.520m. Due to the higher land on this side, the required setback is less, as per the calculation table.

Merit Assessment

An assessment against the relevant objectives is contained below:

- *To ensure the form and massing of development complements and enhances the streetscape character and maintains a two storey street frontage*

The proposal is for a ground level garage with two floors above. The 2nd floor is setback a minimum of 10.57m from the front boundary to the external wall. The setback of this 2nd floor varies between 13.86m to 10.57m, because of the different wall planes and splayed front boundary. For comparison, the ground floor garage's external wall is setback by between 6.11m to 7.04m. Therefore, the 2nd floor setback is significant, generally between 4.5m– 6m behind the garage.

The proposal fully complies with the Floor Space Ratio and Building Height Development Standards.

A condition has been included to increase the side setbacks at the front of the second floor, to both the west and the east. A condition has also been included to change the external wall of the balcony to a privacy screen, on the western side of the front section of the second floor. These changes will reduce the bulk and scale of the proposal, add articulation, and reduce the numerical non-compliance with the side setback controls. The change of an external wall to a privacy screen will also help to further reduce an overbearing three storey appearance.

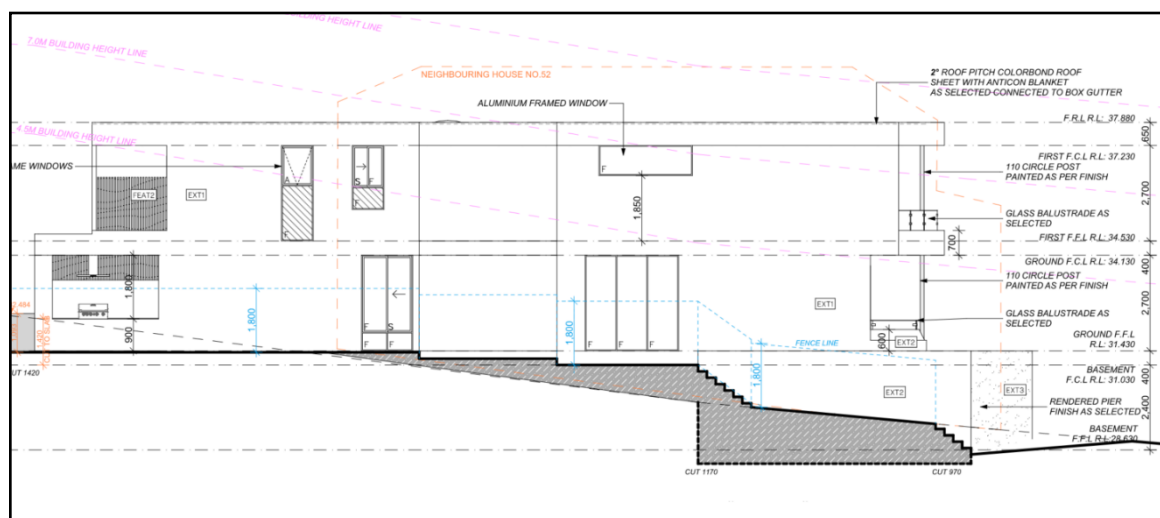


Figure 31: Western Side Elevation (Source: Prime Design)

- To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access

The windows on the east facing upper level are obscured, therefore there is no visual privacy concerns. These rooms are bedrooms and bathrooms, therefore there is negligible acoustic privacy concerns. The shadow diagrams also demonstrate that the neighbouring properties will receive compliant sunlight access, therefore, there will be no unreasonable solar access impacts..

The windows to bedroom 4 and the laundry facing west on the upper level are obscured and these rooms will not cause visual or acoustic privacy concerns. The only other window on this elevation is a horizontal highlight window with a sill height of 1.85m. The balcony at the rear is compliant with side setbacks and also has a privacy screen. The balcony at the front is orientated toward the street.

- To reserve adequate areas for the retention or creation of private open space and deep soil planting

Councils Landscape Officer has reviewed the deep soil permeable surfaces, stating: *A slight deficiency in deep soil area could be considered reasonable in this case given the sloped topography and resulting need for terracing and retaining walls in order to maximise accessibility and usability of the private open space, and whilst the podium planters at both the front and rear are not counted as deep soil, they will contribute to the overall landscaping/planting provided at the site.*

Combined also with the requirement for additional planting and canopy trees that have been conditioned in this report, it is considered that a suitable result can be achieved for this development.

The proposal fully complies with private open space requirements.

- To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.

There are negligible view sharing impacts from the proposal.

In view of the above, subject to the recommended amendments the proposal would be consistent with the objectives of the control and the variation supported.

Earthworks

The site slopes up from the frontage towards the rear by approximately 6m, over a length of 52m, this results in an average gradient of 11.5%.

The site also slopes from west to east by 1.29m across the frontage, which is a length of 12.25m, the gradient is 10.5%. At the rear the change is approximately 0.7m, over a length of 12.19m.

There is significant cut and fill required to facilitate the proposal. To the west, this will result in retaining walls.

At the front of the dwelling, cut between 970mm to 1.17m is required to facilitate the garage.

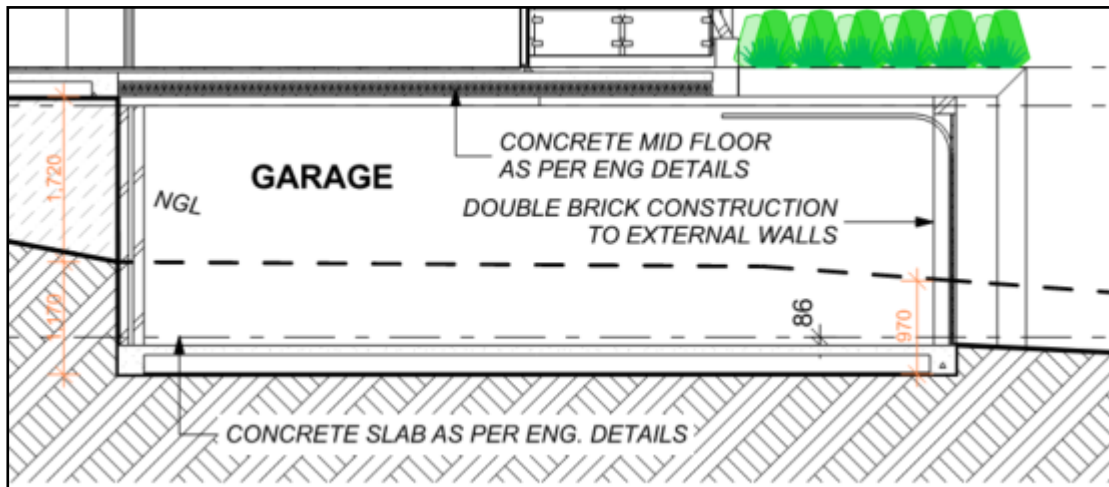


Figure 32: Cut required to facilitate the ground level of the garage (Source: Prime Design)

In the mid section of the proposal, fill to a maximum of 1.72m is required to level the ground.

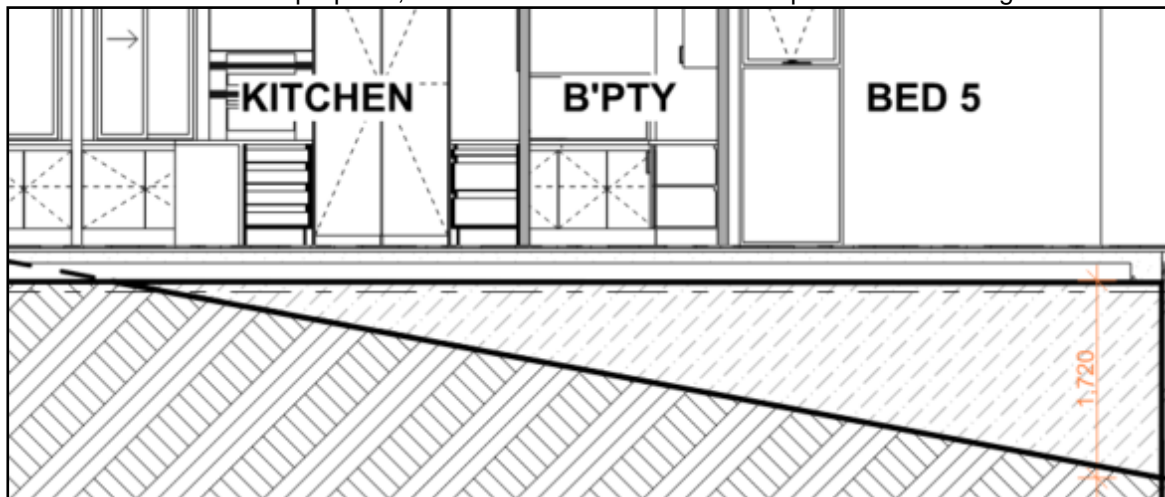


Figure 33: Maximum fill required to facilitate the first floor level (Source: Prime Design)

At the rear, cut of up to 1.42m is required to facilitate the ground level.

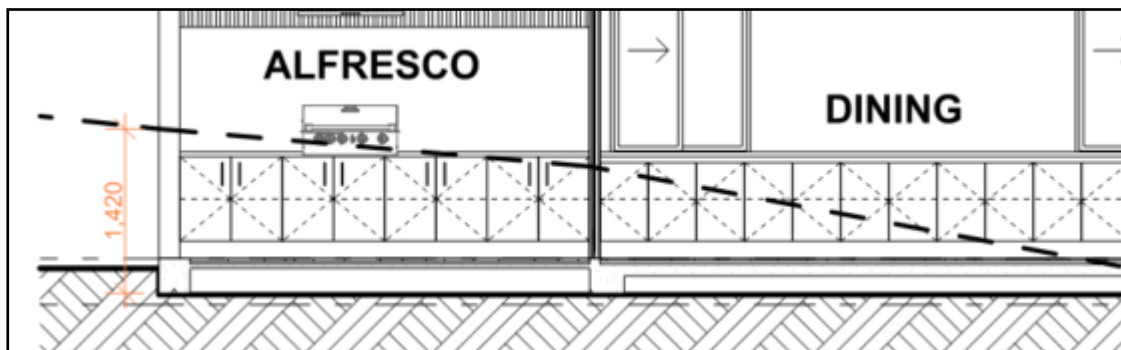


Figure 34: Maximum cut required to facilitate the floor level of the Alfresco (Source: Prime Design)

At the rear, retaining walls along the neighbouring properties boundaries are required. A Dilapidation Report has been included as a condition of consent. A condition requiring the excavation for the

cabana be setback by 1m from the boundary with 56 Daunt Avenue. This has been included at the advice of the landscape officer.

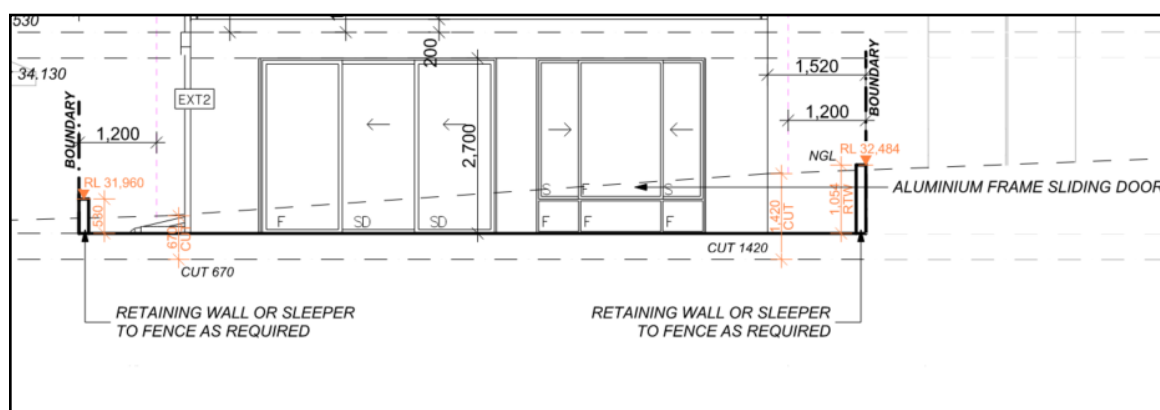


Figure 35: Rear of the dwelling - 54 Daunt Avenue - Demonstrating the retaining walls and cut required compared to the existing ground level (Source: Prime Design)

Earthworks required for the Cabana and Pool

At the rear of the property, a 800mm high retaining wall is required down the eastern boundary and a 1m retaining wall along the western boundary.

Different levels of cut, up to a maximum of 1.2m is required to establish the ground floor of the cabana. Conditions have been included at the advice of Council's Landscape Officer.

The swimming pool requires a cut to a maximum of 2.77m.

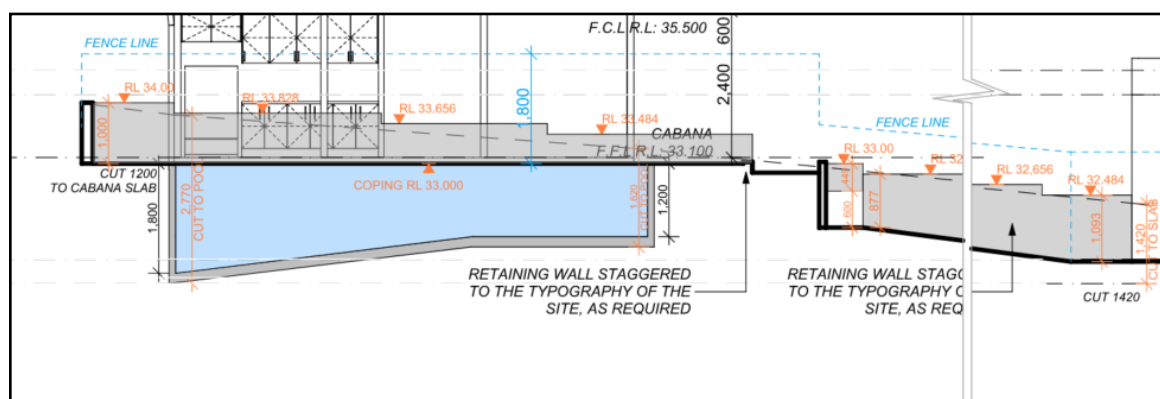


Figure 36: Western Elevation - 54 Daunt Avenue - Demonstrating the retaining walls required (Source: Prime Design)

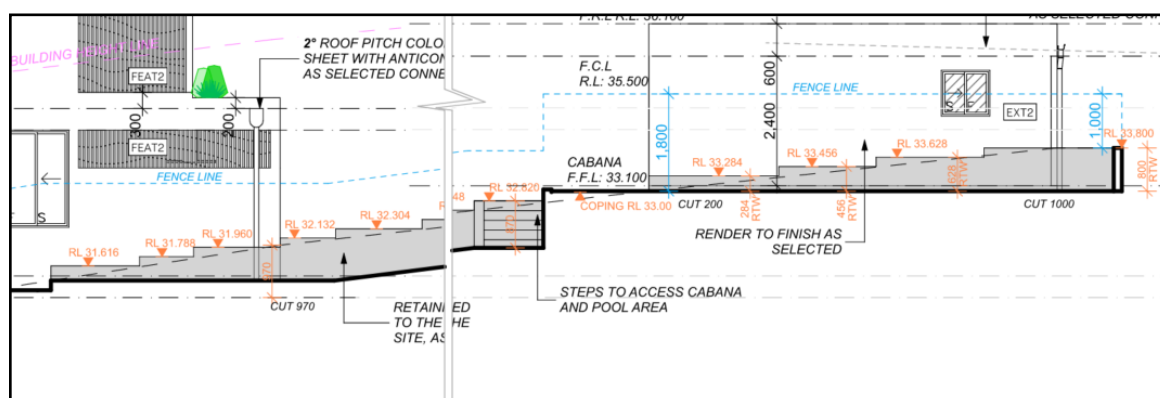


Figure 37: Eastern Elevation - 54 Daunt Avenue - Demonstrating the retaining walls required
(Source: Prime Design)

Building Design - Articulation

A 500mm recess (3.9m long) has been included on the western elevation, which splits the built form into two modules which are less than 12m in length. The topography of the land results in a two storey built form at the rear. The proposal also includes significant vertical articulation, with the garage have lesser side and front setbacks compared to the first and second floor level.

On the eastern side, a recess of 450mm x 500mm has been included to split the side elevation up. However, the balconies at both the front and rear are not enclosed. There are also many windows to break up the blank wall, in addition to changes in topography and building lines.

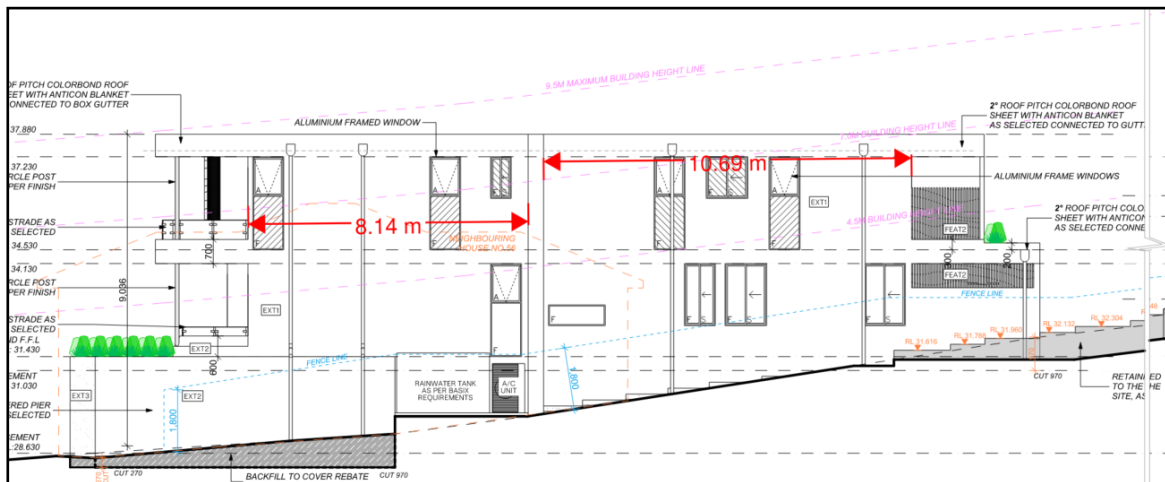


Figure 38: Eastern Side Elevation - 54 Daunt Avenue - Demonstrating the recess and modules of less than 12m (Source: Prime Design)

Building Height/ Three Stories

The proposal contains 3 levels. As per the Section 3.2, control iv):

Alternative design which varies 2 storey street presentation may be accepted with regards to:

- Topography
- Site orientation
- Lot configuration
- Flooding
- Lot dimensions
- Potential Impacts on visual amenity, solar access, privacy and views of adjoining properties.

The site topography slopes upwards from the street frontage by approximately 6m. The site is 52m long and 12m wide. The sites frontage faces south, with the rear garden facing north. The report and applicants documentation has shown:

- The front of the proposal is well articulated. The upper level is significantly set back and includes balconies and changes of materials.
- Limited overshadowing impacts due to the subject site and neighbouring properties advantageous north facing rear gardens.
- As shown below, the proposal does not result in unreasonable visual privacy impacts.
- There are negligible impacts on any views.

As discussed under the side setback control, it is recommended that the side setbacks be increased at the upper level which will minimise the bulk and scale associated with the three-storey presentation. Therefore, in this case the three-storey design is acceptable. It is also noted that there are other developments on this street have a three-storey design and many of them were also approved under CDC.

Visual Privacy

First Floor – Cabana.

- The finished floor level of the cabana is RL33.1. This is lower than the existing ground level. The property is enclosed by a 1.8m high side and rear fence.

As demonstrated by the Figures below there are no privacy concerns from the Cabana.



Figure 39: Standing in the rear garden facing 52 Daunt Avenue (Source: Council Officer)



Figure 40: Standing in the rear garden facing the rear and side boundary of 52 Daunt Avenue (Source: Council Officer)



Figure 41: Standing in the rear garden looking down the fence line of 56 Daunt Avenue (Source: Council Officer)

Side elevation – First and Second floor Facing west.

- On the first floor the foyer window (W04) is mostly obscured by a 1.8m high boundary fence. The window is also lower than the window at 56 Daunt, located in general alignment. (the finished floor level at the subject site is RL 31.43, whereas the sill of the corresponding window at 56 Daunt is RL33.57.)
- W05 Does not align with any window at 56 Daunt Avenue and will have no unreasonable privacy impacts. It is also mostly obscured by the boundary fence.
- On the second-floor windows are obscured to a height of 1.6m, which adequately addresses all privacy impacts.
- The balconies have privacy screening which addresses any privacy impacts to the west. The rear balcony also has a planter box and the balcony is orientated to the rear garden of the subject site, not toward neighbouring properties.



Figure 42: View over the fence toward 52 Daunt Avenue - their eastern side elevation (Source: Council Officer)



Figure 43: Rear/side facing window at 56 Daunt Avenue (Source: Council Officer)

Side Elevation – First and second floor facing east

- The window to bedroom 5 (W11) does not align with any windows of private open space at 56 Daunt Avenue.
- W10 is for the walk in pantry and is a narrow horizontal window, this is a low use room and will not cause unreasonable privacy impacts.
- W07, W08 & W09 do not result in direct viewing of habitable room windows in 52 Daunt Avenue, as shown by the proposed plans and the corresponding plan of 52 Daunt Avenue.
- The second floor windows are frosted/obscured to a height of 1.6m, which demonstrates compliance with Councils visual privacy measures.



Figure 44: Existing view of 52 Daunt Avenue from the subject site, noting the obscured views because of the fence (Source: Council Officer)

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Figure 45: Standing in the front garden of the subject site facing 52 Daunt Avenue (Source: Council Officer)

Sewerage pipe passing through the development site.



Figure 46: Sewerage pipe passing through the development site

Councils Development Engineer reviewed the location of the pipe and advised that the depth of the pipe is 26.6m below existing ground level. On that basis the proposal is not considered to adversely impact the sewer pipe. Additionally, there are numerous developments over the pipeline (e.g. dual occupancy at 23 Finucane Crescent and a number of swimming pools near the subject site).

Furthermore, a condition has been included that all works must be submitted to Sydney Water to determine whether the works will affect Sydney Water's Wastewater network, and if any further requirements need to be met.

In conclusion the sewerage pipe is not considered to be an issue for this proposal.

9. Conclusion

That the application for the demolition of existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that:
 - Provide for the housing needs of community within a low-density residential environment, noting it is a single dwelling on a >600m² plot of land.
 - It recognises and responds to the surrounding streetscape and built form, noting the neighbour character addressed at the beginning of this report. The proposal generally complies with the current DCP and will contribute to the desired future character of the area.
 - The amenity of the residents has been demonstrated to be protected.
- 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 non-standard conditions will:

- Reduce the extent of side setback non-compliance on the upper level.
- Increase the articulation of the upper level
- Reduce the perceived bulk from the street and from 52 Daunt Avenue.
- Break up the side elevations to be less than 12m in length.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Landscape Officer

Tree Management & Landscape Comments

The inspection of 9 September 2024 revealed a small, recently installed Brush Box on the public verge, to the west of the existing vehicle crossing, which despite its small size is still protected by the DCP, and as the new driveway is shown as being maintained in this same position, it can be retained in-situ, with relevant protection conditions and a bond imposed in this report.

Still on the verge, past the existing driveway and eastern site boundary, in front of the neighbouring site at no.56 is a semi-mature, 4m tall *Cupaniopsis anacardioides* (Tuckeroo) of good health and condition that is also protected by the DCP, and while it would not be directly affected by these works, its canopy encroaches close to the common boundary, so precautionary type conditions have been imposed in order to avoid damage from machinery, deliveries and similar.

While there is no vegetation in the front setback of this development site, at a slightly higher ground level to the west, is a semi-mature, 6-7m tall *Washingtonia robusta* (Mexican Fan Palm) which the survey confirms is located wholly within the neighbouring private property at no.52.

This front part of the two properties is separated by an existing low (partly failing) concrete retaining wall that is contained wholly within the development site, and would have acted as a physical barrier to prevent root growth extending into no.54, and while this wall will need to be reconstructed as part of the works, at a closer distance to the trunk in order to place the new wall back on the common boundary, it is like-for-like in terms of material and location, so no major impacts are expected, particularly given the fibrous root system of the genus, with relevant conditions imposed to ensure that the appropriate level of care is taken during this component.

Similarly, while there is no established vegetation within the rear setback of the development site, there are several specimens within neighbouring properties to both the east and west, close to the respective common boundaries, comprising firstly, within **no.52 to the west**, from south to north, *Dracaena*'s, Giant Bird of Paradise and two mature Cocos Palms.

Whilst as a group they may assist the neighbours with partial screening and privacy, none are significant or even protected by the DCP due to a combination of either their small size and/or being low value/exempt species in our DCP (Cocos Palms), which means that an Arborist Report cannot be requested as legally, Council is unable to formally impose conditions requiring their protection or retention.

The plans show that a new pool will be constructed into the northwest site corner, at a setback of 1130mm from the western boundary, and as ground levels will be lowered by between 350-500mm in this area down to RL33.000 (coping), a new low retaining wall will also need to be provided back on this common boundary to deal with any differences in ground levels.

In that regard, the inspection of 5 September 2024 observed existing koppers log retaining walls, paving, garden terraces and similar alterations within the neighbouring site at no.52, which return right up and onto (parallel) with the common boundary (refer photos at D05441513 as well as pages 10-11 of no.52's submission), and as these would have been installed prior to any of the plantings, means that they would have already restricted/prevented root growth from entering the development site, so would be contained mostly within no.52, and on this basis, no major impacts are anticipated from the works.

It is also noted that the survey attached to the end of no.52's objection submission (by Geometra Consulting dated 26/08/24) shows one of the palms along this shared boundary, to the east of their pool and pump, is actually located wholly within the development site, meaning this individual could be removed if needed as part of the works, with conditions provided to that effect.

Both surveys by the applicant and no.52 also show that the true location of the common boundary is up to 350mm past (to the west) of the existing dividing fence, meaning that the new retaining wall and boundary barrier will be installed closer to this row of trees than what currently exists.

Beyond the opposite, eastern boundary, wholly within the adjoining private property at no.56, adjacent the northeast site corner is a mature, 10m tall *Brachychiton acerifolius* (Illawarra Flame Tree) which is a desirable native feature species that is protected by the DCP but appears only in fair condition due to recent heavy/poor lopping of lower growing branches on its western aspect, presumably to allow for the recently installed dividing fence, with timber sleepers also installed beneath the bottom rail (refer photos at D05441513).

The plans show that a new cabana will be constructed over the eastern half of the property, at a 1200mm setback from the common boundary, which should provide an overall setback from its trunk of around 3 metres, which would encroach its TPZ as well as being at the extent of its SRZ. However, the closest works to this tree will actually be excavations and the lowering of ground levels by up to 800mm in this area, as depicted on the Elevation Detail 4 Plan, sheet 13 of 23, to accommodate the new cabana (RL33.100) and common boundary retaining wall.

However, in order for Council (and the applicant) to fulfil our common law responsibility of protecting this neighbouring tree, conditions in this report require a slight re-design to what has been proposed, and involves retaining existing ground levels in the area between the boundary and cabana, as this will increase the offset between the tree and works, minimising any disturbance of its root plate, and will mean that any new retaining wall will need to be provided at a 1 metre setback, and would be installed adjacent the eastern wall of the cabana.

This amendment, together with the sandy soil type which allows roots to travel deeper and further into the profile than heavier type soil, as well as the fact that works are limited to one side of its root plate should all combine to allow this tree to be suitably retained, with relevant protection conditions imposed, which will also maintain a high level of control by requiring site inspections at critical stages by Council's Officer.

Still within no.56, but further to the south of the tree described above, towards the paved BBQ area and free-standing garage is a dead tree which is exempt from the DCP, so conditions cannot be imposed in this case.

It is noted that neighbours from both no.52 & no.56 have submitted detailed objection letters raising various issues, with those related to deep soil, landscaping and tree canopy targets having been considered by this Officer.

A slight deficiency in deep soil area could be considered reasonable in this case given the sloped topography and resulting need for terracing and retaining walls in order to maximise accessibility and usability of the private open space, and whilst the podium planters at both the front and rear are not counted as deep soil, they will contribute to the overall landscaping/planting provided at the site.

Combined also with the requirement for additional planting and canopy trees that have been conditioned in this report, it is considered that a suitable result can be achieved for this development.

1.2. Development Engineer

Parking Comments

Under Part B7 of Council's DCP 2013 the proposed 5-bedroom residence is required to provide a minimum of 2 off-street carspaces. The submitted plans **do** demonstrate compliance with this requirement.

The proposed garage and driveway **complies** with the minimum requirements of Australian Standard 2890.1:2004 in regards to size, grades, and overhead clearances.

Driveway Entrance Location

Development Engineers have included a condition of Development Consent which requires plans to be amended prior to the issuing of a Construction Certificate which shows the driveway opening at the front boundary being located a minimum offset of 1.20m from the eastern side boundary.

Drainage Comments

Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.

Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling. The overflow from the rainwater tank and other surface stormwater must be directed (via a sediment/silt arrestor pit) to Council's kerb and gutter in Daunt Avenue or a suitably sized infiltration area;

Undergrounding of power lines to site

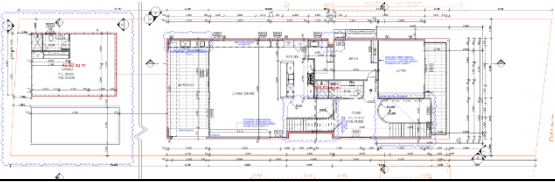
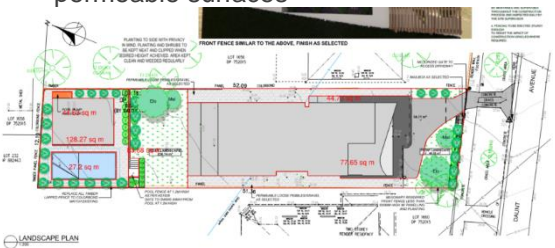
At the ordinary Council meeting on the 27th May 2014 it was resolved that;

"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 not** located within 15m of a mains power distribution pole on the same side of the street hence the above clause **is not** applicable.

Appendix 2: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 629.2m ²	
2.4	Site coverage		
	<p>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)</p> 	<p>The site coverage is calculated to be 42%.</p> <p>The site coverage is 265.25m².</p>	Complies.
2.5	Deep soil permeable surfaces		
	<p>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</p> 	<p>The Deep Soil Permeable Surfaces is calculated to be 261.5m², which equates to 41.5%. Councils landscape officer considers this to be acceptable and has conditioned additional trees to make the development acceptable.</p>	Conditioned to be acceptable.
2.6	Landscaping and tree canopy cover		
	<p>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 601 sqm or above = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species</p>	<p>Additional trees have been conditioned by the landscape officer.</p> <p>The SEE states that 4 x 25L trees have been proposed, with a minimum maturity height of 5m.</p>	Complies.
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	<p>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</p>	The rear garden has appropriate space.	Complies.
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.6:1	Proposed = 0.53:1	Complies.
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 9.25m	Complies.
	i) Habitable space above 1st floor level must	The 1 st and 2 nd floors	See key issues

DCP Clause	Controls	Proposal	Compliance																								
	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. 	are sufficiently setback to mitigate the appearance as a 3-storey dwelling.	section.																								
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.	The front setback is the average of adjoining properties, being 6.5m.	Complies.																								
3.3.2	Side setbacks <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th> </tr> <tr> <th>Existing primary frontage width</th> <th>Building heights 0m to 4.5m</th> <th>Building heights >4.5m to 7m</th> <th>Building heights >7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td>0.9m</td> <td>0.9m</td> <td>0.9m + (building height – 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td>0.9m</td> <td>$0.9m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.5m + 2 \times (\text{building height} - 7m)$</td> </tr> <tr> <td>12m and above</td> <td>1.2m</td> <td>$1.2m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.8m + 2 \times (\text{building height} - 7m)$</td> </tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height – 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	The site frontage is 12.25m	See key issues section.
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
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3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> Existing predominant rear setback line Reasonable view sharing (public and private) Protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.	The proposed rear setback is 15m for the 1 st floor and 19m for the Second Floor. This is considered to be significantly more than the minimum and therefore acceptable.	Complies.																								

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DCP Clause	Controls	Proposal	Compliance
	iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i> Refer to 6.3 and 7.4 for parking facilities and outbuildings.		
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 • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	The proposal is articulated at the front, to the streetscape. The building has been stepped on site. The side elevations have been divided into sections, which are less than 12m, except for one area. The balconies are an acceptable size. The bedrooms comply with the dimensions.	Acceptable on merit.
4.4	Roof terraces and balconies		
	i) Locate on stepped buildings only (not on uppermost or main roof) ii) Where provided, roof terraces must: <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements • Be uncovered and comply with maximum height iii) Locate above garages on sloping sites (where garage is on low side) <i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i>	A terrace is located at the front of the first floor. It is orientated toward the street, it is located on top of the garage and is an appropriate size.	Complies.
4.5	Roof design and features		
	<i>Dormers</i> i) Dormer windows do not dominate ii) Maximum 1500mm height, top is below roof	There are no dormers proposed.	Complies.

DCP Clause	Controls	Proposal	Compliance
	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> v) Sympathetic to design of dwelling <i>Mechanical equipment</i> vi) Contained within roof form and not visible from street and surrounding properties.	The skylights are appropriately located.	
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	A schedule of colours and materials was provided with the application. The proposal is appropriately articulated. The building is considered acceptable.	Complies.
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. 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.	The gradient is considered too steep to limit the earthworks to 1m. No subterranean spaces will be inhabited. The retaining walls are stepped with the topography of the land and no step exceeds a height of 2.2m. In accordance with the controls, these retaining walls can be located less than 900mm from boundaries. Cut and fill for POS is terraced.	See key issues Section.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The proposal will receive compliant sunlight access to both the north facing living areas and the POS.	Complies.
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room		Complies.

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DCP Clause	Controls	Proposal	Compliance
	<p>windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June.</p> <p>iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p> <p>v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	<p>The adjoining neighbouring properties enjoy a rear facing northern aspect.</p> <p>Therefore, the impacts on these adjoining properties will not reduce the direct sunlight to north facing living rooms, POS or the roofs to less than 3 hours on 21 June 2024.</p> <p><u>52 Daunt Avenue</u> Will receive less direct sunlight at 8am. By 12pm there is no overshadowing of north facing windows or POS.</p> <p><u>56 Daunt Avenue</u> Will receive less direct sunlight to POS and north facing living areas at 4pm. There are no overshadowing impacts between 8am and 12pm.</p>	
5.2	Energy Efficiency and Natural Ventilation		
	<p>i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:</p> <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) Living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i></p>	<p>There is appropriate natural lighting of all internal areas.</p> <p>There is appropriate ventilation.</p>	Complies.
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered 	A full assessment has been undertaken in the key issues section of this report.	See key issues.

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)		
	Balcony		
	iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side) iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers) v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure) vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	Suitable use of privacy screening. Suitably located balconies and terraces.	Complies.
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows	No noise sources located adjacent to bedroom windows.	Complies.
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)	The main entry is on the front, street numbering is appropriately located on the front fence. The first-floor level has appropriate windows overlooking the public domain. The front fencing, landscaping and parking does not obscure casual surveillance.	Complies.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss	A site visit confirmed that there will not be view impacts on surrounding properties. The significant increase in ground level height from the frontage to the rear means that the building does not block out district views.	Complies.

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DCP Clause	Controls	Proposal	Compliance
	impacts in the DA.	The proposal is below the LEP height limit of 9.5m.	
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)	There is only 1 vehicular accessway. No rear lanes or secondary street frontages. The garage is located behind the front façade. A double width garage is provided, consistent with the 12.25m frontage. Suitable landscaping has been provided in the front yard. The driveway is not unnecessarily long.	Complies.
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing.	The garage complies with the side setback on the western side. The garage setback has been reduced by 300mm to accommodate the driveway and crossing. This arrange also works best with the gradients.	Acceptable of merit.
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The width of the driveway is remaining as existing.	Complies.
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm	The garage is shown to be behind the building line. The garage width is 5.84m. The internal length is 8.21m.	Complies.

DCP Clause	Controls	Proposal	Compliance
	behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)	The garage clearance is 2.4m	
6.7	Hardstand Car Space Configuration		
	i) Permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The space outside the garage meets the requirements for a hardstand car space.	Complies.
7	Fencing and Ancillary Development		
7.1	General – Fencing		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	The fencing complies with these requirements.	Complies.
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.	The front fencing is shown opposite. The SEE states that the solid portion will not exceed 600mm and the panelling will be to a maximum height of 1.8m. Gates will open inwards.	Complies.
 <p>FRONT FENCE SIMILAR TO THE ABOVE, FINISH AS SELECTED</p>			
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down	The side fencing is shown on the	Complies.

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DCP Clause	Controls	Proposal	Compliance
	<p>(max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	elevations to be 1.8m.	
7.4	Outbuildings		
	<p>i) Locate behind the front building line.</p> <p>ii) Locate to optimise backyard space and not over required permeable areas.</p> <p>iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height)</p> <p>iv) Nil side and rear setbacks where:</p> <ul style="list-style-type: none"> Finished external walls (not requiring maintenance; No openings facing neighbours lots; and Maintain adequate solar access to the neighbours dwelling <p>vi) Must not be used as a separate business premises.</p>	<p>The cabana is located in the rear garden.</p> <p>The proposal is conditioned to comply with deep soil permeable surfaces.</p> <p>The cabana is setback by 1.2m from the rear and side boundaries.</p> <p>The wall height is 2.4m and the overall height is 3.0m.</p>	Complies.
7.5	Swimming pools and Spas		
	<p>i) Locate behind the front building line</p> <p>ii) Minimise damage to existing tree root systems on subject and adjoining sites.</p> <p>iii) Locate to minimise noise impacts on the adjoining dwellings.</p> <p>i) Pool and coping level related to site topography (max 1m over lower side of site).</p> <p>ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties.</p> <p>iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones.</p> <p>iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors.</p> <p>v) Position decking to minimise privacy impacts.</p> <p>vi) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.</p>	<p>Pool located behind the building.</p> <p>Appropriately setback from property boundaries and trees.</p> <p>The pool coping is below the natural ground level.</p> <p>There is appropriate use of vegetation for privacy.</p> <p>The location of the pool and decking does not cause privacy concerns.</p> <p>The pool pump and filter are not in close proximity to dwellings.</p>	Complies.
7.8	Clothes Drying Facilities		
	<p>i) Located behind the front alignment and not be prominently visible from the street</p>	Plenty of space available.	Complies.
7.9	Utility Connections		
	<p>If power pole is within 15m of site (on same side of street), applicant must meet full cost for Ausgrid to relocate.</p>	<p>The development engineer has confirmed that this does not apply.</p>	N/A.

Responsible officer: Joseph Edmonds, Environmental Planning Officer

File Reference: DA/305/2024

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Development Consent Conditions



Folder / DA No:	DA/305/2024
Property:	54 Daunt Avenue, MATRAVILLE NSW 2036
Proposal:	Demolition of existing dwelling house and structures, construction of 3-storey dwelling house, new cabana/outbuilding with bathroom and in-ground swimming pool in the rear yard, new retaining walls and front fencing, new internal driveway, associated ancillary and landscaping works.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

Plan	Drawn by	Dated	Received by Council
Site Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Basement Floor Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Ground Floor Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
First Floor Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Roof Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Cabana / Pool Details, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Elevations, South (1) and West (2), Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Elevations, North (3) and East (4), Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Section, Revision G	Prime Studios	Design 31 July 2024	02 October 2024
Landscape Maintenance Plan, Revision G	Prime Studios	Design 31 July 2024	02 October 2024

BASIX Certificate No.	Dated	Received by Council
1740567S_02	02 October 2024	02 October 2024

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> <ol style="list-style-type: none">Side setbacks of 2nd floor (upper level)<ul style="list-style-type: none">Increase the side setback of the eastern elevation including the balcony by 500mm along the front portion of the dwelling (the external wall of bedroom 1, WIR and Ensuite) to align with the recess provided within the ensuite.Increase the side setback of the western elevation including the balcony by 500mm along the front portion of the dwelling (the rumpus room) to align with the recess provided in the stairway.Replace the external wall of the balcony on the second floor (western elevation) with a 1.6m high privacy screen.Increase the depth of the privacy screening on the eastern elevation of the rear alfresco to 1.5m deep instead of 0.7m. <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>Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>

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Condition	
5.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$1,145,367.57 the following applicable monetary levy must be paid to Council: \$1,145.37.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $\text{IDC} = \text{ODC} \times \text{CP2/CP1}$ <p>Where:</p> <p>IDC = the indexed development cost ODC = the original development cost determined by the Council CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
6.	<p>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>
7.	<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"> \$3000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the</p>

	Condition
	<p>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>
8.	<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™ 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>
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>BASIX Requirements</p>

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Condition	
	<p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
11.	<p>Excavation Earthworks and Support of Adjoining Land</p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
12.	<p>Excavation, Earthworks and Support of Adjoining Land</p> <p>A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none"> • when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land; • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
13.	<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> <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 roadway/kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p>

Condition	
	Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093 6923.
	Condition Reason: To ensure all roadway works are designed and constructed in accordance with Council requirements.
14.	<p>Design Alignment Levels</p> <p>The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$772 calculated at \$63.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements, to Council standard, and to ensure payment of fees to Council.</p> <p>Design Alignment Levels</p> <p>The top of footings of any structures constructed on the boundary alignment must be at least 150mm below the alignment level as specified for the vehicular access.</p>
15.	Condition Reason: to accommodate future footpath construction at this location.
16.	<p>Stormwater Drainage</p> <p>A site stormwater drainage system is to be provided in accordance with the following requirements (as applicable):</p> <ul style="list-style-type: none"> a) The stormwater drainage system must be designed and constructed to satisfy the relevant requirements in the Building Code of Australia, b) Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling, c) The overflow from the rainwater tank and other surface stormwater must be directed to a suitably designed sediment/silt arrestor pit which drains to a suitably designed infiltration area having a minimum base area of 5m², d) A stormwater overflow pipe (located a minimum 50mm above the outlet to the infiltration area) is to be provided from the sediment/silt arrestor pit to drain to Council's kerb and gutter in front of the site, e) The design and construction of the infiltration areas must be appropriate having regard to the site and ground characteristics. <p>Should the site or ground conditions preclude the construction of an infiltration pit (i.e. due to rock being located within 300mm of the base of the infiltration area), an infiltration pit need not be provided and the stormwater is to be discharged directly to the kerb and gutter via a sediment/silt arrestor pit.</p> <ul style="list-style-type: none"> f) Should a charged system be required to drain any portion of the site, the charged system must be designed such that; <ul style="list-style-type: none"> i. There are suitable clear-outs/inspection points at pipe bends and junctions. ii. The maximum depth of the charged line does not exceed

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Condition	
	1m below the gutter outlet.
g)	Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.
h)	Details of the design and construction of the stormwater drainage system, sediment site arrestor pit/s and infiltration areas must be submitted to and approved by the Principal Certifier with the Construction Certificate and all works are to be carried to the satisfaction of the Principal Certifier.

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

17. **Stormwater Drainage**

Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.

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

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

18. **Sediment/ Silt arrestor**

Sediment/silt arrestor pit/s are to be provided within the site at or near the street boundary prior to stormwater being discharged from the site or into any infiltration areas. The sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements, to the satisfaction of the principal Principal Certifier:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen located over the outlet pipe (Mascot GMS Multi-purpose filter screen or similar)
- A child proof and corrosion resistant fastening system for the access grate (spring loaded j-bolts or similar).
- The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.

Condition Reason: to ensure that sediment and silt runoff is appropriately managed.

19. **Infiltration Area**

The Infiltration area is required to be constructed generally in accordance with the following requirements:-

- Provision of a minimum 300 mm of soil cover (600 mm where the pit is

	Condition
	located under a garden/landscaped area).
	<ul style="list-style-type: none"> Located a minimum of 3.0 metres from any structures (note: this set back requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure) and 2.1 metres from the adjacent side or rear boundaries. Having a minimum base infiltration area of 5.0 m2 with a suitable means of dispersing stormwater over the area of infiltration. Locating the outlet from the silt arrestor pit to the infiltration area at least 50 mm below the outlet from the silt arrestor pit to the kerb and gutter.
	Condition Reason: To ensure the infiltration area is appropriately designed and constructed.
20.	<p>Building Code of Australia – Swimming Pools</p> <p>Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p>
21.	<p>Swimming Pool Safety</p> <p>Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"> Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation. Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance. Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems. Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.

Condition	
	Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.
22.	<p>Amended Landscape Plans</p> <p>The Landscape/Maintenance Plan by Prime Design Studios, page 17 of 23, rev G dated 31/07/24 must be amended to now comply with the following additional requirements:</p> <ol style="list-style-type: none"> The garden bed in the front setback, hard up against the front property boundary must be extended further to the north of its current position so that the small area of lawn is deleted, and will now finish against the edge of the internal driveway, with all planting in this area to now be contained within the same garden bed; Lower planting must then be added throughout the area described in point 'a' above to increase plant quantities here as well as assist with presentation of the development to the streetscape; Formal garden edging to separate planting/garden beds from areas of lawn and/or gravel must be provided in the rear setback, and includes the area beyond the northeast corner of the new dwelling, along the eastern boundary which must then return as one continuous garden bed along the face of the new retaining wall/terrace, up to the access stairs, as well as for the upper terrace area, for the planting shown to the south of the cabana; Species selection using hardy native coastal plants and ground covers that will not exceed 600mm in height at maturity must be provided in a minimum <u>soil depth</u> of 400mm for the planter boxes shown at the Ground Level, above the garage, beyond the front balustrade, as well as at the rear, at the First Floor Level, beyond the balcony, with details of how safe/compliant access will be provided to facilitate future maintenance to be approved by the Principal Certifier; Isolated stepping stones must be provided along the length of both side setbacks of the dwelling, as well as in the rear setback, between the access stairs and the pool/cabana so as to facilitate repeated pedestrian movements; An additional canopy tree, minimum of 45 litre (pot size at the time of planting) must be added to the rear setback, along the western boundary, in deep soil equally between the rear of the dwelling and the east-west retaining wall, selecting a species which will attain a minimum of 5 metres in height at maturity; Measurements must be included demonstrating that all new tree planting will be provided at a minimum offset of 2.5m from the dwelling.

Condition	
	Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.
23.	<p>Amended Landscape Plans</p> <p>Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the AMENDED scheme submitted for the Construction Certificate complies with the requirements specified above, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.</p>
24.	<p>Condition Reason: to ensure the amended landscape plan requirements are met.</p> <p>Street Tree Protection Measures</p> <p>To ensure retention of the recently installed Brush Box located on Council's Daunt Avenue verge, to the west of the existing/new vehicle crossing, centrally across the width of this development site, as well as the <i>Cupaniopsis anacardioides</i> (Tuckeroo) that is just past the eastern site boundary, in front of the neighbouring site at no.56 in good health, the following measures are to be undertaken:</p> <ol style="list-style-type: none"> All documentation submitted for the Construction Certificate application must note them both for retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown on all plans in relation to the site and new works. All Construction Certificate plans must show that the vehicle crossing will be maintained in its current position along/towards the eastern site boundary, to the extent shown on the set of rev G architectural plans dated 31/07/24. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property must be contained within existing lines in this area only, as indicated on the Concept Stormwater Plan, rev G, page 22 of 23, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on site to comply with this requirement. The Brush Box is to be physically protected by the installation of 1.8-metre-high steel mesh/chainwire fencing panels, which shall be located a minimum distance of 1 metre to its east and west, matching up with the kerb to its south and footpath to its north to completely enclose the tree for the duration of works. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER". The applicant is not authorised to perform any other works to these public 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

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	Condition
	be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning or any Occupation Certificate.
g.	Within the TPZ area there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
h.	The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.
i.	A refundable deposit in the form of cash, credit card or cheque for an amount of \$2,000.00 must be paid into Tree Amenity Income via Council's Customer Service Centre, prior to a Construction Certificate being issued for the development to ensure compliance with the conditions listed in this consent and preservation of the trees.

The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).

Any contravention of Council's conditions relating to the trees during works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.

Condition Reason: Protection of existing environment public infrastructure, community assets and significant trees.

25. **Protection of neighbours trees**

To also ensure retention of the *Washingtonia robusta* (Mexican Fan Palm) that is located wholly in the front setback of the neighbouring property to the west at no.52, as well as the *Brachychiton acerifolius* (Illawarra Flame Tree) that is located beyond the northeast site corner, wholly on the adjoining private property at no.56 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/crowns to be clearly and accurately shown on all plans in relation to the development site and new works.
- b. All Construction Certificate plans must show that the footprint of the cabana will be consistent with the set of architectural plans by Prime Design Studios, rev G dated 31/07/24, with the areas

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	surrounding the cabana and pool to be retained as deep soil only.
c.	All Construction Certificate plans must be amended to now show that ground levels in the rear setback, for the area between the eastern site boundary and eastern wall of the cabana will be retained as existing, with any retaining wall in this area unable to be provided on the common boundary as is currently shown, and must be relocated to now be constructed at a minimum setback of 1 metre from the eastern site boundary, with the Principal Certifier to ensure that suitable details confirming compliance are provided.
d.	Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the rear setback cannot be positioned to the east of the cabana, along the eastern side setback as is currently shown on the Stormwater Concept Plan, rev G, page 22 of 23, with the Principal Certifier to ensure that all Services Plans are amended so that any new stormwater/hydraulic services are directed to the west and south of the cabana.
e.	Ground protection comprising strapped together rumble boards, sheets of plywood or similar must be provided in the area described in point 'c' above prior to commencement until the approved landscaping is being installed.
f.	To prevent soil/sediment being washed over the root system of the Flame Tree, erosion control measures must be provided at ground level along the common boundary.
g.	Within the TPZ area described in point 'e' above there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
h.	All initial excavations for the new retaining walls, being in the front setback adjacent the Palm at no.52 as well as in the rear setback adjacent the Flame Tree within no.56 must be performed by hand, not machinery, where upon Council's Landscape Development Officer (9093-6613) must then be contacted, prior to pouring footings or proceeding further with any works in this area, giving at least 5 working days-notice to inspect, with any instructions issued to be complied with.
NOTE: An Occupation Certificate cannot be issued unless these inspections take place.	
j.	Where minor roots are encountered in either area which are in direct conflict with the approved works and permission is given for their pruning, they may then be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with

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	clean site soil as soon as practically possible.
k.	Any new common boundary fencing within a radius of 4 metres of the Flame Tree can only be a system which is supported on localised pads, not continuous strip footings, with details confirming compliance to be shown on all Construction Certificate plans.
l.	The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.

Condition Reason: Protection and/or maintenance of existing environment public infrastructure, community assets and significant trees.

BEFORE BUILDING WORK COMMENCES

Condition	
26.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment. b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the 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>
27.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and</i></p>

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<p><i>Assessment Act 1979 and 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.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.</p>
<p>28. 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>
<p>29. Construction Site Management Plan</p> <p>A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles • tree protective measures • dust control measures • details of sediment and erosion control measures • site access location and construction • methods of disposal of demolition materials • location and size of waste containers/bulk bins • provisions for temporary stormwater drainage • construction noise and vibration management • construction traffic management details • provisions for temporary sanitary facilities <p>measures to be implemented to ensure public health and safety.</p> <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</p>

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	the surrounding environment, during site works and construction.
30.	<p>Construction Site Management Plan 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>
31.	<p>Construction Noise & Vibration Management Plan 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>
32.	<p>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.</p> <p>Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
33.	<p>Demolition & Construction Waste A <i>Demolition and Construction Waste Management Plan</i> (WMP) must be developed and implemented for the development, to the satisfaction of Council's Strategic Waste Management Officer</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 Customer Service Centre or by telephoning Council on 1300 722 542.</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>

Condition

Condition Reason: to ensure that waste is appropriately managed during the demolition and construction phases and is reviewed by Council.

DURING BUILDING WORK

Condition

34. **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.

35. **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

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	<i>be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.</i>
	Condition reason: To protect the amenity of the surrounding area.
36.	<p>Construction Site Management</p> <p>Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.</p> <p>Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Notes:</p> <ul style="list-style-type: none"> • <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i> • <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
37.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and

Condition	
	Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
	g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
	h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
	i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
	j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
	Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
38.	<p>Excavations and Support of Adjoining Land</p> <p>The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.</p> <p>Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
39.	<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>All works must be contained wholly within the development site.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
40.	<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.

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	<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>
41.	<p>Road/Asset Opening Permit</p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <ul style="list-style-type: none"> • A <i>Road / Asset Opening Permit</i> 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 <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> 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 <i>final occupation certificate</i> for the development. • Relevant <i>Road / Asset Opening Permit</i> fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place. <p>For further information, please contact Council's Road / Asset Opening Officer on 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>
42.	<p>Tree Management</p> <p>Due to their small size and insignificance, consent is granted for the removal of any vegetation that is confirmed as being located wholly within this development site where needed to accommodate the approved works as shown, subject to full implementation of the AMENDED Landscape Plans.</p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>
43.	<p>Neighbouring Vegetation</p> <p>Where minor roots are encountered within the development site that originate from the vegetation that is located within the neighbouring private property at no.52, along the common boundary, during any new fencing/retaining wall or similar approved works, they may be pruned 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.</p> <p>Condition Reason: To ensure the protection and longevity of existing significant trees.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

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44.	<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>
45.	<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>
46.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
47.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>The applicant must meet the full cost for a Council approved contractor to:</p> <ul style="list-style-type: none"> (a) Construct a new concrete vehicular crossing and layback at kerb opposite

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	the vehicular entrance to the site to Council's specifications and requirements.
	(b) Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
	Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
48.	<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>
49.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure any damage to the nature strip is appropriately rectified.</p>
50.	<p>Street and/or Sub-Address Numbering</p> <p>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.</p> <p>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.</p> <p><i>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.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
51.	<p>Swimming Pool Safety</p> <p>Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
52.	<p>Swimming Pool Safety</p> <p>A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.</p> <p>Condition reason: To ensure compliance with relevant legislation and standards,</p>

Condition	
	and ensure the safety of the pool/spa area prior to use.
53.	<p>Swimming Pool Safety</p> <p>The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>
54.	<p>Stormwater Drainage</p> <p>The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the conditions of this development consent.</p> <p>The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure compliance with the consent and relevant standards, and adequate management of stormwater.</p>
55.	<p>Landscape Certification</p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape/Maintenance Plan by Prime Design Studios, page 17 of 23, rev G dated 31/07/24, and any relevant conditions of consent relating to additional planting and canopy trees.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
56.	<p>Landscape Certification</p> <p>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.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
57.	<p>Tree Protection Certification</p> <p>Prior to any Occupation Certificate, written certification must firstly be obtained from Council's Senior Landscape Development Officer (9093-6613) confirming that the requirement for a joint site inspection of hand dug trenches for the new retaining walls in both the front and rear setbacks was performed, as is required by the '<i>Protection of neighbours trees</i>' condition, with any other instructions issued also having been complied with during the course of works.</p> <p>Condition Reason: To ensure that Councils Landscape Officer inspects that</p>

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	location of the excavations before the footings are poured in accordance with the protection of neighbours trees condition.
OCCUPATION AND ONGOING USE	
Condition	
58.	<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>
59.	<p>Use of Cabana</p> <p>The cabana structure in the rear garden must remain open on two sides and must not be enclosed by external walls.</p> <p>Condition reason: to ensure that the cabana is not enclosed and used as an additional habitable space.</p>
60.	<p>Use of Alfresco</p> <p>The alfresco at the rear of the first floor must remain open to the rear and must not be enclosed by an external wall or permanent doors.</p> <p>Condition reason: to ensure that the alfresco is not enclosed and used as an additional habitable space.</p>
61.	<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>
62.	<p>Waste Management</p> <p>Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.</p> <p>Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.</p>
63.	<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>
64.	<p>Use of parking spaces</p> <p>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.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

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

DURING DEMOLITION WORK

Condition	
66.	<p>Demolition Work</p> <p>Any demolition work must be carried out in accordance with relevant Safework</p>

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

Development Application Report No. D84/24

Subject: 16 Broome Street, Maroubra (DA/585/2024)


Executive Summary

Proposal:	Amending DA – alterations and additions to the approved dual occupancy development under DA/332/2022
Ward:	Central Ward
Applicant:	Constantine Hairis
Owner:	George Mavrocordatos and Aspasia Mavrocordatos
Cost of works:	\$55,000
Reason for referral:	More than 10 unique submissions in objection

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the Floor Space Ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012.
- 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. 585/2024 for alterations and additions to the approved dual occupancy development under DA/332/2022, at No. 16 Broome Street, Maroubra, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/585/2024 - 16 Broome Street, MAROUBRA NSW 2035 - DEV - Randwick City Council

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as more than 10 unique submissions by way of objection were received.

The proposal seeks consent for changes to the dual occupancy development approved under DA/332/2022 by submitting a new application termed an "Amending DA." The modifications involve extending the basement storage rooms and the kitchen/dining areas, as well as converting the upper-level voids into a bedroom.

The key issues associated with the proposal relate to non-compliance with the Floor Space Ratio (FSR) development standard under Randwick Local Environmental Plan (RLEP) and residential amenity impacts.

A maximum FSR of 0.6:1 applies to the site under RLEP 2012. The proposed development will have an FSR of 0.626:1, which equates to a variation of 4.3%. The applicant submitted a written request seeking an exception to the FSR development standard in accordance with Clause 4.6 of RLEP. The applicant's Clause 4.6 written request is well founded and can be supported in this instance.

The proposed modifications are largely within the approved building envelope and therefore do not change the overall height, bulk and scale of the development approved under DA/332/2022.

The proposal would not result in any significant adverse amenity impacts to the adjoining properties in terms of privacy, overshadowing and visual bulk.

The proposal is therefore recommended for approval, subject to conditions.

2. Site Description and Locality

The subject site is known as No. 16 Broome Street, Maroubra and is legal described as Lot 1550 in DP 752015. The site is a rectangular block and is located on the northern side of Broome Street. The site has an area of 613.2m² with a frontage width of 15.24m to Broome Street, a northern and southern side boundary depths of 40.235m and rear boundary width of 15.24m.

The subject site falls from Broome Street to the rear of the boundary by approximately 2.95m.

The existing dwelling on the subject site consists of a single storey and partial two storey brick dwelling house with single garage under the northern portion of the existing dwelling which is accessed via a driveway from Broome Street.

The surrounding area consists of low-density residential development predominately characterised by 1-3 storey detached dwelling houses and duplex development.

The adjoining property to the north at No. 14 Broome Street contains an attached dual occupancy development which was approved under a Complying Development Certificate (CDC) on 5 July 2021 by Exclusive Certifiers and Building Consultants Pty Ltd. The dual occupancy development was subdivided into two Torrens title lots under a CDC and is now defined as a pair of semi-detached dwellings.

3. Relevant history

On 7 March 2023, Council approved a development application for demolition of the existing dwelling and the construction of a part 2/3 storey dual occupancy development and carparking, swimming pools and associated landscaping (DA/332/2022). Refer to **Figures 1 to 5**.

On 18 July 2024, Council approved a Torrens title subdivision of the approved attached dual occupancy development to create two semi-detached dwellings (DA/545/2024). Refer to **Figure 6**.

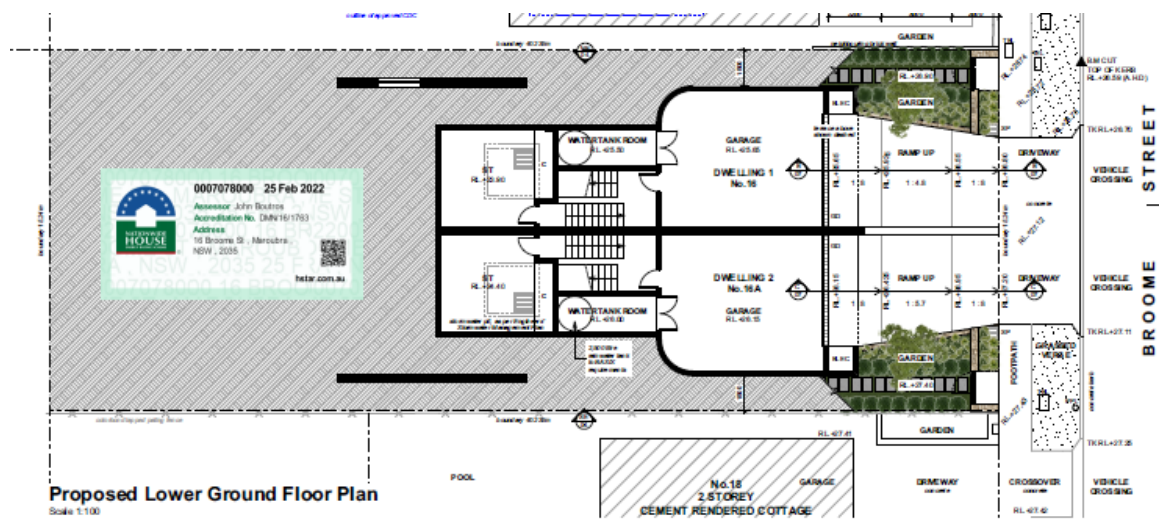


Figure 1 – Approved basement level (DA/332/2022)

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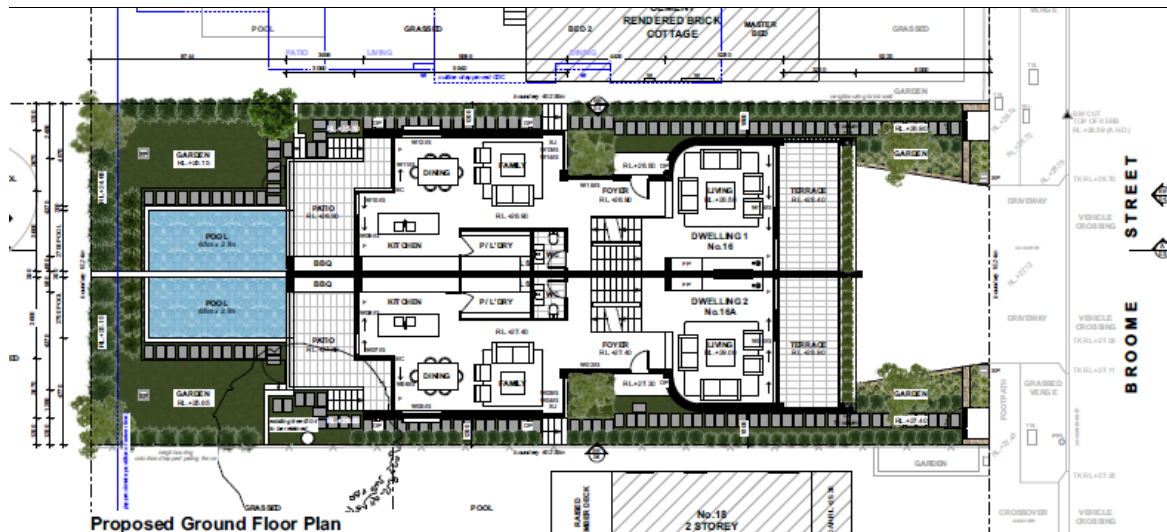


Figure 2 – Approved ground floor (DA/332/2022)

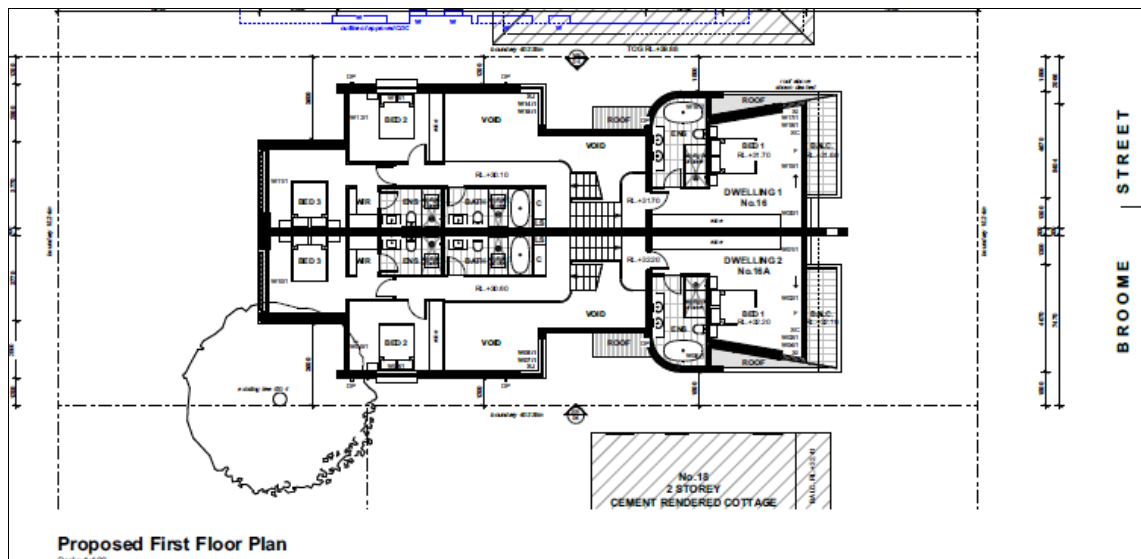


Figure 3 – Approved first floor (DA/332/2022)

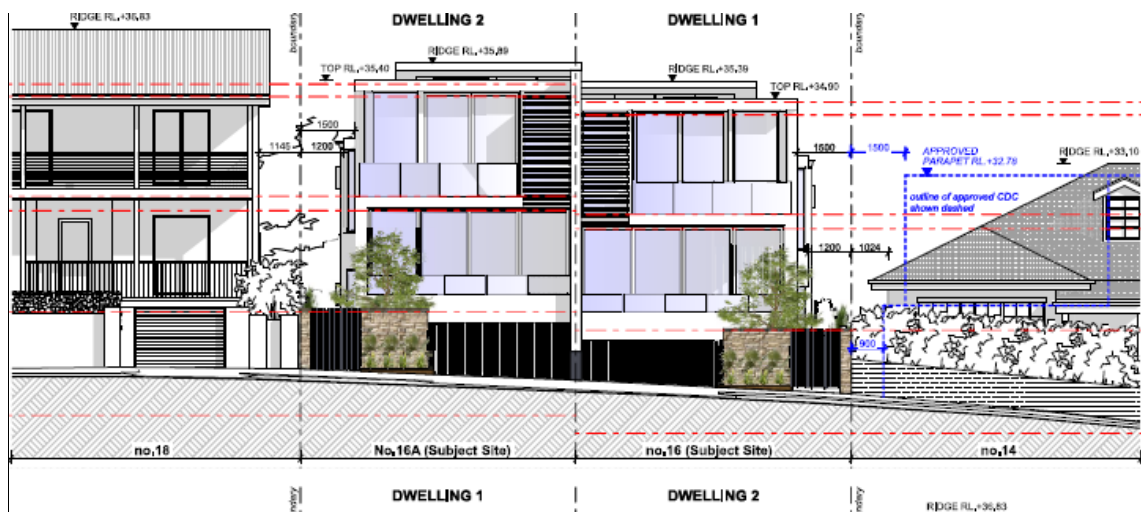


Figure 4 – Approved front elevation (DA/332/2022)

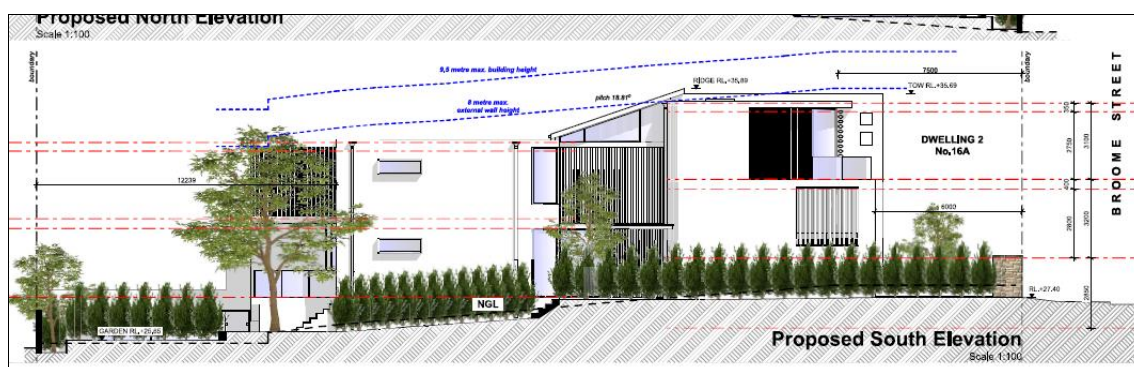


Figure 5 – Approved southern elevation (DA/332/2022)

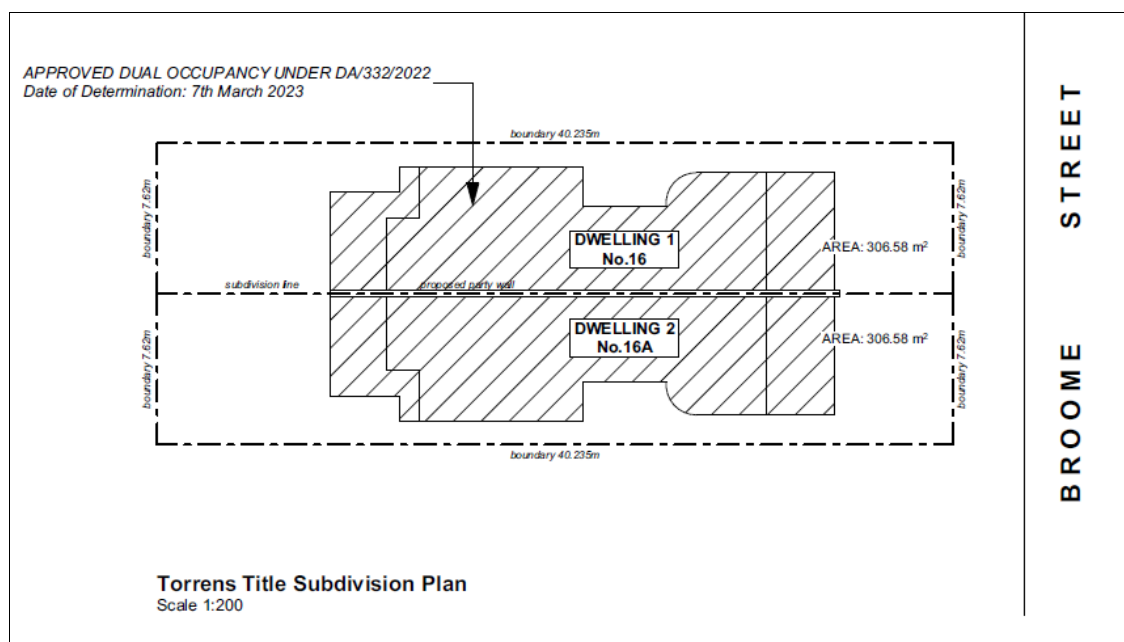


Figure 6 – Approved Torrens Title subdivision (DA/545/2024)

4. Proposal

The proposal seeks development consent for alterations and additions to the approved dual occupancy development under DA/332/2022 (Amending DA).

The proposed alterations and additions to both dwellings involve:

- extending the storage rooms at the basement level and inserting a high level window at the side elevation;
- extending the kitchen/dining rooms approximately 200mm to the west; and
- converting the first floor void to a bedroom and inserting a window at the side elevation.

The proposed works are illustrated in **Figures 7 to 9**.

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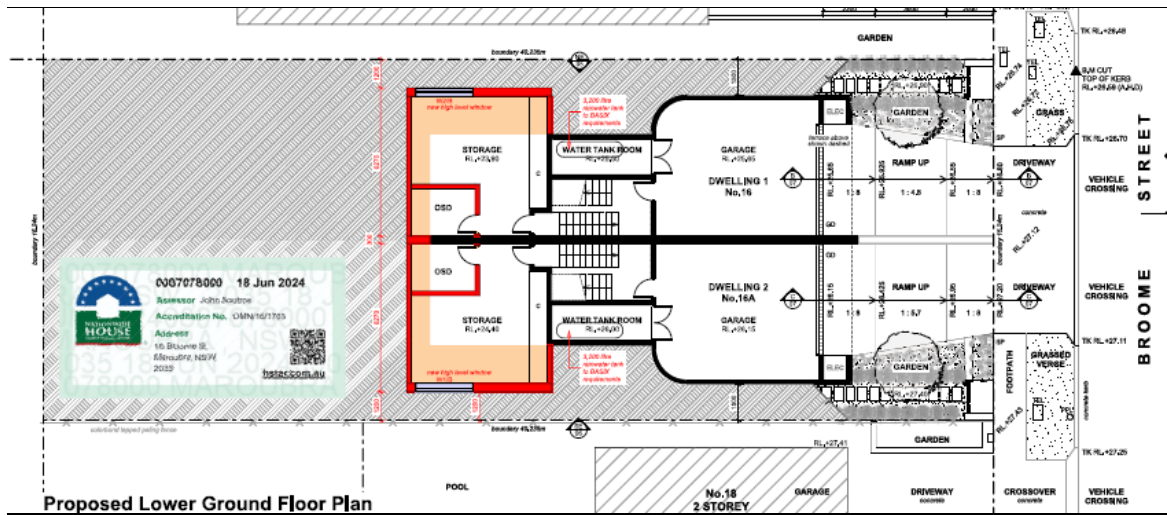


Figure 7 – Proposed basement (addition shaded orange)

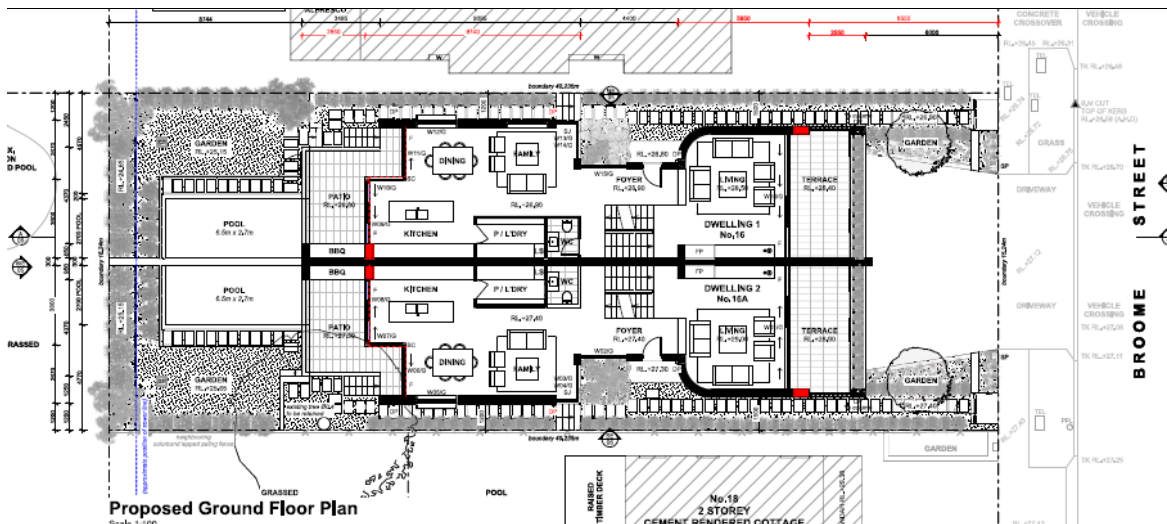


Figure 8 – Proposed ground floor

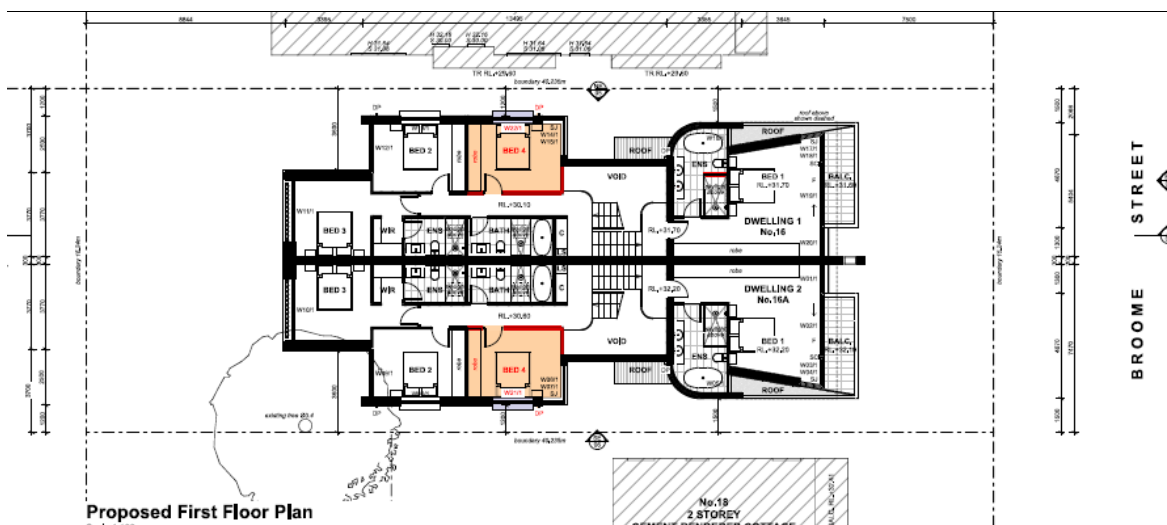


Figure 9 – Proposed upper level

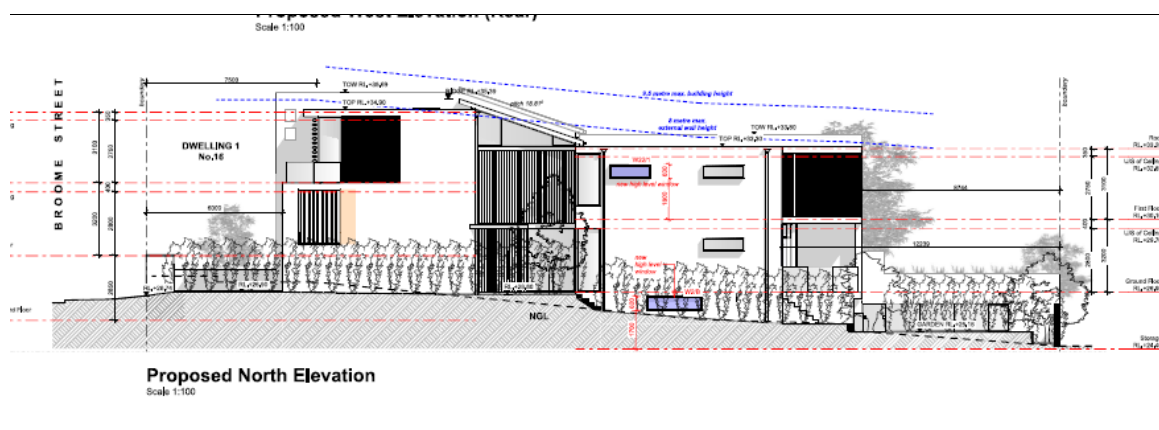


Figure 10 – Proposed northern elevation

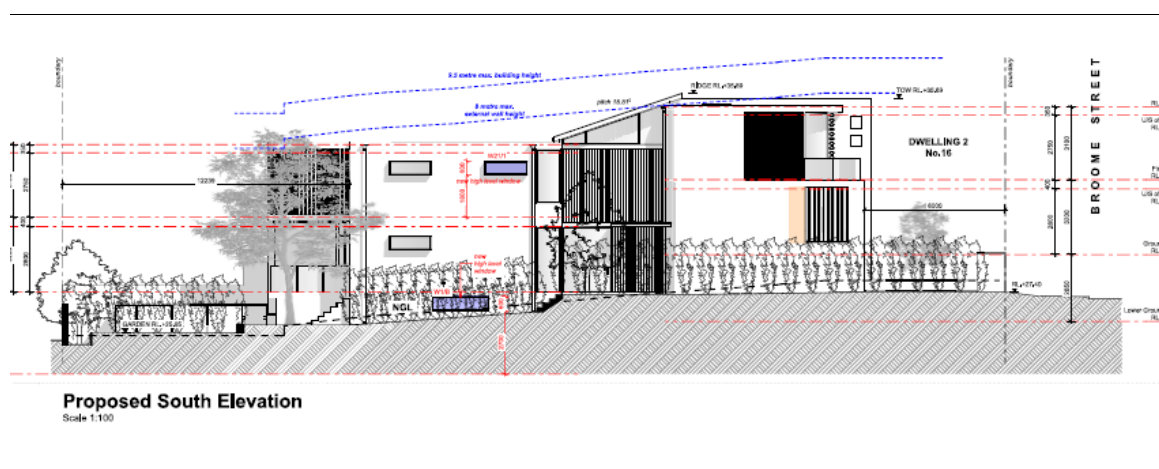


Figure 11 – Proposed southern elevation

5. Notification

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

- Address withheld (email dated 15 July 2024 11:20am)

Issue	Comment
The public notice was not received in the mail	The public notice was issued to the surrounding properties in accordance with the notification requirements under the Randwick Community Engagement Strategy.
Inadequate public consultation process	The public consultation process was undertaken in accordance with the Randwick Community Engagement Strategy.
Extension time requested to review DA plans/documents	Council agreed to the request and granted a three week extension to lodge a submission.

- Address withheld (email dated 15 July 2024 1.05pm)

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Issue	Comment
Council is making the request for additional time difficult. An additional 21 days to prepare objections is requested due to the lead time required to engage consultants and prepare a written objection	Council agreed to the request and granted a three week extension to lodge a submission.
If extension of time is not granted a submission will be made to the Land and Environment Court	See above.

- Address withheld (email dated 30 July 2024 5:04pm)

Issue	Comment
The following comments were made in relation to the assessment of the DA: <i>"We are 85% completed our due diligence of objection and close to submission.</i> <i>We advise will be following through on every detail of the non-compliances with in the DCP and in the event the Council does not refer to the non-compliances and revert to the compliance of the DCP, we will have no hesitation to lodge the objection to the LEC."</i>	Council has assessed the subject development application (DA) in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.

- Address withheld (email dated 5 August 2024 10:48pm)

Issue	Comment
The following comments were made in relation to the approved DA and the assessment of the subject DA: <ul style="list-style-type: none"> • Non-conforming design • Plans do not comply with the DCP • Contravenes DCP planning conditions • Plans should be revoked • New application should be sought 	The approved DA was assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. Council's role is to assess the proposal under the subject DA and not the building under the approved DA.

Issue	Comment
<p>The following issues were raised in terms of non-compliance of the approved DA with the DCP:</p> <ul style="list-style-type: none">• Driveway 3.8m• Garage width 4.6m• Basement room used habitable purposes• Ramp gradient• Front setback• Deep soil requirements• 1-3 storey bulk and scale excessive and out character• Recessed entry• More than 1m cut and fill• Building height northwest elevation• 8m external wall height• Living rooms and floor levels above existing ground	<p>The issues raised do not relate to the assessment of the proposed Amending DA under consideration.</p>

- Address withheld (email dated 5 September 2024 10:55am)

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<p>The following comments were made in relation to the approved DA:</p> <p><i>“how did the council approve these plans in the first place? when it does not comply.”</i></p> <p><i>“The ambiguities, its conflictive approval, it renders it negligent and sets a new standard or precedent as an example, unless it is determined by the council to revoke the DA wholistically on these non-conforming grounds, the council should order the applicant to reapply with a new set of plans conforming to the DCP, not outside”</i></p> <p><i>“The mere fact the plans were approved without consideration to the DCP, with some of the important non conformities, leads us to presume the Town Planner assessing the application negated the DCP or was politically persuaded or coerced by the applicant, otherwise should not have been approved.”</i></p> <p><i>“Nevertheless, it's disturbing that such an application was approved in the first place, when during DAs the council are belligerent and vigilant, in this case it neglected the scope and duty, the mere formalities of the DCP.”</i></p> <p><i>“In essence, if the DA is not revoked in its entirety, we will have no alternative but to take the matter to court to have the DA assessed by the Supreme Court.”</i></p> <p><i>“To avoid these measures taken, the council should terminate the DA and should order the applicant to make another application compliant to the DCP, otherwise opening the door as precedence for future DAs.”</i></p>	<p>The approved DA was assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p> <p>Council's role is to assess the proposal under the current DA and not the building under the approved DA. While the approved DA is not under review, the effect of existing consents on the land has been considered in the assessment of the current DA.</p>
<p>The objector makes the following requests in relation to the subject DA:</p> <p><i>‘We adopt the principals that this DA should be treated like every DA, terminated, and not given favouritism so obviously displayed.’</i></p>	<p>The subject DA has been assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>

- Address withheld (email dated 5 September 2024 8:39am)

Issue	Comment
<p>In reference to photos submitted of the subject property, the following comments were made in relation to the approved DA:</p> <p><i>"It's non-compliant by raising it 1.65 metres above NGL."</i></p> <p><i>"The raising of the duplex is non-compliant, meters above the allowable DCP."</i></p> <p><i>"The inconsistency in the DA outlines the favouritism somehow passes by the council."</i></p>	<p>The approved DA was assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>
<p>The following request was made:</p> <p><i>"Your review of the whole plan should determine the DA should be rejected and revoked holistically and in its entirety."</i></p>	<p>Council's assessment role only relates to the subject DA and not the approved DA.</p>

- Address withheld (email dated 13 September 2024 12:56pm)

Issue	Comment
<p>The following comments were made in relation to the approved DA at 14 Broome Street</p> <p><i>"You assessed 14 Broome St Maroubra and threw the book at us, you were quiet harsh and unconscionable with your treatment of our DA, in particular your strong verbal word age to Simon, if which is recorded."</i></p> <p><i>"You were extremely critical of us raising and leveling our rear garden due to a complaint of no. 16, yet council on the other hand approves the raising of ground levels, conflictive of your treatment of our DA."</i></p>	<p>The approved DA has been assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>
<p>The following request was made in relation to the subject DA:</p> <p><i>"... you should now seek the same treatment of number 16, in that not permit this approval and recommend the Council should terminate the D.A. on the grounds it is non-compliant in nature as per our listed non conformances in our objection, the raising of the front of the building and rear garden over and above the DCP provisions, and, importantly the setbacks, not adhering to the Code of Averaging of the building line between the front setbacks, using the old home which did not exist when these plans were submitted, rather than using the new homes built as the building line which was built at the time the plans were submitted."</i></p>	<p>The subject DA has been assessed against the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. Council's assessment role only relates to the subject DA and not the approved DA.</p>

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Issue	Comment
<p>The following comments were made in relation to the approved DA:</p> <p><i>“The plans incorrectly and dishonestly misrepresented to the council who do not conduct their due diligence, illustrating the old home over the new building 14 and 14a, (shown on the plans) misrepresented the council by also showing and using the old home as the building line which did not exist at that time as its building line is the new homes not used, which were constructed at that time, as per the illustration in the DA plans.”</i></p> <p><i>“We have highlighted the some of the numerous deficiencies, non-conformances, and it’s obvious these plans were biasly (sic) wrongly approved, are dubious to say the least and in no shape and form should have been approved in the first instance.”</i></p> <p><i>“We’ve illustrated the issues and why this DA is non-conforming, the setbacks, heights, the lifting of the rear yard and front of the building over and well above the provisions of the DCP, non-compliant side setbacks which conflicts the DA and with you demanding we lower our rear garden, yet, Council approved lifting the building by some 2.7 meters and rear over 1. 5 meter above NGL and the allowable DCP provisions.”</i></p>	<p>The plans assessed by Council under the approved DA were deemed to be sufficient to enable a proper assessment of the DA at the time. In any event, Council has no legislative power to review an approved DA under the subject DA.</p>
<p>The following comments were made in relation to the application of the planning controls to the subject DA</p> <p><i>“Council has the authority to stringently enforce the Code, not enforce the Code on one but not the other, in which, case this is the classic example.</i></p>	<p>Council’s role in the DA process is to assess the DA in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. The statutory requirements apply to all DAs.</p>

Issue	Comment
<p>The following ultimatum was issued:</p> <p><i>"We require the Plans to be rejected and terminated in totality and the applicant to reapply with a new set of plans that comply with the DCP."</i></p> <p><i>"Should the Council not determine the plan to be rejected and terminated in totality, we are within our rights and will take the matter to the Supreme Court for judgement, using your former communication regarding no. 14."</i></p> <p><i>We have engaged a Town Planner and Lawyer of which I request you communicate with at the same time, so that all communications between us is formally recorded in case the matter is referred to the courts, of which we have issued a notice to the council, proceedings will commence should the council not terminate these plans or the applicant is made to comply with all facets of the DCP, of which, since you have been appointed, is now your responsibility to show no bias towards no. 16 and your duty of due diligence is to enforce the code to be adhered to, to terminate these plans as we seek or to make these plans comply with the DCP in totality.</i></p> <p><i>In the case you do not adhere to the code as mentioned on this email and on the phone, we place you on notice being the representative of the council, the matter will be listed in court."</i></p>	<p>The current DA has been assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p> <p>The appeal rights against a Council decision are embedded in the NSW Planning System, except for third party appeal rights on merit.</p>

- Address withheld (email dated 16 September 2024 12:38pm)

Issue	Comment
<p>The following comments were made in relation to the assessment of the subject DA:</p> <p><i>"It is required you to remain impartial to this DA, that is at arm's length of the council and the applicant, with the expectation of the requirement to stay within the code guidelines by enforcing the Code and remain CONSISTANT as with your enforcement of No.14, not to overlook the non-conforming nature of the DA, AND TREAT IT AS NON-CONFORMING to depict this DA demonstrating the non-conformances to the Council, and many others we retain not noted unless it goes to court."</i></p>	<p>The subject DA has been assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. All DAs lodged with Council are subject to the same legislative assessment process.</p>

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Issue	Comment
<p>The following comments were made in relation to Council's assessment of the subject DA:</p> <p><i>"Further to the previous email, and thank you for time, we wish to establish and emphasis the DCP (which is there to be adopted and adhered to by Council, Council has failed by overlooking to avoid or put aside Code, the DA appears to be in favouritism, (or as an insider of the council stated, name withheld, approved in spite, (yet you hammered our levels conflicting with the non-conforming DA of 16) and now it's the responsibility of duty of correctness by the Council, yourself, to address and adhere to the DCP, in which case, the DA is demonstrable it now should take responsibility of determining a non-conforming DA, as mentioned reasons above, and now being you as the appointed Town Planner (after displaying harshness towards our DA and levels) we would expect the same treatment for no. 16, be it being a non-confirming DA in all aspects, would be to view this DA in its whole entirety as non-conforming and should not have been approved in the first instance, and your responsibility to refer it to Council as a DA that does not conform to the DCP and recommend rejection and termination on this basis."</i></p>	<p>The environmental planning instruments and relevant development control plans and policies have been considered in the assessment of the DA in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. All DAs lodged with Council are subject to the same legislative assessment process.</p>

Issue	Comment
<p>The following comments were made in relation to the approved DA:</p> <p><i>“How it was approved is beyond our imagination, unacceptable, how the council put aside the DA Code ignoring the provisions, is beyond recognition and acceptance, ignoring the implications of such a non-conforming D.A.”</i></p> <p><i>“We acknowledge the DA should not have been approved, on the one hand the Council laid down the law and threw the bricks down upon us through yourself, yet approved a DA which breaks all the rules.”</i></p> <p><i>“It's this very inconsistency (leniency) displayed that thwarts the very system displaying Council lacked the integrity by not ensuring the DA is adhered to, yet is good for one party not the other.”</i></p> <p><i>“It's this unconscious behaviour that is unacceptable, particularly how you assessed our plans with harsh unconscionable reality when we requested you refer to DA of no. 16, you refused and noted your comments " this has with next door" when in reality it has everything to do with next door.”</i></p>	<p>The approved DA was subject to an assessment against the environmental planning instruments and relevant development control plans and policies in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. In any event, Council has no legislative power to review an approved DA under the subject DA.</p>
<p>The following requests were made in relation to the subject DA:</p> <p><i>“You should now refer to the DCP noting and highlighting every non-compliance, to either make a decision to terminate the D.A or the D.A to comply in totality, reducing all bulk and scale, reducing front and rear heights to DCP provisions, the front setbacks noting the current building alignment, unacceptable 3 levels at the rear, and the set back of level 2 to 1.5 meters from the boundary and other non-conformances.”</i></p> <p><i>“Now that it is being reviewed, the Council should take the view it is non-conforming and to prevent court measures, has the power to terminate as noted in Bartier Perry legal report, the Council has with right to terminate the DA.”</i></p>	<p>The subject DA has been assessed against the environmental planning instruments and relevant development control plans and policies in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>

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Issue	Comment
<p>The following ultimatum was made:</p> <p><i>"In light of your comment " ... we hope it doesn't go to court ...not to go to court", I refer to my instructions to the lawyer is to take the matter to the Supreme Court to look at the Plans wholistically on the basis it should not have been approved."</i></p> <p><i>"Reluctantly, please note my instructions, should the council not terminate or enforce the DA to comply with all facets of the DA, to list the matter with the Supreme Court."</i></p>	<p>Noted.</p>

- Bartier Perry

Issue	Comment
<p>The scope of works proposed in the DA are beyond those that are rightly accommodatable as part of an amending DA.</p> <p>In this regard, our client submits that a new DA – for an overall development of the Subject Site that incorporates the development approved under the Previous Consent and the proposal of the DA – should be required of the Applicant, with the Previous Consent being surrendered.</p>	<p>There is no legislative test to determine whether the scope of works can be accommodated in the Amending DA. There is nothing to prevent two development consents to carry out development on the same land.</p>
<p>The GFA calculation is incorrect, and the proposal contravenes the FSR development standard.</p> <p><i>"Given the Applicant has not acknowledged there to be a contravention of the FSR Standard, we submit that Council cannot be satisfied of the pre-requisites to granting consent under section 4.6(3) of the LEP and, thus, its power to grant consent to the proposal under the DA is not enlivened.</i></p> <p><i>If Council were to grant consent in these circumstances, we submit that it would fall into jurisdictional error, challengeable in class 4 proceedings in the Land and Environment Court."</i></p>	<p>The applicant submitted an amended plan incorporating the floor landings and door thresholds in the calculation of GFA.</p> <p>The applicant submitted a Clause 4.6 written request seeking an exception to the FSR development standard under RLEP 2012 with the application.</p>
<p><i>The approved DA does not comply with the provisions under RDCP 2013. The DA seeks consent for the development approved under the Previous Consent and the proposed amendments to it. Council should not permit the DCP non-compliances and should perform an assessment of the overall proposal relative to the adjoining development to the north.</i></p>	<p>The subject DA seeks consent for new building elements not included in the approved DA.</p> <p>Council has assessed the subject DA against the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979.</p>

Issue	Comment
<i>The basement storage will be used for habitable purposes due to windows and adjoining room labelled OSD which proposed stormwater drainage plan proposed sub floor pump tanks.</i>	Conditions are included in the recommended development consent, restricting the use of the spaces for storage purposes only.
<i>Privacy impacts from the corner windows of the additional bedrooms.</i>	The new windows at the upper level along the side elevations do not pose a privacy risk to the adjoining properties. Refer to the Key Issue section of this report.

- Tran Plan

Amending DA should not be permitted to select new planning controls which benefit the private interests of applicant such as FSR whilst ignoring controls in relation to side setbacks, deep soil and landscaping.	The setback, deep soil and landscaping controls are not applicable to the assessment of the subject application as there will be no change to building envelope including the footprint or site coverage and landscape area.
Building is oversized and bulky	The proposed modifications are largely within the approved building envelope and therefore do not change the overall height, bulk and scale of the development approved under DA/332/2022. Refer to the Key Issues section of this report.
FFL basement and ground level is higher than the neighbour at 14 Broome Street, resulting in adverse amenity impacts in terms of overlooking and visual bulk.	The ground floor rear deck approved at 16 Broome Street is 1.16m above the height of the existing ground floor rear deck at 14 Broome Street. The higher level at 16 Broome Street is not unexpected given the topography in this section of Broome Street slopes down from south to north. In any event, the subject DA does not seek to make any changes to the approved external open spaces such as decks, balconies or landscape areas.
Proposal should be redesigned to comply with minimum 45% deep soil landscape and canopy tree plating	The proposal does not relate to any external landscape aspects and therefore the enforcement of the deep soil and canopy controls are not a relevant to the assessment of the subject application.
The proposal does not comply with the front setback requirements under RDCP 2013	The proposal does not relate to the front setback or result in any discernible change to the building envelope and therefore the consideration of the front setback control is not relevant to the assessment of the subject application.
The proposal does not comply with the side setback requirements under RDCP 2013	The proposal does not result in any change to the approved building envelope and the setback controls are not a relevant to the assessment of the subject application.
Visual privacy impacts from the excessive building envelope	The new windows at the upper level along the side elevations do not pose a privacy risk to the adjoining properties. Refer to the Key Issue section of this report
Location of pool equipment and acoustic impacts	The location of the pool equipment is not relevant to the assessment of the application. It is noted that the approved DA includes conditions to minimise noise impacts from the operation of pool equipment.
The front entry should be recessed behind the front facade	The front entry is not relevant to the assessment of the subject application.

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The front garages should have a single car width	The garages are not relevant to the assessment of the subject application.
The proposal seeks an excessively large basement that is not included in the GFA calculation	The stair access to the storerooms has been included in the calculation of GFA.
The basement storerooms will be used for habitable purposes with windows and 2.85m ceiling height.	Conditions are included in the recommended development consent restricting the use of the spaces for storage purposes only.
The solid front fence wall of 1.8m does not comply with the fencing controls under RDCP 2013.	The front fence is not relevant to the assessment of the subject application.

- Address withheld (email dated 26 September 2024)

Issue	Comment
<p>The following comments were made in relation to the assessment process:</p> <p><i>"I anticipate the objections and non-compliances raised are addressed and the plans are made to comply with the CDC.</i></p> <p><i>We expect total transparency and total communication.</i></p> <p><i>We are being very vigilant and expect total compliance with DCP by the council."</i></p>	<p>The subject DA has been assessed in accordance with the statutory requirements under Section 4.15 of the Environmental Planning and Assessment Act 1979. Council has maintained an open line of communication with all stakeholders in the DA process. The planning assessment report is available to the public on Council's website in advance of the Randwick Local Planning Panel meeting.</p>

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 Vegetation in Non-rural Areas

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 existing vegetation on the site that has not been approved for removal under DA/332/2022. As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards)

Chapter 4 - Remediation of Land

Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is

contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

A site inspection identified that the site is currently occupied by a residential building. A review of Council's GIS and historical aerial photos has shown that the site has been used for this purpose since 1975. A search of Council's contaminated land register specifies that the site is not potentially contaminated.

In conclusion, the site is suitable for the proposed development in accordance with contamination requirements of the Resilience and Hazards SEPP.

6.4. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012. The site is zoned R2 Low Density Residential under RLEP 2012 and the proposal is permissible with consent.

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will improve the amenity and layout of the approved dwelling to meet the housing needs of the community while protecting the amenity of the adjoining properties.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.6:1	0.626:1	No
Cl 4.3: Building height (max)	9.5m	7.3m (top of proposed bedroom)	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 6.7 Foreshore scenic protection area

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

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

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

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

Comment

The proposal is consistent with the objectives of the Foreshore Scenic Protection Area (FSPA) in that the proposed design modifications are largely internal and would not result in any change to the overall height, bulk and scale of the development when viewed from the public domain.

7. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standard contained within the RLEP 2012:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.6:1	0.626:1	16.08m ²	4.3%

The NSW Department of Planning and Environment (DPE) made amendments to clause 4.6 of the Standard Instrument which commenced on 1 November 2023. The changes aim to simplify clause 4.6 and provide certainty about when and how development standards can be varied.

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

3. *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard*

Pursuant to section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*, a development application for development that proposes to contravene a development standard must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3).

As part of the clause 4.6 reform the requirement to obtain the Planning Secretary’s concurrence for a variation to a development standard was removed from the provisions of clause 4.6, and therefore the concurrence of the Planning Secretary is no longer required. Furthermore, clause 4.6 of the Standard Instrument no longer requires the consent authority to be satisfied that the proposed development shall be in the public interest and consistent with the zone objectives as consideration of these matters are required under sections 4.15(1)(a) and (e) of the *Environmental Planning and Assessment Act 1979*, and clause 2.3 of RLEP 2012 accordingly.

Clause 4.6(3) establishes the preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces the previous decision in *Four2Five Pty Ltd v Ashfield*

Council [2015] NSWLEC 90 regarding how to determine whether the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

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

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

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

Additionally, in *WZSydney Pty Ltd v Ku-ring-gai Municipal Council* [2023] NSWLEC 1065, Commissioner Dickson at [78] notes that the avoidance of impacts may constitute sufficient environmental planning grounds “as it promotes “good design and amenity of the built environment”, one of the objectives of the EPA Act.” However, the lack of impact must be specific to the non-compliance to justify the breach (*WZSydney Pty Ltd* at [78]).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of a development standard. The assessment and consideration of the applicant's request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

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

The applicant's written justification for the departure from the FSR standard is contained in **Appendix 1**.

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

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that “*The proposal maintains the size and scale of the approved development which was compatible with the existing and desired future character of the locality.*”

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

The applicant's written justification demonstrates that this objective is satisfied by noting that *"The proposal is well articulated in both form and use of materials. Furthermore, the addition of solar panels on the roof will improve the energy efficiency."*

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that *"The proposal does not result in any detrimental impacts to the existing streetscape nor to the neighbouring dwellings in terms of overshadowing, privacy, view loss and visual bulk."*

Assessing officer's comment: The proposed design modifications are largely internal and would not result in any change to the overall height, bulk and scale of the development when viewed from the adjoining properties or within the streetscape. In addition, the proposal would not result in any significant adverse amenity impacts to the adjoining properties. In conclusion, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

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

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

- The reasons provided above under Clause 4.6 (3) (a) *"...unreasonable or unnecessary assessment"*
- The proposal is consistent with the streetscape character of Storey Street.
- The additional FSR is contained within the envelope of the approved dwelling.
- There are no detrimental impacts to the adjoining properties as a result of the additional FSR in terms of overshadowing, loss of solar access, privacy nor loss of views.

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

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 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 submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Floor Space Ratio

A maximum FSR of 0.6:1 applies to the site under Clause 4.4 of RLEP 2012. The proposed development will have an FSR of 0.626:1, which equates to a variation of 16m² or 4.3%. The applicant submitted a written request seeking an exception to the FSR development standard in accordance with Clause 4.6 of RLEP. The proposed design modifications are largely internal and would not result in any change to the overall height, bulk and scale of the development when viewed from the adjoining properties or within the streetscape. In addition, the proposal would not result in any significant adverse amenity impacts to the adjoining properties. The applicant's Clause 4.6 written request is well founded and can be supported in this instance.

Residential Amenity Impacts

Visual Bulk

The proposed alterations and additions will not result in any discernible visual change to the building envelope approved under DA/332/2022 for the following reasons:

- The proposed extension to the storage rooms are predominately below the existing ground level and within the footprint of the approved development.
- The proposed extension to the rear alignment of the kitchen/dining room by approximately 200mm to the west will not result in any change to the overall height, bulk and scale of the approved development; and.
- The proposed additional bedrooms at the upper level occupy a void space within the building envelope

The proposed design modifications are therefore acceptable in terms of visual bulk.

Privacy

The proposed bedrooms at the upper level include a new highlight window at the side elevation with a bottom sill that is 1.8m above the finished floor level to mitigate the potential privacy impact. The proposal therefore they would not result in any privacy risk to the adjoining properties.

Overshadowing

The proposed modifications are largely within the approved building envelope and therefore do not change the overall height, bulk and scale of the development approved under DA/332/2022. The proposal would not result in any unreasonable overshadowing to the adjoining property to the south at 18 Broome Street.

10. Conclusion

That the application to alterations and additions to the approved dual occupancy development under DA/332/2022 be approved (subject to conditions) for the following reasons:

- 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 Low Density Residential R2 zone in that it will provide for the housing needs of the local community.
- The proposal will not change the overall height, bulk and scale of the development and is compatible with the desired future character of the locality.
- The proposal will not result in any significant adverse amenity impacts to the adjoining properties in terms of privacy, overshadowing or visual bulk.

Appendix 1: Applicant's written request seeking to justify the contravention of the development standard

Introduction

This clause 4.6 variation request has been prepared to accompany a Development Application to amend DA/332/2022 for alterations & additions to the approved dual occupancy at 16 Broome Street, Maroubra.

The proposal seeks a minor variation to the development standard contained within Clause 4.4 "Floor Space Ratio" of Randwick Council's Local Environment Plan (LEP) 2012 (2013 EPI 36).

Clause 4.6 "*Exceptions to development standards*" of Randwick Council's LEP allows the consent authority to grant development consent "...even though the development would contravene a development standard imposed by the this (LEP)..." This clause aims to provide an appropriate degree of flexibility in applying certain development standards.

Zoning

The subject site is located within "Zone R2 Low Density Residential" and the objectives of this 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.*

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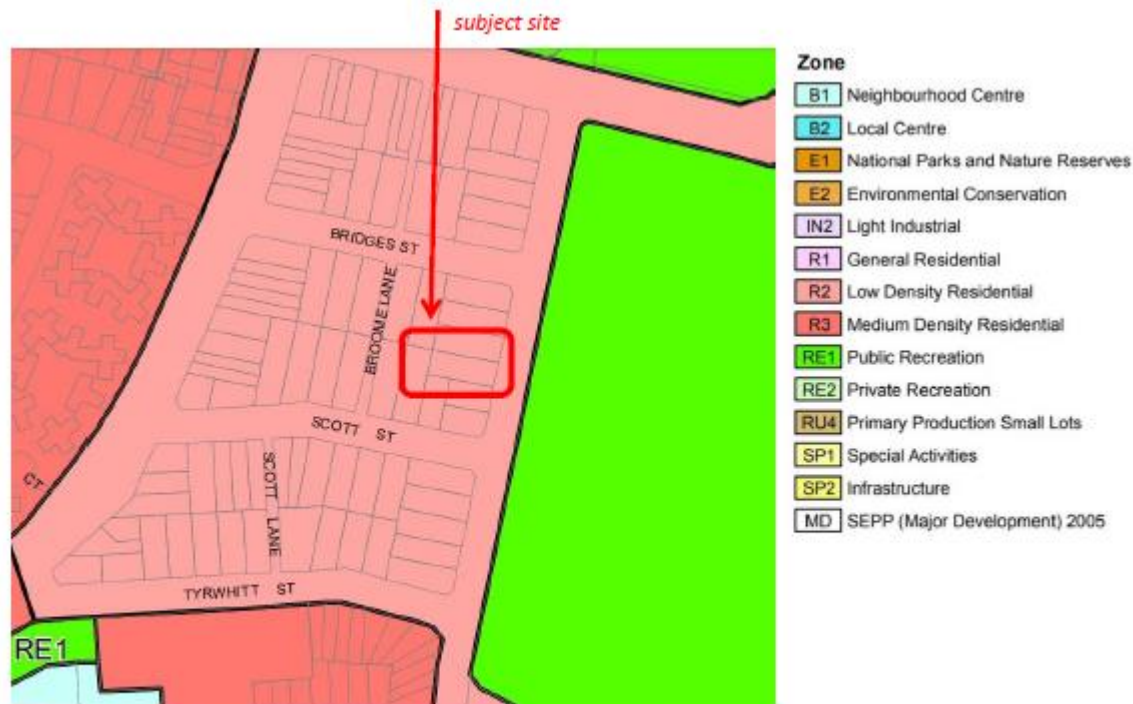


Fig.1 - Land Zoning Map 008 (LEP) *courtesy of Randwick LEP 2012

Development Standard to be varied

The proposal seeks a minor variation to the development standard contained within Clause 4.4 “Floor Space Ratio” of Randwick Council’s LEP 2012 and the maximum FSR of 0.6:1 as illustrated below.

The maximum floor space ratio requirement (FSR) for a site area of 613.2m² is 0.6:1.

The approved FSR under DA/332/2022 was 0.548:1 and the FSR for the proposed modifications is 0.63:1.

FSR Required under Randwick LEP 2012	Approved FSR Under DA/332/2022	Proposed FSR	Percentage Variation
0.6:1 for a site of 613.2m ²	0.548:1	0.626:1	4.3 %

The proposed maximum FSR of 0.626:1 represents a minor variation of 4.3% over the numerical FSR standard in Randwick Council’s LEP.

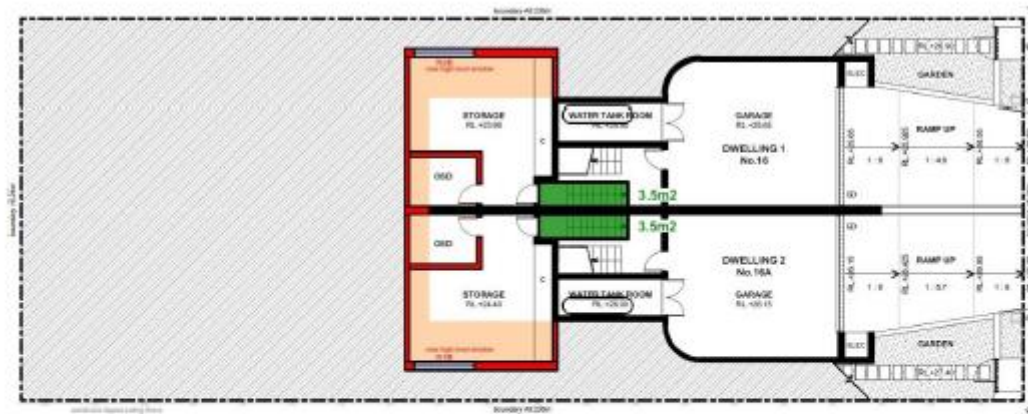


Fig.2 – Lower Ground Floor GFA Calculation Plan (GFA: 7m²)

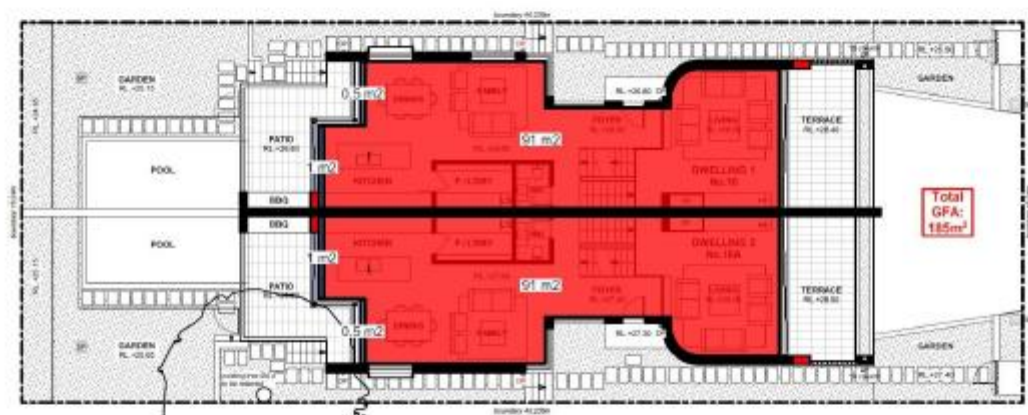


Fig.3 - Ground Floor GFA Calculation Plan (GFA: 185m²)

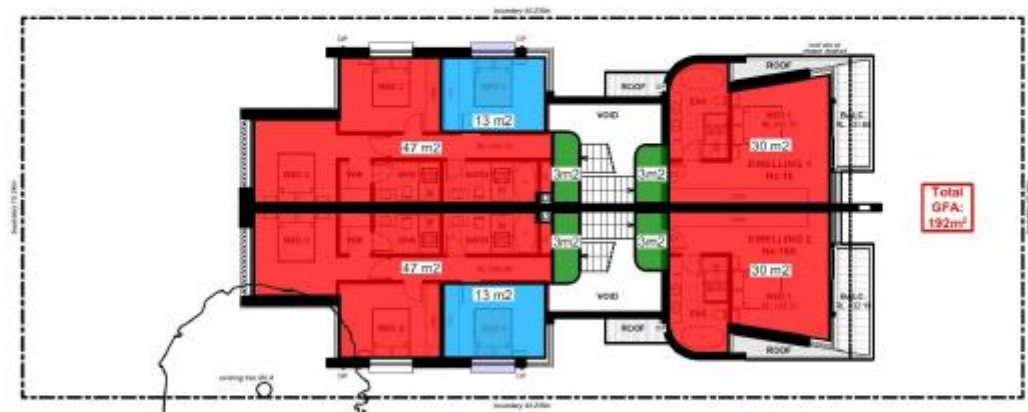


Fig.4 - First Floor GFA Calculation Plan (GFA: 192m²)

The subject site has a total site area of 613.2m², therefore, the maximum allowable gross floor area (GFA) for the subject site is 367.92m² (max. FSR 0.6:1).

<u>GFA Calculations</u>	<u>Approved</u>	<u>Proposed</u>
Lower Ground Floor	N/A	7 m ²
Ground Floor	= 182 m ²	185 m ²
First Floor Area	= 154 m ²	192 m ²
Total GFA	= 336 m ²	384 m ²
FSR	0.548:1	0.626:1

Justification for contravention of the Development Standard

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

4.6 Exceptions to development standards

(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

Assessment:

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

- Compliant Building Envelope

The proposed works are fully within the footprint and envelope of the approved dwelling as well as being fully compliant with Council's "Height of Buildings" LEP Clause.

- Context

The proposal maintains the size and scale of the approved development which is compatible with the existing and desired future character of the locality.



Fig.5 – 3D View of Proposed Broome Streetscape



Fig.6 – 3D Views of Proposed Broome Streetscape

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Photograph of No.12 Broome Street (North of Subject Site)



View of No.43 Broome Street (South of Subject Site) *courtesy of Google Maps



View of No.28 Broome Street (South of Subject Site) **courtesy of Google Maps*



View of No.24A & 24 Broome Street (South of Subject Site) **courtesy of Google Maps*

- Amenity

The proposed works do not result in any detrimental impacts to the neighbouring dwellings on to the existing streetscape.

Furthermore, the additional FSR does not change the envelope of the existing dwelling.

- Retention of Solar Access to neighbouring properties

The proposed works do not result in any additional shadows cast to the neighbouring properties as a result and there is no loss of solar access to the neighbouring dwellings.

- Views

The additional FSR does not result in any view loss from the neighbouring properties nor from the public domain, given the envelope of the approved dual occupancy remains the same.

- Deep soil permeable surfaces

The proposed works do not result in any changes to the approved deep soil permeable surface, under DA/332/2022, given the envelope of the approved dual occupancy remains the same.

Consistency with the objectives of the FSR standard in the Randwick LEP 2012

"4.4 Floor space ratio

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

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

The proposal maintains the size and scale of the approved development which was compatible with the existing and desired future character of the locality.

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

The proposal is well articulated in both form and use of materials.

Furthermore, the addition of solar panels on the roof will improve the energy efficiency.

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

The proposal is not within a conservation area.

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

The proposal does not result in any detrimental impacts to the existing streetscape nor to the neighbouring dwellings in terms of overshadowing, privacy, view loss and visual bulk.

- Short fall in site area to achieve a higher FSR under Clause 4.4(A)

"4.4A Exceptions to floor space ratio

(1) This clause applied to land in the following zones—

(a) Zone R2 Low Density residential,"

(b) Zone R3 Medium Density Residential.

(2) The maximum floor space ratio for a building used for the purposes specified in the table to this subclause is the ratio determined in accordance with the table.

<i>Land use</i>	<i>Zone</i>	<i>Lot size</i>	<i>Maximum floor space ratio</i>
<i>Dual occupancies (attached)</i>	<i>Zone R2</i>	<i>≥550m² and <600m²</i>	<i>0.65:1</i>
		<i>≥600m²</i>	<i>0.6:1</i>

The subject site is 13.2m² below the minimum area requirement of the above Clause to achieve and FSR of 0.65:1. If this FSR was applicable to our proposal, we would have complied with the FSR requirement.

It is unreasonable that we cannot apply the above FSR requirement due to a relatively minor numeric non-compliance with the minimum site area required.

"4.6 Exceptions to development standards

(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—

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard."

Assessment:

It is considered that there are sufficient environmental planning grounds to justify varying the FSR development standard, which includes:

- The reasons provided above under Clause 4.6 (3) (a) *"...unreasonable or unnecessary assessment"*;
- The proposal is consistent with the streetscape character of Storey Street.
- The additional FSR is contained within the envelope of the approved dwelling.

- There are no detrimental impacts to the adjoining properties as a result of the additional FSR in terms of overshadowing, loss of solar access, privacy nor loss of views.

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

"4.6 Exceptions to development standards

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

Should the exception to the development standard sought under this submission be supported by Council, then Council must retain a record of the assessment of this submission.

"4.6 Exceptions to development standards

(5) Repealed

This sub-clause has been repealed.

"4.6 Exceptions to development standards

(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.*

This sub-clause does not apply to our proposal.

"4.6 Exceptions to development standards

(7) Repealed

This sub-clause has been repealed.

"4.6 Exceptions to development standards

(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,"*

This sub-clause does not apply.

- (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.

The proposed works do not rely on nor conflict with this sub-clause.

Conclusion

The proposed alterations & additions to the approved dual occupancy at 16 Broome Street, Maroubra, have resulted in a minor departure of the numeric FSR development standard however, there is no change to the envelope of the approved dual occupancy under DA/332/2022.

This variation request has demonstrated that strict compliance with the floor space ratio development standard is both unreasonable and unnecessary and there are sufficient environmental planning grounds for Council to support our Clause 4.6 variation.

Furthermore, there are no detrimental impacts to the neighbouring dwellings in terms of overshadowing, loss of solar access, visual bulk & scale and loss of views. There are also no impacts to the current and desired future streetscape character.

We trust Council supports our Clause 4.6 request.

Appendix 2: DCP Compliance Table

3.1 Part C1 Low Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)																								
3.3.2. Side setbacks controls	<p>i) New buildings and alterations and additions must comply with the following minimum side setbacks based on the primary frontage width:</p> <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th></tr> <tr> <th>Existing primary frontage width</th><th>Building heights 0m to 4.5m</th><th>Building heights >4.5m to 7m</th><th>Building heights >7m</th></tr> </thead> <tbody> <tr> <td>Less than 6m</td><td colspan="3">Merit assessment</td></tr> <tr> <td>6m to less than 9m</td><td>0.9m</td><td>0.9m</td><td>0.9m + (building height - 4.5m) / 4</td></tr> <tr> <td>9m to less than 12m</td><td>0.9m</td><td>0.9m + (building height - 4.5m) / 4</td><td>1.5m + 2 x (building height - 7m) / 4</td></tr> <tr> <td>12m and above</td><td>1.2m</td><td>1.2m + (building height - 4.5m) / 4</td><td>1.8m + 2 x (building height - 7m) / 4</td></tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height - 4.5m) / 4	9m to less than 12m	0.9m	0.9m + (building height - 4.5m) / 4	1.5m + 2 x (building height - 7m) / 4	12m and above	1.2m	1.2m + (building height - 4.5m) / 4	1.8m + 2 x (building height - 7m) / 4	<p>The proposal would not result in any change to the approved building envelope.</p>	Yes
Minimum side setbacks																											
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4.7 Earthworks	<p>i) Any excavation and backfilling within the building footprint must be limited to a maximum 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification. These requirements do not apply to swimming or spa pool structures.</p> <p>ii) The outer edge of any excavation, piling or sub-surface walls must be setback a minimum of 900mm from the side and rear boundaries.</p> <p>iii) Any excavation undertaken to create subterranean spaces must not be used as habitable space</p>	<p>The additional excavation associated with extending the storage rooms will be up to a depth of 2m. The proposed excavation is within the footprint of the approved development and would not result in any structural, drainage or amenity impacts to the adjoining properties. The size of the storage rooms is less than the combined utility areas approved in the basement of the adjoining property at 14 Broome Street and therefore acceptable in that regard.</p>																									
5.1 Solar Access and overshadowing	<p><u>Solar access to neighbouring development</u></p> <p>iii) A portion of the north facing living area windows of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (winter solstice)</p> <p>iv) The private open space of neighbouring dwellings must</p>	<p>The proposal will not change the overall building envelope and there would be no additional overshadowing to the adjoining property to the south.</p>	Yes																								

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (winter solstice). The area covered by sunlight must be capable of supporting passive recreation activities</p> <p>v) Existing solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (winter solstice)</p>		
5.3 Visual privacy	<p>i) All 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 design measures:</p> <ul style="list-style-type: none"> - Offsetting or staggering windows away from those of the adjacent building - Setting the window sills at a minimum of 1.6m above finished floor level - Installing fixed and translucent glazing up to a minimum of 1.6m above finished floor level - Installing fixed privacy screens outside the windows in question - Creating a recessed courtyard on the side elevations of a building measuring not less than 3m x 2m in size, with windows opening towards the courtyard in lieu of the common boundary. 	The new windows at the upper level are a highlight configuration to mitigate the privacy risk to the adjoining properties.	Yes

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Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/585/2024

D84/24

Development Consent Conditions

Folder /DA No:	DA/585/2024
Property:	16 Broome Street Maroubra
Proposal:	Amending DA – alterations and additions to the approved dual occupancy development under DA/332/2022.
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
01A Proposed Site and Roof Plan REV A	CM Hairis	26 June 2024	9 July 2024
02A Approved v Proposed Lower Ground Floor Plans REV A	CM Hairis	26 June 2024	9 July 2024
03A Approved v Proposed Ground Floor Plans REV A	CM Hairis	26 June 2024	9 July 2024
04A Approved v Proposed First Floor Plans REV A	CM Hairis	26 June 2024	9 July 2024
05A Proposed Elevations REV A	CM Hairis	26 June 2024	9 July 2024
06A Proposed South Elevation and Section AA REV A	CM Hairis	26 June 2024	9 July 2024

BASIX Certificate No.	Dated	Received by Council
1281348M_03	18 June 2024	9 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.

2. **Development Consent – DA/332/2022**
This consent must be carried out in conjunction with the approval under

Condition
DA/332/2022 including any associated modification applications.

Condition Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance.

**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. **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

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

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

Condition Reason: Prescribed condition under section 69 of the *Environmental Planning and Assessment Regulation 2021*.
6. **BASIX Requirements**
In accordance with section 4.17(11) of the *Environmental Planning and Assessment Act 1979* and section 75 of the *Environmental Planning and Assessment Regulation 2021*, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to

	Condition
	<p>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>
7.	<p>Excavation Earthworks and Support of Adjoining Land</p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
8.	<p>Excavation, Earthworks and Support of Adjoining Land</p> <p>A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none"> • when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land; • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
9.	<p>Stormwater Drainage</p> <p>A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p> <ol style="list-style-type: none"> 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;

Condition
<p>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;</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>f) A certificate or statement from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.</p>

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

BEFORE BUILDING WORK COMMENCES

Condition
<p>10. 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:</p> <p>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> <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>

Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any

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Condition	
	building, work, demolition or excavation.
11.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>
12.	<p>Dilapidation Reports</p> <p>A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:</p> <ul style="list-style-type: none"> excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises; demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary); excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and as may be required by the Principal Certifier for the development. <p>The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.</p> <p>The dilapidation report must be submitted to the Principal Certifier, the Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
13.	<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</p>

Condition

site management plan must include the following measures, as applicable to the type of development:

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

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

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

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

14. **Construction Site Management Plan**

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.

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

15. **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.

Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any works.

The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.

Condition

Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.

DURING BUILDING WORK

Condition

16. **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.

17. **Restriction on Working Hours**

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

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

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

	Condition
	<p><i>safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.</i></p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
18.	<p>Construction Site Management</p> <p>Temporary site safety fencing must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works.</p> <p>Temporary site fences must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p><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>
19.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. The road, footpath, vehicular crossing and nature strip must be

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	Condition
	maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
	e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately to the satisfaction of Council.
	f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.
	g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.
	h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
	i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
	j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.
	Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
20.	<p>Excavations and Support of Adjoining Land</p> <p>The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.</p> <p>Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
21.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p>

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

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>22. Occupation Certificate Requirements An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>23. BASIX Requirements In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>

OCCUPATION AND ONGOING USE

Condition
<p>24. Use of Premises The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p> <p>Condition reason: To ensure the development is used for its intended purpose.</p>
<p>25. External Lighting External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
<p>26. Waste Management Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.</p> <p>Condition Reason: To ensure the provision of appropriate waste facilities</p>

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	Condition
	for residents and protect community health, and to ensure efficient collection of waste.
27.	<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>
28.	<p>Use of parking spaces</p> <p>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.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
29.	<p>Basement Level</p> <p>The storage rooms in the basement must be used for storage purposes only and shall not be used for any habitable purposes.</p> <p>Condition Reason: To ensure the basement level is not used for habitable purposes.</p>

Development Application Report No. D85/24

Subject: 23 Denning Street, South Coogee (DA/384/2023)


Executive Summary

Proposal:	Demolition of the existing dwelling with associated structures and construction of a new part 2, part 3 storey dwelling house with double garage, rear swimming pool, associated site and landscape works
Ward:	East Ward
Applicant:	I Triantafyllou
Owner:	I Triantafyllou
Cost of works:	\$2,802,800.00
Reason for referral:	10 or more unique submissions by way of objection were received

Recommendation

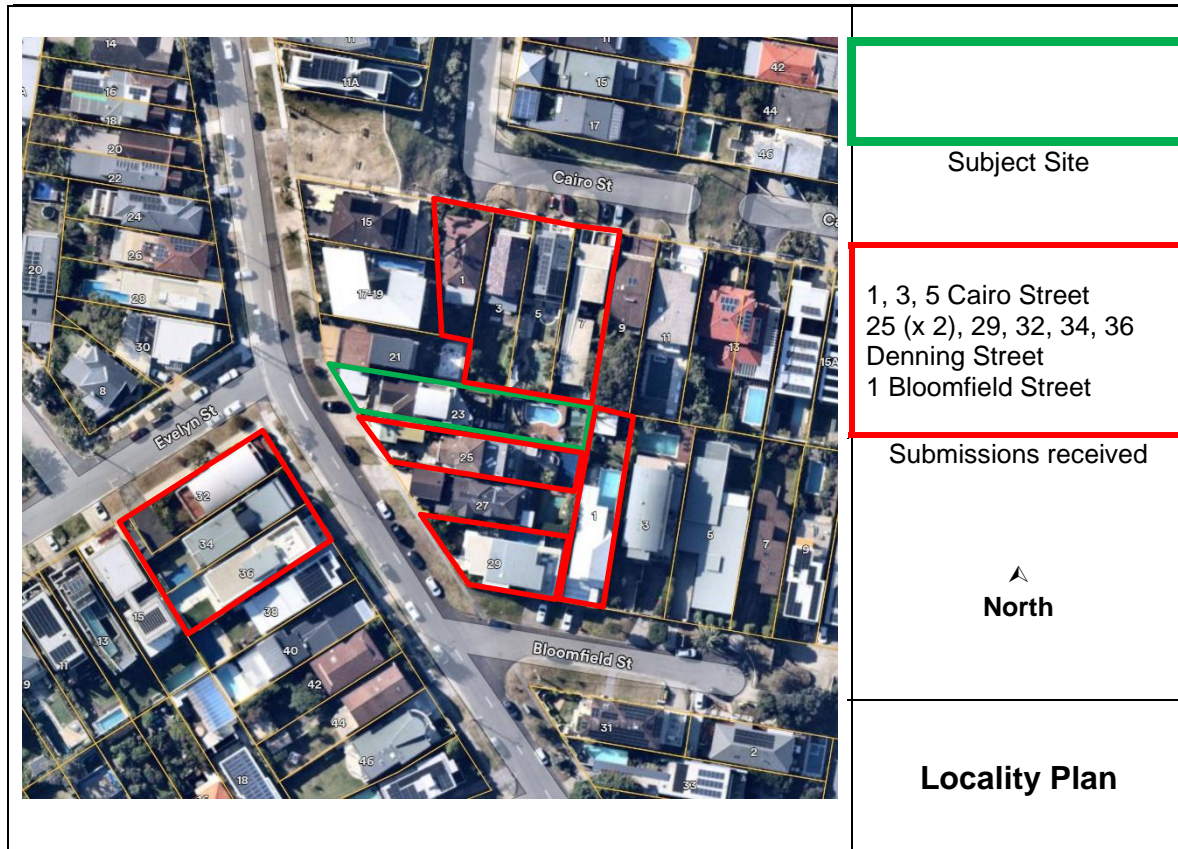
That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 384/2023 for demolition of the existing dwelling with associated structures and construction of a new part 2, part 3 storey dwelling house with double garage, rear swimming pool, associated site and landscape works, at No. 23 Denning Street, South Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  Draft Development Consent Conditions - DA 384 2023 - 23 Denning Street, South Coogee

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1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development is subject of 10 or more unique submissions by way of objection.

The subject application seeks development consent for the demolition of the existing dwelling with associated structures and construction of a new part 2, part 3 storey dwelling house with double garage, rear swimming pool, associated site and landscape works.

The key issues associated with the proposal relate to:

- Building height.
- Rear setback.
- Privacy.
- View sharing.
- Side setback/wall height.
- Side articulation.
- Solar access.
- Deep soil permeable surfaces.
- Level of the pool.

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

- Amendments to the plans to:
 - Increase the southern side articulation.
 - Reduce the fence heights to no more than 1.8m.
 - Provide detailing of the rear garden retaining wall.
 - Reduce the depth of the cabana roof by 1.0m.
 - Reduction in the height of the cabana.
 - Require obscure glazing to two additional first floor northern windows.

- Relocation of the clothes drying area.
- A maintenance condition for the roof gardens.

2. Site Description and Locality

The site is known as 23 Denning Street, South Coogee and is legally described as Lot 34 Section 5 in DP 1055. The site is 586m², and is fairly regular in shape apart from a splay to the west, so that the north boundary of 62.84m is longer than the south boundary of 53.675m. It has an oblique 13.605m frontage to Denning Street to the west and a 10.06m boundary to the east.

The site contains a 3-storey dwelling house in rendered masonry construction and tile roof, a detached rendered garage fronting Denning Street and a pool at the rear of the site. It borders 25 Denning Street to the south, 1 Bloomfield Street to the east, and 21 Denning Street and 3, 5 and 7 Cairo Street to the north.

The site slopes down approximately 11m from west to east. Denning Street slopes down towards Malabar Road and Lurline Bay to the south. The two cross streets near the site, Bloomfield Street and Cairo Street, slope steeply down towards the foreshore escarpment to the east. Diagonally opposite the site, Denning Street intersects with Evelyn Street. The site itself is situated near the crest on this portion of the street. The site benefits from ocean views to the east and north including to Wedding Cake Island.



Figure 1: Left to right – 21, 23 (curved roof) and 25 Denning Street

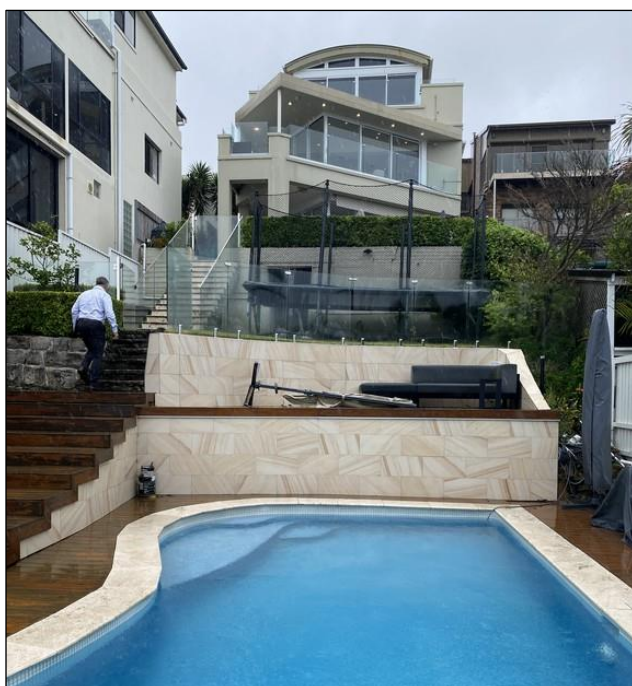


Figure 2: Rear of 23 Denning Street from the existing pool deck. 25 Denning Street to the left.

The two large windows in the middle level are the main living/dining /kitchen windows

3. Relevant history

There is no relevant prior development application history in relation to the site.

The land has been used for residential purposes for an extended period of time. A search of Council's records did not reveal any recent or relevant applications for the site.

Although the survey and plans illustrate an existing chamfered balcony on the ground floor southern side, this has in fact been filled in to meet the eastern apex of the balcony (over the top of the steps shown to be demolished on Drawing 1000). Translucent glass balustrading has been placed along the southern side of this new section of balcony. A glass brick privacy wall is along the southern side of the balcony as shown in the plans.

Council's consultant assessing planner met with the objecting neighbours in Bloomm field Street and Dennig Street on 18 December 2023 and met with the applicant on 20 December 2023 to discuss potential changes to the proposal. Plans with additional levels information were provided on 12 January 2024. Council's assessing planner met with the objectors from Cairo Street on 7 February 2024. On 27 August 2024 a request for further information was issued to the applicant raising concerns about:

- Clarification on building height compliance
- Non-compliance with side setback and articulation controls
- Amendment to FSR calculation
- Privacy to 21 and 25 Denning Street
- The elevated placement of the pool and excessive side of the cabana
- Deep soil and landscaping non-compliance
- Updated view loss diagrams illustrating Wedding Cake Island
- Amended solar access diagrams to reflect requested changes and show shadowing to 1 Bloomfield Street
- Additional information for height, windows, site coverage, clothes drying, the fireplace flue and front fencing.

A Council officer and the consultant planner met with the applicant and their architect and planner on 10 September 2024. Amended plans and documentation were provided on 30 September 2024 and these are the plans which are the subject of this assessment.

4. Proposal

The proposal seeks development consent for demolition of the existing dwelling with associated structures and the construction of a new part 2, part 3 storey dwelling with a garage for 2 car spaces, a swimming pool and associated landscaping. Specifically, the proposal includes:

- Pool level:
 - Relocation of the pool to 900mm from the rear boundary fence
 - Cabana, pool plant, water tank and bathroom with a green planter roof above
 - landscaping
- Lower ground floor:
 - Cinema/rumpus, gym, store, laundry, bathroom, kitchenette, cellar
 - Terrace accessible from the cinema/rumpus to the rear
 - Internal stair and lift access
 - Finished floor level 1.08m lower than the existing lower ground floor
- Ground floor:
 - Front metal gate to a two car garage with bin storage and air conditioning condensers. The garage roof is a green roof
 - Internal and external access to the entry, library, WC and combined kitchen / living / dining
 - Open balcony (3.95m deep and approximately 8m wide) to the rear with blade wall including some privacy screening

- First floor:
 - Master bedroom facing west with balcony to Denning Street, walk-in-robe and ensuite
 - Bedroom 2, bedroom 3, bathroom, small laundry
 - Lounge on the south-western corner
 - L-shaped balcony to the rear accessible from Bedroom 03 and the lounge
- Roof: Solar panels

In response to the Request for further information and the meeting held between the applicant and Council, the following changes to the proposal were made:

- The pool level was reduced to the ground level existing adjacent to 1 Bloomfield Street with additional steps to provide access and an additional retaining wall
- The cabana paved area was reduced (but not the cabana roof)
- Privacy obscure glazing was added to the bathroom on the ground floor and some of the windows on the first floor on the northern elevation
- The blade wall of the ground floor balcony was altered to include blades rather than a wall
- Remote controllable blinds and a small non-trafficable zone added to the eastern edge of the ground floor balcony for privacy
- Further details on the front fencing were provided
- Air condensers were included in the garage
- On the first floor a small indent 1m wide was added on the south side in the walk-in-robe to provide articulation
- A 1m high planter was added on the south-east corner of the balcony to improve privacy between 23 and 25 Denning Street.
- The gas flue was added to the south elevation.
- Additional information was provided to demonstrate compliance with the height control
- The FSR and deep soil calculations were updated and a site coverage plan provided.

Figures 3 to 10 illustrate the proposal.

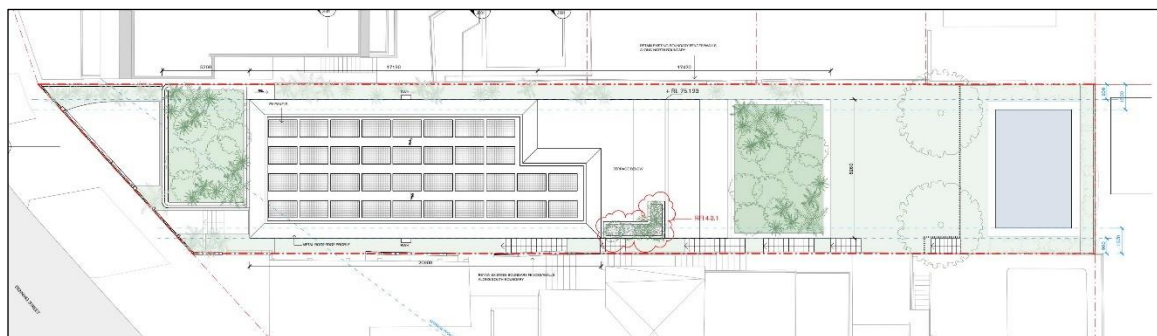


Figure 3 Roof Plan

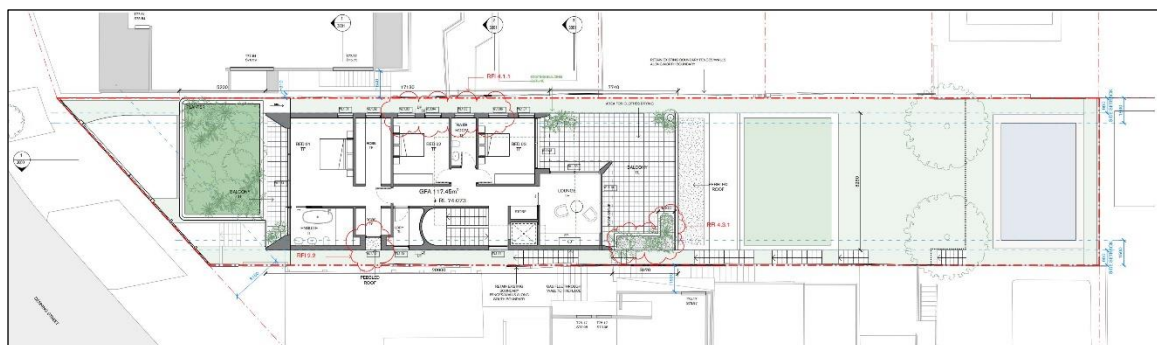


Figure 4 Ground Floor Plan

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Figure 5 Lower Ground Floor Plan and Cabana Floor Plan

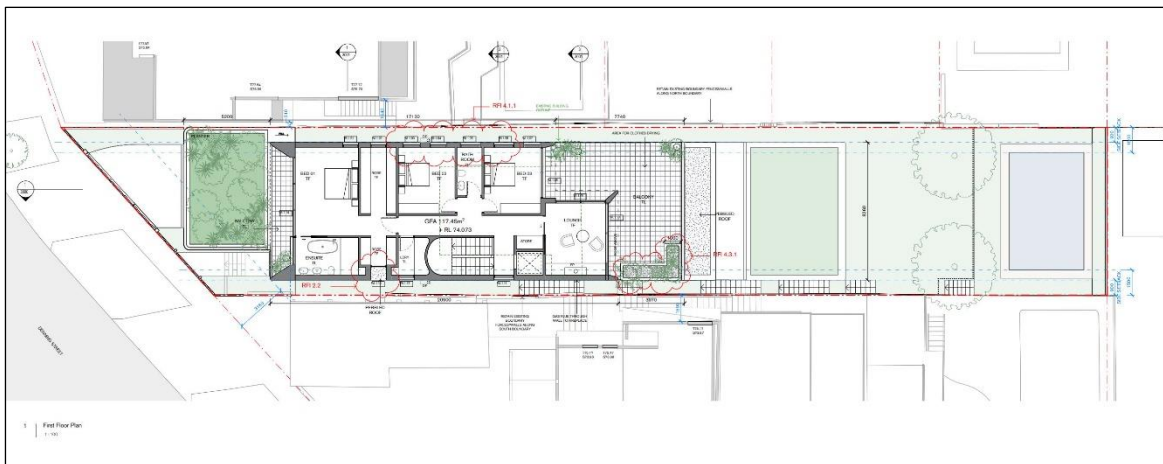


Figure 6 First Floor Plan

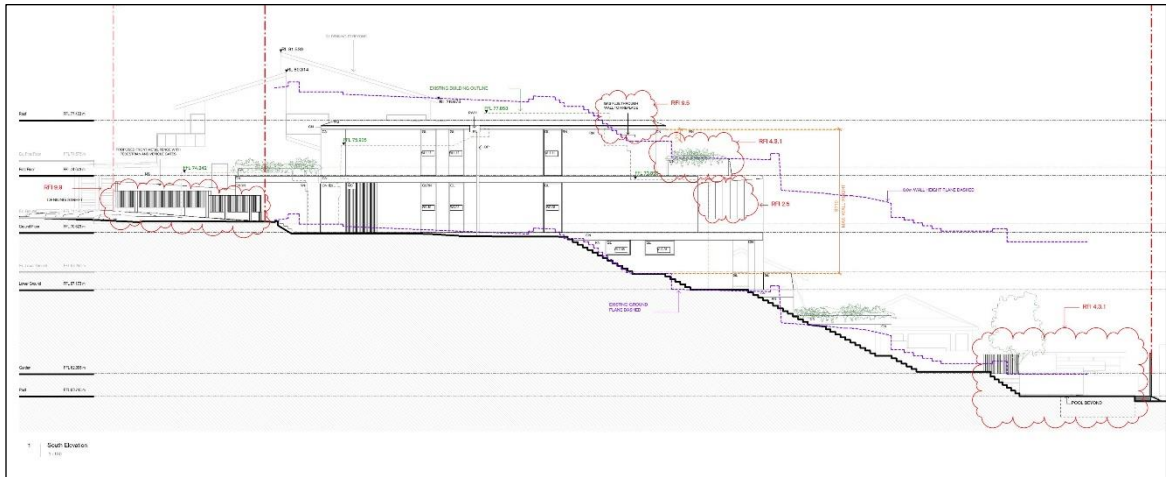


Figure 7 South Elevation

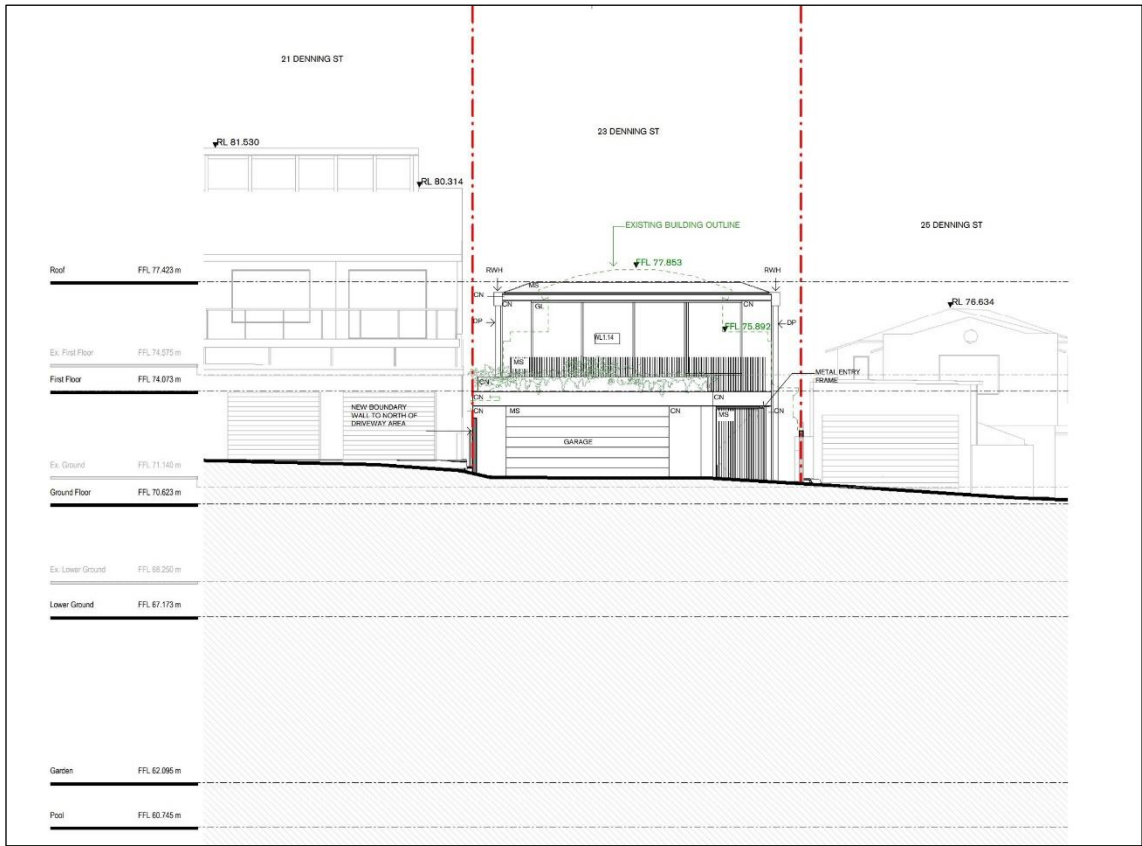


Figure 8 West (Street) Elevation

[illegible]

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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. The following submissions were received as a result of the notification process:

- **25 Denning St**

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Issue	Comment
<ul style="list-style-type: none"> • It is a four storey development, not 3 storey • Loss of iconic views currently enjoyed – this is not view sharing • Site poles should be erected and certified by surveyor, following which planner should visit the site. • Shadow plans are incorrect. Loss of all natural northern light to dining and kitchen area at street level, to formal front lounge and to the lower level 2 bedrooms. This will lead to mold. Much solar access is removed. • Privacy loss to the northern windows of the two lower bedrooms and bedrooms on the upper floor • Privacy loss to the main living area due to the extended reach to the east to the rear boundary • No height reference for the proposed solar panels 	<p>See below</p> <p>Privacy, views and solar access considered under those headings under Key Issues</p>
<ul style="list-style-type: none"> • It appears that Council must have required the rear alignment to be the shape it currently is. • All these will have a permanent and critical impact on amenity, privacy and value of No 25 Denning Street. • Reported cost of \$2.8 million is understated by about \$2-2.5 million (the submitter is a registered valuer) • An olive tree in the front requires removal for the garage • There is inadequate deep soil planting and includes places where there is a path. Deep soil on a roof is not deep soil. • The overflow slot on the lower ground floor stormwater plan will lead to overflow into 25 Denning Street • The photomontage is incorrect and shows a parapet not shown on other diagrams • Proposed building should be squared to the footpath (brought forward) and similarly at the back, to assist with view sharing. • The proposed planting with Manzanillo olives will be too tall when mature and destroy view of Wedding Cake Island. Trees should be limited to 1.2m or no higher than the fence line. • How will vibration monitoring be reported? • Wall height exceedance – impacts are visible from 	<p>See below</p> <p>Privacy, views and solar access considered under those headings under Key Issues</p>
<ul style="list-style-type: none"> • 25 Denning Street if not the street. • View may be retained if proposal is brought forward to street and/or lowering each level • Proposal is overdevelopment and breaches guidelines and impacts on amenity of neighbours • The SEE shows incorrect impacts and is inaccurate on a number of issues. • Cabana should be included in the FSR calculations which may make proposal non-compliant. • A 3D sketch up illustrating the privacy/ overlooking impacts from the proposed as opposed to a revised plan was provided • Dilapidation report is required • Concern about asbestos 	<p>See below</p> <p>Privacy, views and solar access considered under those headings under Key Issues</p>

FSR

The cabana is open to the elements on three sides. It is therefore excluded from the FSR calculations, however the additional bathroom at that level is included. The amended FSR plans include the lift on all levels and the garbage storage. The FSR calculations appear otherwise correct and the proposal complies with the LEP control.

Other matters

A wall height control is no longer included in the DCP, however there are new side setback controls.

There is no storey control in the DCP although the explanation under Building Height in Part C1 indicates that dwelling houses are typically one to two storeys with an additional storey on sloping sites. The objective in the building height and setback controls include to maintain a two storey height and street frontage, although controls allow for regard to site topography. Section 3.3 of Part C1 indicates that a basement protruding less than 1.2m above finished ground level is not counted as a storey. The cabana and possibly the pool pump exceeds 1.2m above finished ground level and may therefore be a storey but they are not actually under any other part of the dwelling. It is considered that the proposal is a three storey development, which is not exceptional in this area of South Coogee where there are very steep landforms. Some of these result in three storeys above a garage element (see lower down Denning Street and at Alexandria Avenue). The proposal presents as two storey to the street.

The solar panels appear to be placed no higher than the parapet of RL77.423 (see section in Drawing 3000 Rev F). The parapet is shown in the plans with the top height being identified.

Stormwater, vibration, dilapidation reporting and asbestos management would be subject to conditions if approved.

Simply shifting the ground floor and/or first floor level further to the west would require reconsideration of the lift and stair access which is already placed at the western edge of the lower ground floor plan. It would have impacts of creating an overly bulky form to the streetscape, contrary to the setback objectives.

- **25 Denning St (Consultant Town Planner)**

Issue	Comment
<ul style="list-style-type: none"> • Overshadowing – clearer diagrams and to scale should be provided. “Dining” room will not receive min 3 hours sunlight • Overlooking from southern windows and rear eastern balconies particularly the primary living areas • Loss of views – height poles should be erected to mark position and height of proposal including the rear wall and balconies • Proposed landscaping involves plants that would be too tall and further obstruct view • Impact furthered by breach of wall height • Breaches of planning controls – insufficient information provided to ascertain FSR, Site coverage, landscaped area, height of building. • Acoustic privacy impacts – conditions should be imposed • Envisages a detailed assessment after height poles are erected • Balconies should be pushed back to the west. 	<p>See below in key issues for overshadowing, privacy and views</p>

- **1 Bloomfield St**

Issue	Comment
<ul style="list-style-type: none"> • Proposal is too large • Loss of privacy • Loss of solar access 	<p>This property is downhill from the site and its rear yard (side boundary) is adjacent to the rear boundary of the site.</p> <p>See below under key issues for privacy which is considered satisfactory.</p> <p>See below under key issues for solar access which is considered satisfactory.</p> <p>The site meets the FSR and building height LEP standards.</p>

- **1 Cairo St**

Issue	Comment
<ul style="list-style-type: none"> • Overlooking • Loss of Privacy - can't rely on neighbours' vegetation to secure privacy • Proposal is too big and too close to the boundaries with too many windows • Not enough landscaping detail provided • Insufficient side setbacks 	<p>See below under key issues for privacy, side setbacks and landscaping</p>

1 Cairo Street is to the north and separated from the site by the pool of 21 Denning Street. The house is located well below 17-19 and 15 Denning Street and overlooked by 17-19 Cairo Street. The pool of 21 Denning Street is elevated on 1 Cairo Street's rear boundary creating a visual buffer to 23 Denning Street.

The proposal meets FSR and building height control.

The proposal is not compliant with the wall height as it existed when lodged but the control is now removed from the new DCP provisions.

- **3 Cairo St**

Issue	Comment
<ul style="list-style-type: none"> • Impact on living conditions • It will extend dramatically eastward • Lead to complete loss of limited privacy at the rear of their home • The outdoor balcony and living area will look down directly into their back yard and rear living area 	<p>Adjoins the north boundary of the site and is located below. Rear yard is currently overlooked by the first floor balcony and to a lesser extent, the ground floor balcony and living areas.</p> <p>With both levels proposed further to the east, they will be closer to 3 Cairo Street and overlooking will be increased on both levels, mostly from the balconies</p>

- **5 Cairo St**

Issue	Comment
<ul style="list-style-type: none"> • Loss of visual privacy • Loss of acoustic privacy • Proposed windows and balconies will be more directly in line with existing rear windows of No 5 Cairo Street. • Photos in DA are misleading. Foliage has been removed on 5 Cairo Street to comply with the Swimming Pools Act. 	See below in key issues regarding privacy.

- **29 Denning St**

Issue	Comment
<ul style="list-style-type: none"> • Loss of northerly view to Coogee Beach likely to occur if this sets a precedent to move east • He had to move his house to the west to allow No. 27 to retain its view to Mistral Point headland at Maroubra 	<p>This property is downhill and to the south of the site. It has district views to Coogee and Clovelly Headlands and Ben Buckler headland at North Bondi. From the living room the view to Coogee Beach is largely blocked by 27 Denning Street, however a partial view to the sands of the beach is visible from the balcony. It has a view to Wedding Cake Island which will be unaffected by the proposal.</p> <p>The proposal will not impact on the views currently enjoyed by 29 Denning St.</p>

- **32 Denning St**

Issue	Comment
<ul style="list-style-type: none"> • Agrees with objections from neighbours at Nos 34 and 36 Denning Street • Loss of views via a view corridor between 23-25 Denning Street • Loss of property value • View may be retained and some impacts minimised if proposal is brought forward closer to Denning Street 	See below in key issues for view loss

- **34 Denning St**

Issue	Comment
<ul style="list-style-type: none"> • Loss of views – the view currently enjoyed is the main reason for purchasing this property in 2019 • The upper level of the proposal should be deleted to minimise impacts on all neighbours including those at Nos 32 and 36 Denning Street 	See below in key issues for view loss

• **36 Denning St (2 x submissions received)**

Issue	Comment
<ul style="list-style-type: none"> • Loss of views – including loss of view sharing of iconic landmarks such as Wedding Cake Island and the North Coogee to Bondi Coastal Headlands (Ben Buckler). • A view is a genuine component of a property in monetary terms and loss of view is loss of intrinsic value of this property so should not be allowed. • Roof with solar panels may be over allowable height, but this could be overcome if upper level is brought forward to Denning Street. • View may be retained and some impacts minimised if proposal is brought forward closer to Denning Street over the garage 	See below in key issues for view loss

5.1. Renotification

The amended plans were considered to have a lesser or the same effect as the original application to the objectors. In accordance with the Randwick Community Engagement Strategy it was not considered necessary to renotify the plans.

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004. The application was lodged prior to the commencement of SEPP (Sustainable Buildings) 2022 on 1 October 2023 and clause 4.2 of that SEPP includes a savings provision for development applications submitted on the NSW planning portal but not finally determined before 1 October 2023 such that the new SEPP (Sustainable Buildings) 2022 does not apply to this application.

6.2. SEPP (Biodiversity and Conservation) 2021

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

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

The proposed development involves the removal of vegetation. 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 2 – Coastal Management

Chapter 2 of the Resilience and Hazards SEPP concerns Coastal Management and applies to land within the coastal zone, including the Coastal Use area as defined in the mapping under the SEPP (see Figure 11). The majority of the site (other than the front setback and part of the garage) is within the Coastal Use area under this SEPP. The consent authority must consider whether adverse impacts are likely to arise from the proposed development, which most relevantly, is the visual amenity and scenic qualities of the coast, including coastal headlands. The consent authority must also be satisfied that development is designed, sited and will be managed to avoid any such adverse

impacts, failing which they will be minimized, failing which they must be mitigated. The proposal is approximately 140m from the coast. From Trenerry Reserve the site is just visible on the horizon, however this is at such a distance that it is not considered that any adverse impacts to visual amenity could be discerned (see Figure 12).

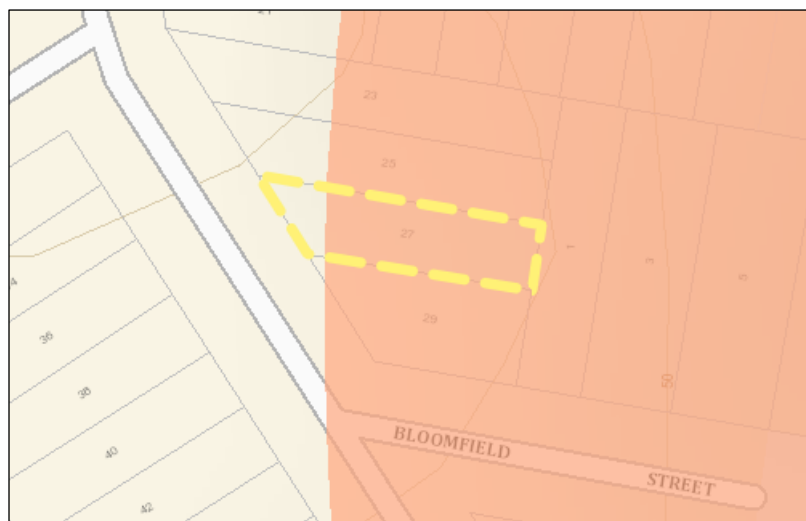


Figure 11: Coastal Use Area mapping under the SEPP (Hazards and Resilience) 2021



Figure 12: View from Trenerry Reserve (Google maps)

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 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 (involving demolition and 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)

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. However, as the subject application was lodged prior to 1 September 2023, pursuant to the savings provisions under clause 1.8A, the provisions of RLEP 2012 (Amendment No. 9) are not applicable to the proposed development, and the proposal shall be assessed accordingly.

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.65:1	0.646:1	Yes
Cl 4.3: Building height (max)	9.5m	9.46m	Yes

6.4.1. Clause 6.2 - Earthworks

The proposed earthworks generally relate to the infill of the swimming pool and excavation of the replacement pool, and excavation for the cabana building. The proposal is generally otherwise following the existing fall of the land. It is not considered that the earthworks will have a detrimental effect on drainage patterns, the likely future use of the land, the amenity of adjoining properties, the likelihood of disturbing relics or impacts on any waterway. It is likely that the source of fill will come from excavation within the site. The matters outlined in the section have been considered.

6.4.2. Clause 6.4 - Stormwater management

Stormwater plans have been provided. Conditions of consent include requirements for stormwater drainage. The matters set out in the section have been satisfied.

6.4.3. Clause 6.7- Foreshore scenic protection area

The property is within the Foreshore Scenic Protection Area. Clause 6.7 of RLEP 2012 aims to ensure that development is designed to minimise its visual impact upon the foreshore, including views to and from the coast, and that it contributes to the scenic quality of the coastal foreshore.

The subject site is surrounded by development of two or more storeys cascading down the slope of the natural topography of the site. It is considered that the building will not be visually prominent as viewed from the coastline or public foreshore areas.

6.4.4. Clause 6.10 – Essential services

The listed services in the section are already provided to the site. Suitable vehicular access is provided for in the plans. and the other services are available to the site.

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. There is no savings provision within the DCP for applications lodged but not finally determined before 1 September 2023, and hence the revised provisions of Part C1 Low density residential apply, notwithstanding lodgment on 5 July 2023.

The relevant provisions of the DCP are addressed in Appendix 2. (Note: a number of control provisions that are not related to the proposal have been deliberately omitted.)

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013 and 2023. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

The key issues discussed below are:

- Building height
- Rear setback
- Privacy
- View sharing
- Side setback/wall height
- Side articulation
- Solar access
- Deep Soil

8.1.1. Building Height

Additional information was sought to clarify that the building height control was met and this was found to satisfy the development standard.

8.1.2. Rear Setback

Many of the submitters have indicated that the top level (in particular) ought to be shifted closer to the west and that the ground floor level is too far to the east with the prospect that there will be future applications for adjoining buildings to its south to likewise extend to the east in order to retain the northerly views. The contention is that there is a reasonably consistent rear setback line facilitating view sharing and this proposal interrupts this.

The rear setback control of the new DCP Part C1 provisions requires a minimum of 8m rear setback and is unchanged from the previous DCP Part C1 provisions. Increased rear setbacks above this are required unless demonstrated that they are not required having regard to the existing predominant rear setback line in the urban block, preservation of view sharing, and protection of privacy and solar access for neighbours. *“The predominant rear setback is defined as the average of adjacent dwelling on either side of the allotment and is determined separately for each storey”.*

The setback is measured differently in the DCP to the setback definition in the RLEP 2012. *“Setback distances are measured perpendicular (that is, at a 90 degree angle) from the boundary to the outer face of the building elevation, excluding eaves, gutters, unroofed terraces, decks or landings not more than 1m above ground level (finished) and minor projecting features, such as awnings, sun hoods, screening devices and the like. Any basement or semi-basement protruding less than 1.2m above finished ground level is not counted as a building storey.”*

Taking this definition into account, the existing and proposed rear setbacks of the adjoining dwellings are set out in the table below. Conclusions drawn from this table are:

- The proposal will reduce the rear setbacks for the balconies and to the windows by between 8m to 1.8m
- Compared to the predominant rear setback as defined, the proposal has significantly greater rear setbacks (between 6m to 11.1m)
- Compared to the rear setbacks of 25 Denning Street, the proposal has significantly greater rear setbacks (between 6m to 9.7m):

Table of Rear Setbacks

	Pool	Lower ground floor	Ground Floor	First Floor
<i>23 Denning Proposed</i>	<i>15.6m cabana roof</i>	<i>21.5m to terrace edge 23.5m to roof edge 25.2m to rumpus windows</i>	<i>23.5m to balcony edge 27m to kitchen/dining windows</i>	<i>23.5m to pebbled edge 25.5m to balcony edge 30m to lounge windows</i>
23 Denning existing		28m to terrace 28.8m to living window	26.7m to balcony 28.8m to dining window	31.5m to terrace edge 33m to windows
<i>Decrease in rear setback (existing to proposed)</i>		<i>Setback reduced by: 6.5m to terrace 3.6m to windows</i>	<i>Setback reduced by: 3.2m to balcony 1.8m to windows</i>	<i>Setback reduced by: 8m to balcony 3m to windows</i>
21 Denning			11.3m balcony 13.5m windows	12m balcony 13.5m window
25 Denning		15.5m to windows	14.5m to balcony 18.3m to windows	17.8m to balcony 23.2m to windows
Av rear setback (21 and 25 Denning)		15.5m to windows	12.9m to balcony 15.9m to windows	14.9m to balcony 23.4m to windows
Rear setback of 23 Denning Proposed compared to average of 21 & 25		At least 6m more setback	10.6m more to balcony 11.1m more to windows	10.6m more to balcony 6.6m more to windows
Rear setback of 23 Denning proposed compared to 25 Denning		23 Denning Street has a rear setback: 6m more to terrace 9.7m more to windows	23 Denning Street has a rear setback: 9m more to balcony 8.7m more to windows	23 Denning Street has a rear setback: 7.7m more to balcony 6.8m more to windows

21 Denning Street has a shorter boundary length than 23 and 25 Denning Street, hence averaging 21 and 25 Denning Street's rear setbacks may not provide the most accurate indication of the visual rear setbacks of the area. To consider the impact from a visual sense, **Figures 13** and **14** show the existing and proposed rear setbacks of balconies and the rear window/walls. The proposed is dashed lines. Neither figure indicates that the proposed rear setbacks are significantly out of line with the other rear setbacks in that urban block.

View sharing, privacy and solar access are assessed elsewhere in this report. Based on the above table and the figures below, unless there are pressing reasons to reduce rear setbacks for view sharing, privacy and solar access it is not possible to require an increase to the rear setbacks on any level (see section 4.15(3A)(a) of the Environmental Planning & Assessment Act which prevents a consent authority requiring more onerous standards than those in a DCP).

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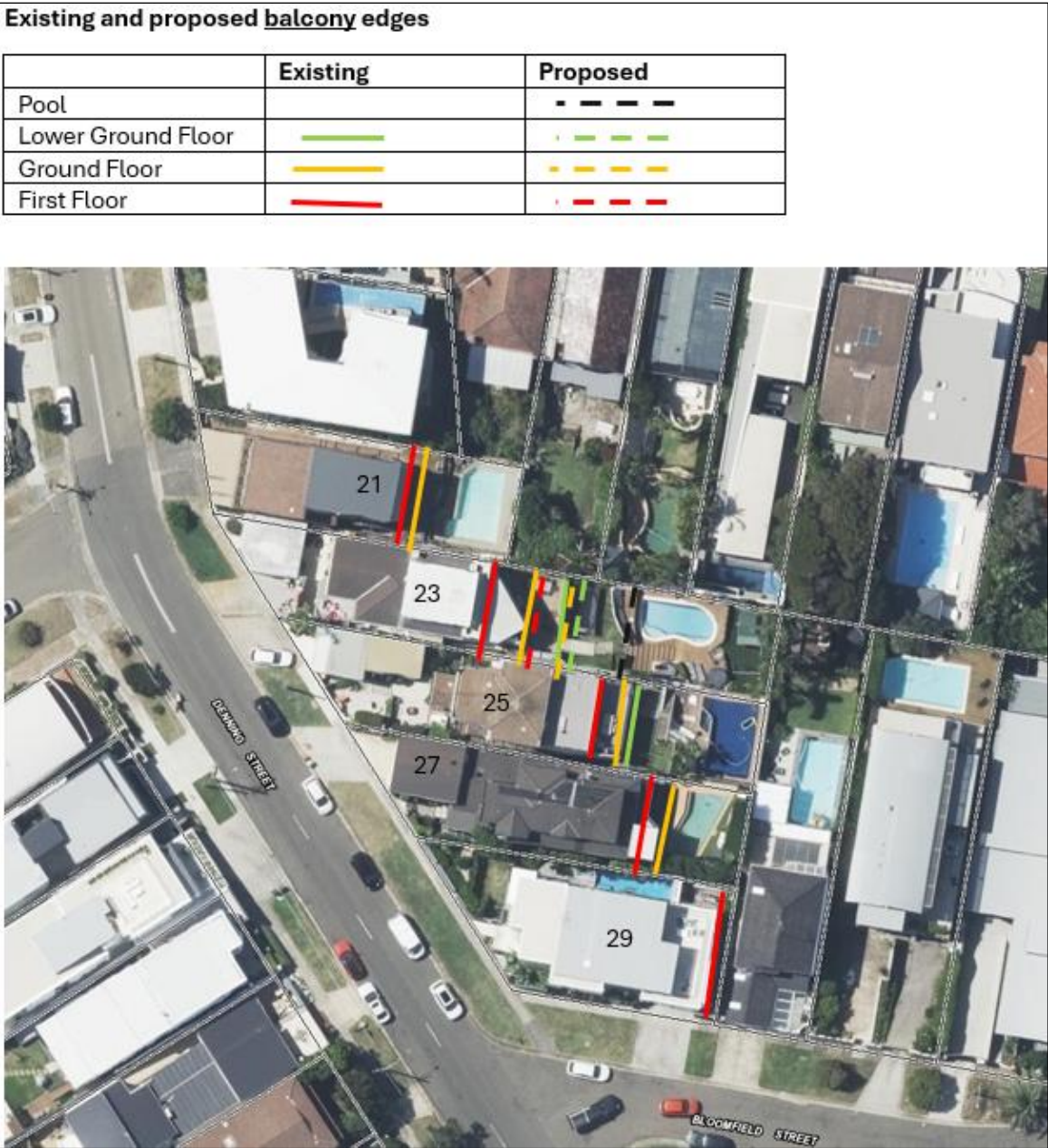


Figure 13 Aerial showing existing and proposed rear setbacks to balconies

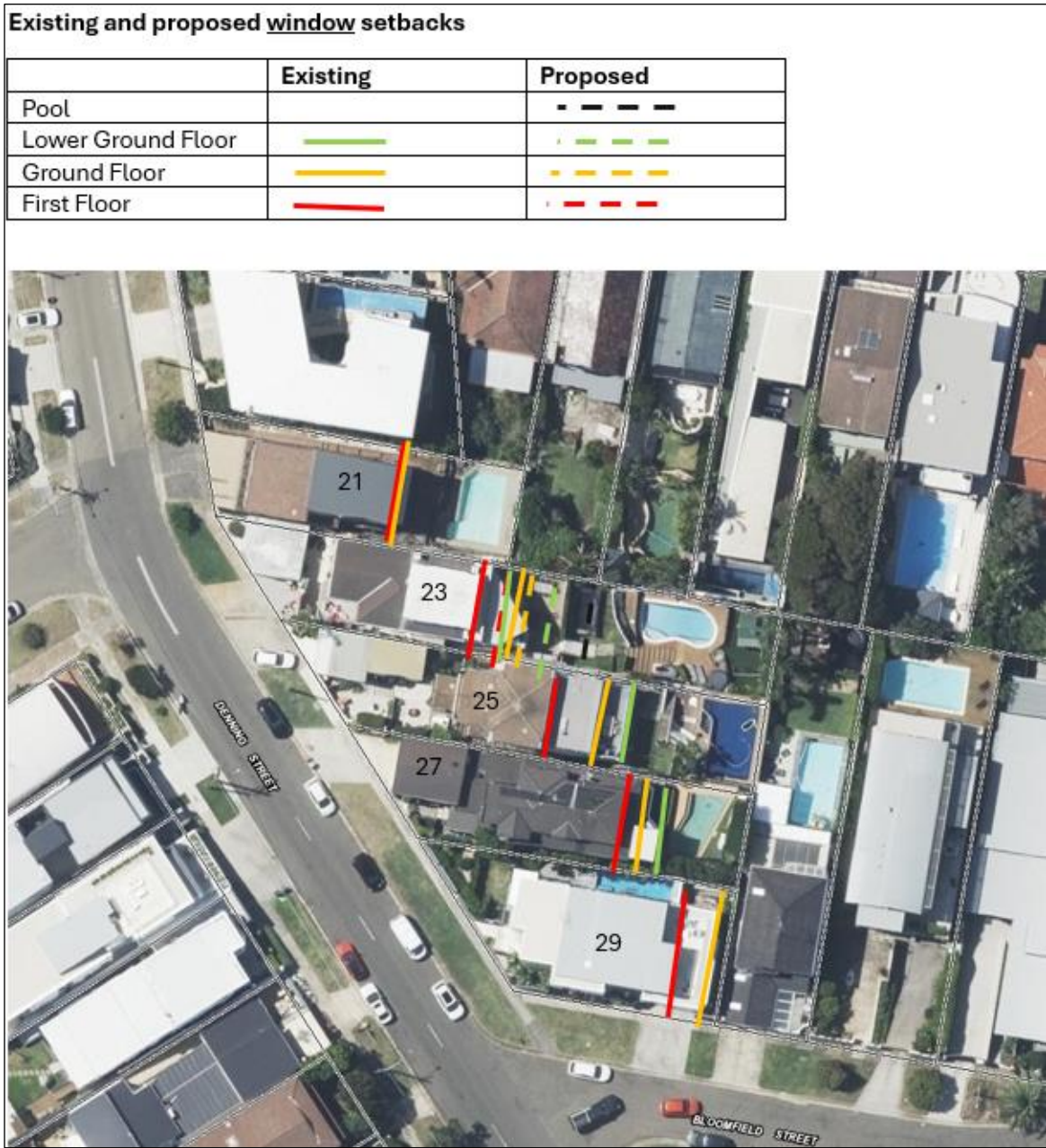


Figure 14 Aerial showing existing and proposed rear setbacks to windows

8.1.3. Privacy

Given the elevation of the dwellings on the east side of Denning Street, there is a reasonable amount of existing mutual overlooking between dwellings and rear yards in the immediate vicinity of 23 Denning Street, but most particularly from 21, 23 and 25 Denning Street.

i. 21 Denning Street

In addition to privacy from the submitters – a number of residents raised privacy impacts to the neighbour to the north at 21 Denning Street. The owner of the property did not lodge a submission. This house has its kitchen/living area on its south-east corner upper floor, with two large first floor windows facing south and windows and a balcony facing to the east (ocean).

The smaller window overlooks the existing front courtyard of 23 Denning Street between the existing garage and front of the house. If the proposal is approved it will overlook the garage roof and side of the front balcony. Little privacy impact is anticipated given the solid balcony side wall proposed.

The larger window currently maintains privacy as it is opposite the solid wall of the ground floor. Under the proposal this window with a sill height of RL75.73 to top of window at RL77.77 will be opposite the full height walk-in-robe and side main bedroom 01 window of the first floor plan of 23 Denning Street, which has a proposed finished floor level of RL74.073. Neither of those windows W1.01 and W1.02 are shown as having privacy treatment. It is recommended to condition opaque windows to 1.6m in height.

21 Denning Street also has a rear balcony and floor to ceiling windows and glass sliding doors on the eastern side overlooking the sea. Currently it is relatively private from 23 Denning Street as it is only overlooked by the first floor opaque bathroom windows and Bedroom 02 on the ground floor. The amended proposal has included opaque windows to 1.6m in height for windows W1.03, W1.04, W1.05, and W1.06 which satisfies the privacy issues for the balcony of 21 Denning Street. The bathroom on the ground floor facing north now include a full length opaque window.

21 Denning Street also has an inground pool, which may require refurbishment. It is not currently being used by the occupant. It is currently overlooked by the living and dining area on the ground floor of 23 Denning Street and the balconies when looking north. Under the proposal, it will be overlooked by the living and dining area on the ground floor (somewhat retaining the existing situation), plus one full length bedroom windows of Bed 03 on the first floor and the first floor balcony. Overlooking of pools is common in the area due to elevation of houses fronting Denning Street over the land to the east. From 23 and 25 Denning Street the swimming pools of 1, 5 and 7 Cairo Street, 1 (and a bit of 3) Bloomfield Street, and 23 and 25 Denning Street are all visible. Given the existing overlooking situation it is not considered that additional privacy treatments for 21 Denning Street's pool and rear yard are required.

ii. 25 Denning Street

25 Denning Street is to the immediate south of the site. It enjoys significant views to the east over the ocean. From its middle level balcony and large top level balcony (off the main bedroom) it overlooks most of its neighbours, including:

- the pool, ground floor deck and rear yard of 23 Denning Street. Looking back from the northern side of the balconies there is a view into virtually all of the eastern windows of 23 Denning Street;
- the pool of and parts of the upper level deck of 27 Denning Street;
- part of the rear yard and pool of 1 Bloomfield Street;
- the swimming pool of 21 Denning Street;
- the windows of the rear of 7 Cairo Street;
- filtered views to the rear of 3 and 5 Cairo Street; and
- the rear balconies of 17-19 and 15 Denning Street .

There is existing overlooking of parts of 25 Denning Street from the site as follows:

- To the dining / living room in the middle level and the upper level balcony and north-east corner of the upper bedroom, from the existing ground floor balcony of 23 Denning Street; and
- To the north-east corner of the dining / living room and a small portion of the upper level balcony from the lower ground deck;
- To the north east corner of the upper level balcony and master bedroom from the upper level balcony
- Looking upwards from the rear outdoor living areas at lower levels

In summary, there already exists a reasonable amount of mutual overlooking between the site and 25 Denning Street. The elevated dwellings of this part of Denning Street also generally overlook the lower levels of their neighbours as a result of each house seeking to obtain views to the north and east.

First floor level

The proposal will retain direct overlooking between the two properties from each other's balconies; however, the proposal has been amended to include a 1m high planter in the south-east corner of the balcony to provide a greater distance to the main bedroom window of 25 Denning Street and its

balcony. The planter is considered appropriate as additional privacy treatments could impact on retention of a view towards the eastern part of Bondi Junction from 25 Denning Street.

There is a solid wall proposed opposite the upper level second bedroom and bathroom so privacy of those rooms is not an issue.

Ground floor level

Even though a privacy wall is proposed on the southern side of the ground floor level balcony, it is likely that there will be the opportunity for overlooking into the middle level living/dining room of 25 Denning Street from the eastern side of the balcony, notwithstanding that the balcony frontage is level with the western edge of 25 Denning Street's two windows. It is noted that some overlooking already exists, although the balconies will be closer than the current situation and privacy will be made worse.

Given the increased proximity of the balcony, consideration was given to privacy blading, however the applicants have proposed an operable privacy blind which will provide both some level of additional privacy between the sites and retain the view to the ocean from the site. This is considered acceptable particularly given the existing level of overlooking.

iii. 1 Bloomfield Street

The pool level has been lowered which removes the prospect of overlooking from the pool surrounds into the rear yard of 1 Bloomfield Street. Privacy is considered acceptable.

iv. 1 Cairo Street

Currently views to the rear windows of 1 Cairo Street are mostly blocked by the rear patio awning of 1 Cairo Street and a quite overgrown garden. Windows from the northern side of 23 Denning Street would overlook the rear yard through the pool fence of 21 Denning Street if vegetation was cleared although at over 15m distance, it is not considered that privacy impacts to 1 Cairo Street will be significant enough to warrant any redesign.

v. 3 Cairo Street

There is currently a small amount of overlooking from 23 Denning Street, to the rear windows and rear yard due to two trees in the south-west corner of 3 Cairo Street blocking part of the view. There is also overlooking to the windows and a partial view of the rear yard from 25 Denning Street (and no doubt also from 21 Denning Street). With both levels of 23 Denning Street proposed further to the east and north, they will be closer to 3 Cairo Street and overlooking will be increased to the rear yard and rear windows from the ground floor and first floor of 23 Denning Street, mostly from the balconies. To prevent greater overlooking would require privacy screening on the balconies to an extent which is considered unreasonable, given the existing over-looking and views which would be lost.

vi. 5 Cairo Street

5 Cairo Street adjoins the northern boundary of the site. There is a large amount of existing overlooking including by the existing dwelling at 23 Denning Street. Currently from the first floor balcony there is a view to 5 Cairo Street's pool, rear seating area and rear lawn area. The rear glazing (including windows to the 1st floor rear bedroom) is also very obvious, including from the ground level deck. It is agreed that with the removal of vegetation which has occurred, there is more overlooking of the site than shown in the SEE. There are filtered views to the rear window and pool of 5 Cairo Street from 25 Denning Street.

Currently there is some privacy protection to the sitting area adjacent to the house due to a studio building on the west side of 5 Cairo Street which blocks some of the view from 23 Denning Street.

The proposed 1st floor balcony is large and will support entertaining and more use than the current narrow balcony off a playroom/bedroom. The balcony will be closer to the rear yard of 5 Cairo Street. There will be increased overlooking from the proposal. It is however approximately 10-15m to the rear yard.

The ground floor balcony and dining area will be further east and closer to 5 Cairo Street than currently but still approximately 25m separation to the windows and 10-15m separation to the swimming pool. The ground floor will be 517mm lower than current however that will not demonstrably alter the overlooking. To block the view to 5 Cairo Street would require screening in the direction of Wedding Cake Island (but would not require the island to be screened). A reduction in the balcony extent to the east (particularly at the first floor and ground floor) would reduce the feeling overlooking at 5 Cairo Street, however on balance, given the existing overlooking and distance to 5 Cairo Street it is considered that a balcony reduction is not warranted.

vii. 7 Cairo Street

7 Cairo Street did not lodge a submission. There is existing overlooking of the pool and rear windows from the pool deck at 23 Denning Street. The rear windows are also overlooked from the balconies of 25 Denning Street. The amended plans have reduced the pool level which will significantly reduce overlooking to 7 Cairo Street. There is a very minor overlooking of 7 Cairo Street's pool from the existing ground level and first floor balcony. As these balconies are to move further to the east, that overlooking will be increased, however the levels are somewhat lower. Given the distance of approximately 20 metres this is not considered an issue.

viii. Conclusion on privacy

Minor additional privacy treatments are required to the northern windows of the first floor to retain adequate privacy to 21 Denning Street. These can be conditioned.

There will be additional privacy impacts to the main bedroom on the first floor of 25 Denning Street resulting from the first floor balcony of the proposal and privacy protections by screening may unreasonably impact on views to the north for 25 Denning Street. There will also be additional privacy impacts to the living and dining area of 25 Denning Street from the ground floor and first floor balconies, although it is noted that there already exists some level of mutual overlooking between the sites, especially from the balconies. The planter box on the first floor and operable blind on the ground floor provides for a reasonable compromise between the mutual privacy compromises which exist and which will flow from the proposal, and the retention of views for 25 Denning Street.

8.1.4. View Impacts

The submitted plans include view loss assessments from 21, 25, 30 and 32 Denning Street. Amended views for 21 and 25 Denning Street have now identified the iconic Wedding Cake Island. Some vegetation has been removed from 5 Cairo Street to comply with the Swimming Pools Regulations, therefore the images with vegetation are no longer representative of views.

i. 25 Denning Street

25 Denning Street has expansive views north to Clovelly and its headland from its middle level large living windows and its upper level balcony across 23 Denning Street's deck and rear yard. It has a view to Wedding Cake Island from its upper level east facing bedroom window and balcony. All of those views will be unaffected by the proposal.

Upper Level

The upper level bedroom (main bedroom) also has a northern window with views to the northern end of Coogee Beach and to the Clovelly headland. The proposed pebbled roof over the ground floor balcony will be at approximately the same RL as the sill of the upstairs bedroom window at approximately RL74. The pebbled roof will extend to the eastern edge of that window. The balcony glazing is proposed to start roughly opposite the western side of that window. Beneath the pebbled roof and balcony to the west of the pebbled roof will be the privacy wall of the ground floor balcony. Combined, the result to the bedroom window will be the removal of the view, to 1, 3 and 5 Cairo Street and a small portion of the ocean and Trenerry Reserve. The land/water interface and view to Clovelly will be preserved. It appears the view to Coogee Beach will be preserved from a straight on view through the window.

A second bedroom upstairs and a bathroom currently have views to the north across the water to Clovelly headland and Ben Buckler Headland at North Bondi over the roof of the ground floor balcony of 23 Denning Street. Those views will be blocked by the proposed loungeroom on the first floor, however this does not appear to be of greatest concern to the occupants of 25 Denning Street.



Fig 15: Main bedroom window view to the north from upper level of 25 Denning Street. Mostly retained apart from some of the view to the houses towards the bottom



Fig 16: View to the east with Wedding Cake Island and ocean views including further to the south (right) from the main bedroom of 25 Denning Street. All views to be retained



Fig 18: Second bedroom on upper level of 25 Denning Street. View over the top of the balcony will be blocked by the lounge room



Fig 19: Bathroom on the upper level of 25 Denning Street with views to headlands to the north. View will be blocked by the lounge

Middle Level

There are two large windows facing north from the dining/living room of 25 Denning Street. That view is obtained over the existing rear yard of 23 Denning Street and overlooking 3, 5 and 7 Cairo Street to Clovelly.

The proposed ground floor balcony (together with its wall on the southern side), is proposed to extend to the western edge of those two windows, therefore preserving the northern view from these windows when looking straight north. When looking on the oblique angle to the north-west the view across towards 21 Denning Street and other houses will be blocked.

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Fig 20: View from western of the two living/dining windows on the middle level of 25 Denning Street. View to the water will be retained. Views to the left hand houses will be lost



Fig 21: View from upper level balcony. View will be unaffected. Wedding Cake Island to the right of the photograph



Fig 22: Retained view to the south-east from upper level balcony of 25 Denning Street



Fig 23: View from ground level "dining room" to Clovelly Headlands which will be lost due to the solid balcony wall on the ground floor.

Tenacity assessment – 25 Denning Street

Assessment under the *Tenacity* principles for view sharing for 25 Denning Street indicates:

- Step 1: Assessment of views and Step 2 from where those views are obtained:
 - **Lower Ground floor living and terrace.** The proposal will not extend across the lower level windows or terrace so there are no affected views.
 - **Ground floor second living space.** Views over the side boundary are currently generally blocked with small water glimpses and will remain blocked. It is a partial view and not highly valued.
 - **Ground floor dining room.** This room is more generally used as a transitional area. It currently houses a piano and includes the staircase to the upper level. Current views are across the existing front of the ground floor balcony across 3 Cairo Street, and include views over the side boundary to the water and to the Clovelly headlands. The view is from a standing position and includes a water/land interface. This view will be removed by the privacy wall to the ground floor balcony. The view is mostly obtained as one walks through this relatively small room or use the staircase.
 - **Ground floor living/dining area.** Views over the side boundary across 3, 5 and 7 Cairo Street to the waters of Clovelly to various headlands. Wedding Cake Island is visible and the view to it will be unaffected. The views are highly valued due to

the water/land interface and views to headlands. The iconic view to Wedding Cake Island is unaffected. The views will be largely unaffected by the proposal.

- **Ground Floor balcony.** Valuable views to the water and headlands over the side boundary will be unaffected. Views back to the houses at 17-19 Denning Street will be lost.
 - **First floor main bedroom.** Views over the side boundary across the waters to Clovelly Beach sands and various headlands. The roof of the ground floor balcony (balcony of the first floor) will remove some of the view to the rooftops of Cairo Street, the balconies of 17-19 Denning Street and some of the closer water view. The more valuable view to the water/ land interface and headlands will be retained. Clear glazing to the proposed balcony would be required to retain the most important aspects of the view. Expansive views over the rear boundary to the ocean and the iconic view to Wedding Cake Island to the east are maintained.
 - **First floor bathroom and second bedroom.** The views over the side boundary are over the top of the roof of the ground floor balcony towards the Clovelly headlands, including the water land interface. These views are from a standing position, are quite valuable due to the views to the water and headlands and will be largely blocked by the first floor lounge room.
 - **First floor rear balcony.** The view includes expansive and whole iconic views to the ocean and Wedding Cake Island over the rear boundary. Over the side boundary it includes whole views to headlands to the north and expansive water and land views to the north towards Clovelly beach and headlands. These will all be retained.
- Step 3: Extent of the impact – from the whole of the property
 - **Lower Ground floor living and terrace.** The impact will be negligible.
 - **Ground floor second living space.** The impact will be negligible.
 - **Ground floor dining room.** The impact will be severe but could be reduced in impact if the solid wall for the balcony on the southern side of the ground floor was removed. That would however lead to privacy impacts to this room.
 - **Ground floor living/dining area.** The views will be largely unaffected by the proposal and the impact is considered minor.
 - **Ground Floor balcony.** The views will be largely unaffected by the proposal and the impact is considered minor
 - **First floor main bedroom.** With clear glazing to the first floor balcony the view impact is considered moderate. Expansive views over the rear boundary to the ocean and Wedding Cake Island to the east are maintained.
 - **First floor bathroom and second bedroom.** The view impact from these rooms will be severe and arises from the lounge on the first floor.
 - **First floor rear balcony.** The view impact is considered negligible.
 - Step 4: Reasonableness of the proposal

The elements of the proposal which impacts views are mainly from:

- The balcony wall on the ground floor which impacts the view from the dining room / piano and staircase room on the ground floor; and
- the lounge on the first floor impacting the second bedroom and bathroom on the first floor

The removal of the ground floor balcony privacy wall would reduce the impact to the dining room but create privacy concerns between the balcony and the room and its staircase. Privacy screening on the balcony is proposed to reduce the feeling of bulk from this room. A reduction in the extent of the first floor balcony (including a reduction in the roof of the ground floor balcony) would reduce the impact to the main bedroom. The major impacts are to lesser living areas and the main bedroom. The bedroom retains expansive views to the east and to Wedding Cake Island, both of which are also visible from its large balcony. The principal living area in the open plan kitchen/dining and lounge will retain almost all of its views.

Neither of these elements result from non-compliances with the controls. In summary, the view loss resulting from the proposal is generally considered acceptable.

ii. 29 Denning Street

There are no views which are affected by the proposal. Any future change to 25 or 27 Denning Street will be assessed on its merit if that arises.

iii. 32 Denning Street

32 Denning Street is opposite from the site of the proposed development on the corner with Evelyn Street. There is a view corridor between 21 and 23 Denning Street and between 23-25 Denning Street, both from the ground floor (elevated) living room and deck at a standing level:

There is also a view to the ocean to the south-east over the rooftops of 27 and 29 Denning Street and through part of the balcony of 34 Denning Street.



Fig 24: From Ground floor living and deck of 32 Denning Street



Fig 25: From Ground floor living and deck of 32 Denning Street

Tenacity assessment

Assessment under the *Tenacity* principles for view sharing for 32 Denning Street indicates:

- Step 1: Assessment of views and Step 2 from where those views are obtained:
 - **Ground floor living and deck.**
 - The view is of the ocean but not Wedding Cake Island through a view corridor between 21 and 23 Denning Street over the front boundary. It is gained from a standing position and is quite a narrow corridor. Whilst clearly important to the owner it is not iconic and other views to the water are retained. It will be blocked by the western extension of the first floor of the proposal.
 - The view corridor between 23 and 25 Denning Street is likewise a small view corridor which is not iconic. It is also obtained over the front boundary and will be partially retained but would be fully retained if the first floor lounge was removed.
 - There are also valuable whole views to the ocean to the south-east over rooftops of 27 and 29 Denning Street and through part of the balcony of 34 Denning Street which will be retained
- Step 3: Extent of the impact – from the whole of the property
 - The view corridor between 21 to 23 Denning Street loss will be devastating. The view corridor loss between 23-25 Denning Street will be moderate as approximately half the view corridor to the ocean will be lost. The majority of the view to the ocean, which is to the south-east, will be retained. An overall conclusion for extent of the impact to 32 Denning Street is minor.
- Step 4: Reasonableness of the proposal

The elements of the proposal which impacts views are mainly from:

- The lounge room on the first floor (affecting the view corridor between 23 and 25 Denning Street); and
- The westward extension of the first floor

Although the two view corridors will be either lost in whole or part, the site retains more extensive views to the ocean to the south-east. It is reasonable to extend the first floor of 23 Denning Street to the west given the desire to retain more valuable views for 25 Denning Street. It is considered unreasonable to require the removal of the lounge on the first floor to enable retention of a partial view corridor when other views are retained. Consideration was given to increasing the side setback to the first floor lounge room which would reduce the view loss between 23 and 25 Denning Street, however the amount of view retained would be small.

iv. 34 Denning Street

This property is opposite the site. It has some view corridors between 21 and 23 Denning Street and between 23 and 25 Denning Street from its upper level bedroom balcony to the ocean, but not to Wedding Cake Island. It has more substantial views to the ocean over the rooftops of 27-29 Denning Street and further to the south-east. Views to the ocean from the ground floor family room are restricted.

The proposal will have the roof at approximately the horizon (slightly lower than the top of the existing domed roof). Because the proposed first floor extends to the west, it will remove the view corridor between 21 and 23 Denning Street. It will also reduce the view corridor between 23 and 25 Denning Street, although some view corridor will remain. It retains more significant ocean views to the south east.



Fig 26: From first floor bedroom balcony of 34 Denning Street



Fig 27: From first floor bedroom balcony of 34 Denning Street

Tenacity assessment

Assessment under the *Tenacity* principles for view sharing for 34 Denning Street indicates:

- Step 1: Assessment of views and Step 2 from where those views are obtained:
 - **Ground floor family room and balcony.** There is very little view to the ocean from this position with a very small view corridor to the sea between 23 to 25 Denning Street which will be lost. The view is not iconic, is of water and is a very small part of the view.
 - **First floor bedroom and balcony.** As with 32 Denning Street there are view corridors. The view corridor between 21 and 23 Denning Street will be blocked. The view corridor between 23 and 25 Denning Street will be reduced.
 - There are also valuable whole views to the ocean to the south-east over rooftops of 27 and 29 Denning Street which will be retained from the ground and first floors.

- Step 3: Extent of the impact – from the whole of the property
 - The view corridor between 21 to 23 Denning Street loss will be devastating. The view corridor loss between 23-25 Denning Street will be severe as most of the view corridor to the ocean will be lost. The majority of the view to the ocean, which is to the south-east will be retained. An overall conclusion for extent of the impact to 34 Denning Street is minor.
- Step 4: Reasonableness of the proposal

The elements of the proposal which impacts views are mainly from:

 - The lounge room on the first floor (affecting the view corridor between 23 and 25 Denning Street); and
 - The westward extension of the first floor

Although the two view corridors will be either lost in whole or part, the site retains more extensive views to the ocean to the south-east. It is reasonable to extend the first floor of 23 Denning Street to the west given the desire to retain more valuable views for 25 Denning Street. It is considered unreasonable to require the removal of the lounge on the first floor to enable retention of a partial view corridor when other more extensive views are retained. Consideration was given to increasing the side setback to the first floor lounge room which would reduce the view loss between 23 and 25 Denning Street, however the amount of view retained would be small.

v. 36 Denning Street

36 Denning Street is opposite the site. As with 34 Denning Street it has view corridors between 21 and 23 Denning Street and between 23 and 25 Denning Street from its lower living areas and balconies. As with 34 Denning Street, it has a more substantial view of the ocean to the south-east across the front of 38 Denning Street. Wedding Cake Island is not visible from these living and balcony areas.

36 Denning Street has an extensive roof terrace, accessible by a few steps from a small top floor internal area. This provides for a view to Wedding Cake Island between 23 and 25 Denning Street, and depending upon the angle, over the top of 25 Denning Street's roof. A partial view to Wedding Cake Island is currently available between 23 and 25 Denning Street when sitting on the terrace. There are very extensive views to the ocean to the east, south-east and south which are uninterrupted. The rooftop terrace also provides skyline district views to the City (including Sydney Tower), Bondi Junction and district views to the west. The terrace provides almost 360 degree views to the ocean and district, generally broken by 21 and 17-19 Denning Street which partially block the view to Coogee beach and Clovelly Headlands, and broken to the west by the small upper floor of 36 Denning Street itself.

As with 34 Denning Street the proposal will remove the view corridor from the two lower living areas between 21 and 23 Denning Street and will reduce the corridor between 23 and 25 Denning Street.

From the rooftop terrace the proposed lounge on the first floor of the site will partially (but not fully) remove the view to Wedding Cake Island from the rooftop terrace with a partial view still obtained above the pitching roof of 25 Denning Street. Approximately half of Wedding Cake Island would be retained but would likely be nearly all lost if 25 Denning Street chose to redevelop their home by increasing the northern side pitch to the ridge height.

The proposal will remove a partial view to Clovelly headland from the middle level of the house currently obtained over the single roofed section of 23 Denning Street. That view is quite restricted.

The remainder of the very extensive rooftop terrace views will remain.

If the Level 1 was relocated further to the west (over the garage), or the lounge room on Level 1 was removed, the vista to Wedding Cake Island from all vantage points would be unchanged from the existing or slightly improved by the removal of the existing level 1 balcony and providing a little more water below Wedding Cake Island from the rooftop view. It is noted that the Level 1 cannot simply be slid to the west as a whole because of the staircase and lift.



Fig 28: View from first floor balcony of 36 Denning Street – Wedding Cake Island is not visible



Fig 29: View to the south-east from the first floor living area of 36 Denning Street



Fig 30: View from rooftop terrace of 36 Denning Street including Wedding Cake Island

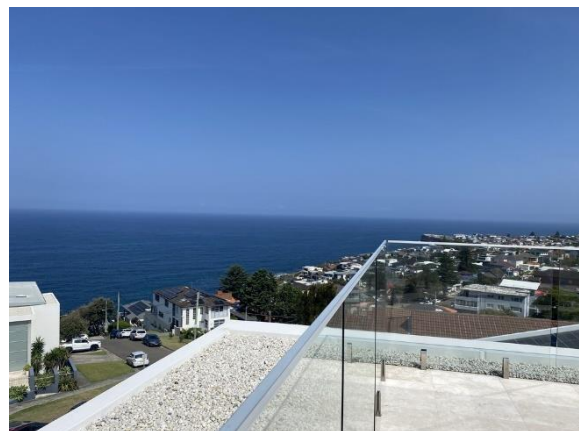


Fig 31: View to the south-east from rooftop terrace of 36 Denning Street



Figure 32: View to the city and Bondi Junction from the roof top terrace looking north from 36 Denning Street

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Figure 33: Transparency additional roof form taken from the south-east side of the terrace illustrating a small reduction in the view to Wedding Cake Island



Figure 34: Transparency additional roof form taken from the middle of the terrace illustrating a loss of approximately half the view to Wedding Cake Island

Tenacity assessment

Assessment under the *Tenacity* principles for view sharing for 36 Denning Street indicates:

- Step 1: Assessment of views and Step 2 from where those views are obtained:
 - **Ground floor living area and balcony.** There is no view to the ocean from the ground floor and the proposal will remove a small view of the sky. The view lost is not valuable.
 - **First Floor living area and balcony.** There is a small view to the ocean from this position with a very small view corridor to the sea between 21 to 23 Denning Street which will be lost over the front boundary from a standing position. The small view corridor between 23 to 25 Denning Street will be mostly lost. The view is not iconic, is of water and is a small part of the view from this level.
 - **Roof terrace.** The total views from the rooftop terrace are very extensive. The views affected by the proposal from the rooftop will be a reduction in the ocean view corridor between 21 and 23 Denning Street, but a retention of the ocean/horizon. Most importantly there is an existing view to the iconic Wedding Cake Island between 23 and 25 Denning Street over the front balcony which is considered an iconic view. Whilst the whole Island is not visible from any one spot, the majority of the Island is seen, including from a seated position. This is a valuable and near complete, iconic view of the Island, although it is only just visible above the roof of 25 Denning Street. The proposal will remove the northern part of Wedding Cake Island from the rooftop terrace view. Depending upon the angle

from which the view is taken (being the place on the terrace from which it is viewed), the amount of the Island which will be removed from the view will vary from a very small portion of the northern rocks to approximately half of the Island. The remaining part of the Island visible over the roof of 25 Denning Street is quite close to the roofline of 25 Denning Street and for that reason is less clear than the northern portion which would be lost.

- Step 3: Extent of the impact – from the whole of the property
 - From level 1, as with 32 and 34 Denning Street the affected view is a small portion of a more extensive view with the majority of the ocean view to the south-east and will be retained.
 - The view corridor between 21 to 23 Denning Street loss will be devastating on the Level 1 living area and minor from the roof terrace. The view corridor loss between 23-25 Denning Street will be severe from the level 1 level as most of the view corridor to the ocean will be lost. The majority of the view to the ocean, which is to the south-east will be retained. An overall conclusion for extent of the impact to level 1 of 36 Denning Street is minor.
 - From the rooftop terrace, there are extremely valuable and extensive whole views to the ocean to the east, south-east and south, as skyline district views to the City (including Sydney Tower), Bondi Junction and district views to the west. The terrace provides almost 360 degree views to the ocean and district, generally broken by 21 and 17-19 Denning Street which partially block the view to Coogee beach and Clovelly Headlands, and broken to the west by the small upper floor of 36 Denning Street itself. All of these views except the view to part of Wedding Cake Island and a small water view between 21-23 Denning Street will be retained.
 - From the roof terrace, although the partial loss of Wedding Cake Island is an outcome which would no doubt be extremely distressing to the occupants, that view is a small, but important, part of an extremely vast view to the ocean, southern beach headlands, partial views to northern headlands, the district, and city. Taking into account the extent of retained views, the fact that the views are obtained from a roof terrace which is accessible from a half storey below via a non-habitable area, leads to the assessment that the extent of the impact from the roof terrace will be minor to moderate when considered in relation to the whole of the property.
 - Taken together with the impact to the views from Level 1, the overall impact to the views from the whole property is minor.

- Step 4: Reasonableness of the proposal

The elements of the proposal which impacts views are mainly from:

- The lounge room on the first floor (affecting the view corridor between 23 and 25 Denning Street); and
- The westward extension of the first floor

Although the two view corridors will be either lost in whole or part, the site retains more extensive views to the ocean to the south-east. It is reasonable to extend the first floor of 23 Denning Street to the west given the desire to retain more valuable views for 25 Denning Street. To retain the existing view to Wedding Cake Island from the rooftop terrace would require the removal of the lounge on the first floor. An increase in the side setbacks to the lounge would be unlikely to have as significant an improvement on retention of the view corridor between 23 and 25 Denning Street as would be experienced for 32 and 34 Denning Street because of the angle of view. Wedding Cake Island would still be partially obscured even if the side setbacks of the lounge were increased by for example a metre. A requirement to delete the lounge to preserve part of the already somewhat compromised view of Wedding Cake Island, would lead to privacy impacts to the second bedroom on the top level of 25 Denning Street. On balance, it is considered that places an unreasonable burden upon both 23 and 25 Denning Street.

8.1.5. Solar Access

The DCP controls require a portion of north facing living area windows of neighbouring dwellings to receive a minimum of 3 hours direct sunlight between 8am to 4pm at midwinter. Private open space of neighbouring dwellings should also receive this level of solar access.

i. 1 Bloomfield Street

The plans now identify that the proposal will not create any additional overshadowing to 12 Bloomfield Street. Additionally the reduction in the pool height will assist in ensuring that the fencing will not create additional overshadowing.

There are tall trees to the immediate north of the studio at the rear of 9 Cairo Street which are likely to overshadow parts of the rear yard. It is likely that parts of the private open space will not achieve 3 hours solar access at midwinter, however it is likely that parts of the private open space, including the pool area will receive at least three hours during the course of the day. No windows of this property are likely to be affected by the proposal. It is considered reasonable.

ii. 25 Denning Street

25 Denning Street has a number of north facing living area windows.

The window identified as “dining” in the north elevational shadow diagrams in Drawing No 8120 rev B currently most notably includes a staircase and piano and is generally a walk-through room. It is relatively small and unlikely to be commonly used as a dining room. The dining table is in the open plan kitchen/ living / dining room on the eastern side of the dwelling mid-level. The room marked as “Living” appears to be being used as a study near the window although is described as a formal front living area by the occupants. The windows marked as “Family” are the principal living areas for the dwelling. The windows marked “Family” will receive at least 3 hours of sunshine at midwinter and comply with the DCP.

The windows marked as Dining and Living will not receive any sunlight in midwinter. Currently the “living” room has some sunlight between 8am to approximately 9.30am and the “dining” room has sunlight between 8am to 1pm. The “Dining” window housing the piano will receive no sunlight at midwinter although it currently obtains approximately 4 hours. Neither of these windows will comply with the DCP requirement, however it is considered that the most important windows (the Family windows), do comply. An increase in the side setback (for example to 1.5m in accordance with the new C1 DCP provisions) is demonstrated not to improve solar access to the dining window.

The increase in overshadowing to the “Dining” room arises generally from the solid southern wall to the ground floor balcony. The overshadowing is not arising from a breach of the wall height control as surmised by the planner for 25 Denning Street (and it is noted that control has been removed from the current DCP provisions in any event).

The applicant has provided plans demonstrating the additional sunlight to the windows which could be obtained if a 1.5m side setback was provided to the first floor. They demonstrate that the first floor (second) bedroom would have an approximate doubling of the amount of the windows receiving sunlight between 10am to 1pm and an approximate doubling of the sunlight to the adjacent bathroom between 11am to 2pm. Solar access to the bathroom is not relevant and the additional setback would have no impact to living areas (which is the part of the neighbour’s property which is the subject of the DCP control.) It is therefore considered that the additional solar access provided by a compliant 1.5m side setback does not warrant requiring the side setback to be increased.

8.1.6. Side Setbacks / Wall Height

When the application was lodged the side setbacks for a dwelling house with a frontage width of 9m-12m for the ground and first storey was 900mm and for the second storey was 1500mm. For a frontage width of 12m and above side setbacks of 1200mm were required for the ground and first floor and 1800mm for the second storey. The lot width across the majority of the site is 10.06m, however the lot frontage on the oblique angle is 13.603m. On whichever view of the frontage width one takes, the upper level at least is not compliant with the former provisions.

The former provisions also included a wall height control was 8m which was breached significantly by the proposal.

The new Part C1 DCP provisions have removed the wall height control and included amended side setback controls incorporating a variable building plane. The same reference to frontage width remains. As the objectives reference adequate separation between neighbouring buildings it is considered the site ought to be assessed on a frontage width of 10.06m not the oblique angle of 13.605m. Lots between 9m to 12m are required to have the following setbacks:

- 0m to 4.5m: 0.9m
- 4.5m to 7m 0.9 + building height-4.5/4. (i.e. 1.525m at 7m in height)
- >7m 1.5m + 2 x (building height-7m) – i.e. 6.5m side setbacks at a height of 9.5m

The proposal includes 0.9m side setbacks at all levels and is non-compliant by about:

- 40% at 7m - the first floor front half to approximately the lift, and to the ground floor east of the lift
- To the east of the lift the non-compliance is even greater, particularly on the first floor where substantial side setbacks exceeding 1.5m are required.

The objectives of the setback provisions relatively include:

- *To ensure the form and massing of development complements and enhances the streetscape character and maintains a two storey street frontage*
- *To ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access*
- *To reserve adequate areas for the retention or creation of private open space and deep soil planting*
- *To enable a reasonable level of view sharing between a development and the neighbouring dwellings and the public domain.*

Considering impacts against the setback objectives, the following conclusions are made:

- There is a two storey street frontage as required
- Visual privacy could be improved to the northern neighbours, with increased setbacks, although overlooking will still occur whatever the setback by virtue of the elevated position of 23 Denning Street.
- Rather than an increase in side setbacks, visual privacy to the top level of 25 Denning Street has been improved by the provision of a planter on the south-east edge of the balcony to reduce the opportunity to see into the main bedroom.
- Visual privacy impacts to the living and dining area in the middle level would only very minimally be improved by increased side setbacks. The proposal has included an operable blind to reduce privacy impacts. It is noted that there is existing mutual privacy overlooking between the two dwellings.
- Impacts on solar access from side setback non-compliance are considered above and the side setbacks are of no benefit to the main living areas of 25 Denning Street
- There is compliance with the DCP private open space requirements
- The proposal does not comply with deep soil controls. An increase in the upper levels' side setbacks would make no difference to deep soil compliance.
- Increased side setbacks, particularly at the first floor level on the southern side would reduce the partial loss of the view corridor between 23 and 25 Denning Street to 32, 34 and 36 Denning Street. It would lead to a minimal increased retention of the view to Wedding Cake Island for 36 Denning Street from its rooftop terrace.

In conclusion it is considered that the side setbacks are acceptable.

8.1.7. Side Articulation

The original proposal included long unarticulated walls. It is accepted that the ground floor walls and the northern first floor walls are largely not visible from the public domain. Council requested articulation to the southern wall on the first floor which is visible from the public domain. The plans include a 1m wide inset in the walk in robe. It is considered that this small indentation will be largely indiscernible from the street and a greater level of articulation is required to meet the objectives and controls in section 4.1 of the DCP Part C1. It is recommended that the articulation element is conditioned to extend the full width of the walk in robe to approximately a width of 2.4m.

8.1.8. Deep Soil – Landscaping

Removal of the olive tree which is not endemic is not considered an issue by the landscape officer.

The new Part C1 provisions for a lot of 586m² require site coverage to not exceed 50%. Site coverage is demonstrated to be 49.9% which is acceptable.

The new RDCP Part C1 deep soil control for a lot of 586m² is a minimum of 40%. For the site this is a minimum of 234.4m². Drawing 5003 Rev D indicates deep soil areas of 183.01m² or 31.2%, however this includes a part which remains covered by the cabana roof. It is recommended that the cabana roof be conditioned to be reduced by 1.0m so that this area is in fact included in the deep soil calculation.

There is an increase in deep soil from the current situation by approximately 70m². In addition, the proposal includes two rooftop gardens over the garage and cabana. On balance it is considered that if a maintenance plan was required by conditions of consent and required to be permanently retained, this provides some additional benefit to the immediate neighbours, even if it is not deep soil.

The landscaping plan provides for landscaping along the northern side and around the pool and on the cabana and garage rooftops. The only trees are 3 x Manzanillo Olives stated to grow to a height of 4m (which is not a canopy tree for the purposes of section 2.6 of Part C1 of the DCP, nor are they native). Olive trees have been planted on the boundary between 27 and 29 Denning Street and they appear to grow well over 4 metres. Tall trees in this area lead to neighbourhood discontent due to impacts on views. Notwithstanding these deficiencies the landscape officer has found that the proposed landscape plans are satisfactory.

8.1.9. Pool and Cabana

The pool was originally proposed to be up to 1.5m above natural ground level, with a 1.8m fence. The amended plans have reduced the pool to ground level, which is a much improved situation, resulting in retention of natural ground level at the boundaries, reduced overlooking to 7 Cairo Street and reduced overshadowing to 1 Bloomfield Street.

The landscape plan identifies fencing at 2.6m high. This is considered excessive and counter to the DCP side fencing controls. It is recommended that a condition require the reduction in height of the fences to 1.8m.

In response to Council's request for additional deep soil the amended plans reduced the paved depth of the cabana, but not the roof extent. With a reduction in the roof, the requested increase in deep soil is not effective. It is recommended that the cabana roof be reduced by 1.0m on the eastern side and the blades be brought under that reduced roof.

The floor to ceiling height of the cabana of 2.975 metres. Despite a request for this to be reduced in height, the amended plans have not included this. As the cabana is an outbuilding and includes a planter above, the height is considered excessive and leads to a structure height greater than the existing grassed slope. It is recommended that conditions require the cabana is to have a finished ceiling level no higher than RL64.695 which will provide a floor to ceiling height of 2.6m, with the planter above not to exceed RL65.295.

9. Conclusion

That the application for demolition of the existing dwelling with associated structures and the construction of a new part 2, part 3 storey dwelling with a garage for 2 car spaces, a swimming pool and associated landscaping at 23 Denning Street South Coogee, be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013 and RDCP 2023
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.\
- Amenity impacts to the immediate neighbours have been considered and amendments made. The view sharing has been carefully considered during design and assessment as concluded that view sharing is acceptable.

Non-standard conditions of consent have been included which require:

- Amendments to the plans to:
 - Increase the southern side articulation.
 - Reduce the fence heights to no more than 1.8m.
 - Provide detailing of the rear garden retaining wall.
 - Reduce the depth of the cabana roof by 1.0m.
 - Reduction in the height of the cabana.
 - Require obscure glazing to two additional first floor northern windows.
 - Relocation of the clothes drying area.
- A maintenance condition for the roof gardens.

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

The following comments were received on 31 October 2023 from Council's Development Engineer and Landscape Assessment Officer in relation to the application:

This report is based on the following plans and documentation:

- Architectural Plans by Tzannes dated 20/6/2023;
- Statement of Environmental Effects by ABC Planning June 2023;
- Landscape Plans by Bates Landscaping, Dwg, C002 – C008, dated 13/6/2023;
- Detail & Level Survey by CMS Surveyors.

Parking Comments

*Under Part B7 of Council's DCP 2013 the proposed 3-bedroom residence is required to provide a minimum of 2 off-street car spaces. The submitted plans **do** demonstrate compliance with this requirement.*

Drainage Comments

Detailed drainage plans with levels reduced to Australian Height Datum (AHD), shall be prepared by a suitably qualified Hydraulic Engineer and be submitted to and approved by the Principal Certifier. A copy of the plans shall be forwarded to Council, if Council is not the Principal Certifier.

Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling. The overflow from the rainwater tank and other surface stormwater must be directed (via a sediment/silt arrestor pit) to:

*Council's kerb and gutter (or underground drainage system) in Denning Street;
OR
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 site **is not** located within 15m of a mains power distribution pole on the same side of the street hence the above clause **is not** applicable.*

1.2. Landscape Development Officer

Site inspection was undertaken through google street view, on Wednesday 26th Oct 2023, with pictures of all vegetation also found in the SEE (TRIM Doc:DO4995694 & D05107187).

Moving towards the frontage of the site, wholly in the southern neighbouring No 25 property, a small narrow raised garden bed, within the garden bed, two mature Syagrus romanzoffiana (Cocos palm), 8 metres high, good health, good vigour, listed under the DCP as an undesirable species, within the palm trees are some Strelitzia species, of little significance, all to be retained.

*Staying within the neighbouring driveway, and the above garden bed, with palms, and the two Strelitzia species, are protected with an existing 1500mm single brick boundary wall, this wall, is to **be retained** and used as a **protection during all demolition works**, this will then be hand demolished nearing the end of works.*

Moving within the rear of the subject site, small insignificant vegetation was found which can all be removed during demolition, then moving east, wholly in the neighbouring property at 1 Bloomfield Street, close to the common boundary, three mature Syagrus romanzoffiana (Cocos palm) 6, 8 & 10 metres high, which while listed under the DCP as an undesirable species, these palms will not be affected and are well clear of works.

All other vegetation within the north and south adjoining sites noted to be sited well clear of all works.

Conditions of consent, as recommended by the above Council Officers, shall be imposed should consent be granted.

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Appendix 2: DCP Compliance Table**3.1 Section C1: Low Density Residential****Part C1: Low Density Residential (2023)**

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 586m ²	
2.1	Minimum lot size		
	Minimum lot size LEP 2012 =	Proposed = 586m ²	No change
2.2	Lot frontage		
	Dwellings & semi-detached		
	<u>Dwellings</u> R2 = 24m parent lot, 12m per dwelling R3 = 18m parent lot, 9m per dwelling <u>Semi-detached</u> R2 & R3 = 15m parent lot, 7.5m per dwelling	Existing 13.605m	NA
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 = 292.34m ² (49.9%)	Very close. Acceptable
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	Required: 234.4m ² Proposed = 183.01m ² (31.2%) Front setback includes 9.65m ² deep soil – 17%	No Assuming the cabana roof is reduced: 51.39m ² (21.9%) variation Front setback No. Acceptable on merit
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 and landscaped ii) 60% native species in plant schedule iii) Canopy trees a minimum mature height of 5m	Proposed = 2 manzanillo olives trees in the rear and one in the front setback. 17% front setback landscaped 63% of plant schedule is native	No for numbers, height. Note issues for canopy trees in environment where everyone is seeking views No front setback Yes for native plants
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = exceeds 7m x 7m	Yes

DCP Clause	Controls	Proposal	Compliance																								
	ii) POS satisfy the following criteria: <ul style="list-style-type: none"> Situated at ground level (except for duplex) No open space on podium or roofs Adjacent to the living room Orientated to maximise solar access Located to the rear behind dwelling Has minimal change in gradient Includes landscaped areas, terraces, decks, paved surfaces and the like. 	All provided as required	Yes																								
3	Building envelope																										
3.1	Floor space ratio LEP 2012 = 0.65:1	Proposed = 0.646:1	Yes																								
3.2	Building height																										
	Building height LEP 2012 = 9.5m	Proposed = 9.46m	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. 	i) Not integrated ii) Ceiling heights are 3m at lower ground and ground floor and 2.8m at first floor iii) LG & G= 3.45m 1 st = 3.35 iv) 2 storeys at street frontage, but appears as 3 storey	i) No ii) Yes iii) Yes iv) Yes to street v) NA																								
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 = approx. 0.6m Dwelling: 3.16m Adjacent garages have nil or very small setback to garage. 21 Denning St dwelling setback about 2.5m, 25 Denning St dwelling setback about 9.5m. Average about 6m	Yes: Garage consistent with adjoining. No Dwelling. Average is about 3m more than proposed. On merit acceptable as setting the house back further will impact on views of 25 Denning Street																								
3.3.2	Side setbacks																										
	<table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th></tr> <tr> <th>Existing primary frontage width</th><th>Building heights 0m to 4.5m</th><th>Building heights >4.5m to 7m</th><th>Building heights >7m</th></tr> </thead> <tbody> <tr> <td>Less than 6m</td><td colspan="3">Merit assessment</td></tr> <tr> <td>6m to less than 9m</td><td>0.9m</td><td>0.9m</td><td>0.9m + (building height – 7m)</td></tr> <tr> <td>9m to less than 12m</td><td>0.9m</td><td>$0.9m + \frac{\text{building height} - 4.5m}{4}$</td><td>$1.5m + 2 \times (\text{building height} - 7m)$</td></tr> <tr> <td>12m and above</td><td>1.2m</td><td>$1.2m + \frac{\text{building height} - 4.5m}{4}$</td><td>$1.8m + 2 \times (\text{building height} - 7m)$</td></tr> </tbody> </table>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height – 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	Lot frontage is 13.605m and lot width 10.06m. Using 10.06m width: Required: To 4.5m high=0.9m >4.5m-7m (at 7m =1.525m >7m (at 9.5m =6.5m) Proposed = 0.9m	Yes at <4.5m No above 4.5m. Acceptable on merit assessment
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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DCP Clause	Controls	Proposal	Compliance
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>	<p>Minimum = 8m</p> <p>Existing = Approx 22m to LG deck Approx 26m to Ground level balcony Approx 30m to L1 terrace</p> <p>Proposed = 15.72m to cabana posts; approx. 21m to LG terrace, approx., 23m to ground balcony approx. 25m to L1 balcony,</p> <p>Predominant rear setback in urban block: Mixed depending on the level</p>	Yes Regarding predominant rear setback see assessment
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>Building steps down the slope. Pool relocated to better reflect topography. Side elevation on north exceeds 12m but is not visible from the street. Privacy from balconies has been improved with planter and blinds</p>	Partial – see merit assessment
4.4	Roof terraces and balconies		
	<p>i) Locate on stepped buildings only (not on uppermost or main roof)</p> <p>ii) Where provided, roof terraces must:</p> <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise structures and roof top elements • Be uncovered and comply with maximum height <p>iii) Locate above garages on sloping sites (where garage is on low side)</p>	<p>No roof terraces.</p> <p>The ground floor balcony has an operable blind to improve existing privacy issues between the site and 25 Denning Street. The first floor balcony has a planter to reduce overlooking to 25 Denning Street</p>	<p>NA</p> <p>Amendments have improved balcony compliance</p>

DCP Clause	Controls	Proposal	Compliance
	<i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i>		
4.5	Roof design and features		
	<p><i>Dormers</i></p> <ul style="list-style-type: none"> i) Dormer windows do not dominate ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. iii) Multiple dormers consistent iv) Suitable for existing <p><i>Clerestory windows and skylights</i></p> <ul style="list-style-type: none"> v) Sympathetic to design of dwelling <p><i>Mechanical equipment</i></p> <ul style="list-style-type: none"> vi) Contained within roof form and not visible from street and surrounding properties. 	<p>Solar cells are within the parapet.</p> <p>No dormers.</p> <p>Air conditioning equipment shown in the garage</p>	Yes
4.6	Colours, Materials and Finishes		
	<ul style="list-style-type: none"> i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone 	Provided	Yes
4.7	Earthworks		
	<ul style="list-style-type: none"> i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Subterranean spaces must not be habitable iv) Step retaining walls. v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vii) cut and fill for POS is terraced <i>where site has significant slope:</i> viii) adopt a split-level design ix) Minimise height and extent of any exposed under-croft areas. 	<p>Pool now reduced to ground level. Is 900mm from the boundaries.</p> <p>Further details on retaining wall at 1.35m required.</p> <p>Otherwise cut and fill acceptable and minimised</p>	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows	Achieved for the site	Yes

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DCP Clause	Controls	Proposal	Compliance
	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.		
	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. 	25 Denning Street The main ground level dining and living rooms comply. The “dining room” on the elevational shadow plans is a walk through room with staircase and piano and not a living room. It will lose all its solar access and substantial habitable room. The “living” window is partially a study but highly susceptible given it is opposite a logical part of the site for a dwelling on the adjoining site. Height and FSR are compliant, orientation makes compliance very difficult. 1 Bloomfield Street The development will not increase overshadowing to the rear yard of 1 Bloomfield Street	No but on merit, satisfactory for 25 Denning Street. Yes over-shadowing for 1 Bloomfield
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) Living rooms contain windows and doors opening to outdoor areas <i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable	BASIX certificate applies. Natural lighting provided and windows to each room	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of	21 Denning Street Privacy treatments are	Can be conditioned.

DCP Clause	Controls	Proposal	Compliance
	<p>existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>provided for various windows along the first floor north elevation and the bathroom on the ground floor. Additional privacy recommended for 2 remaining north facing windows</p> <p>25 Denning Street Planter added on first floor. Blind added on ground floor. Recommendations provided to reduce balcony on the first floor to reduce overlooking to the main bedroom. Also recommended to amend the ground floor balcony privacy provision on the south-east side of the balcony to improve privacy for the living/dining for 25 Denning Street</p>	Acceptable on merit
	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>	Privacy treatments have been provided which retain view corridors	Acceptable on merit
5.4	Acoustic Privacy		
	<p>i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	Air conditioning equipment in garage. Pool equipment is within the cabana building	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> <p>iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place.</p> <p>iv) Front fences, parking facilities and landscaping does not to obstruct casual</p>	<p>Entry is on the front elevation. Street numbering can be conditioned. Bedroom window faces the street. Front fencing is palisade</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	surveillance (maintain safe access)		
5.6	View Sharing		
	<ul style="list-style-type: none"> i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. 	<p>See assessment in report.</p> <p>In summary there will be acceptable view loss from 25, 32, 34 and 36 Denning Street, taking into account the tests under Tenacity</p>	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	<ul style="list-style-type: none"> i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: <ul style="list-style-type: none"> - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable surfaces) 	<p>1 access.</p> <p>Not behind front façade but street fronting garages are common in the street.</p> <p>Double width garage is consistent with the street and there is some landscaping in the front.</p> <p>The frontage width is 13.605m, although the lot width is only 10.06m</p>	Acceptable on merit
6.2	Parking Facilities forward of front façade alignment		
	<ul style="list-style-type: none"> i) The following may be considered: <ul style="list-style-type: none"> - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> - There is no alternative, feasible location for accommodating car parking; - Significant slope down to street level - does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls) 	<p>Double width garage with landscaping. No feasible alternative given the topography and significant slope.</p> <p>Does not adversely affect the visual amenity of the street</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> Compliments architectural character of dwelling i.e. roof pitch and finishes. 		
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> Nil side setback on adjoining property; Streetscape compatibility; Safe for drivers and pedestrians; Amalgamated driveway crossing. 	Nil north side setback is proposed. Nil side setback at 21 Denning Street and a very minimal side setback at 25 Denning Street	Acceptable on merit
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> Single driveway – 3m Double driveway – 5m Must taper driveway width at street boundary and at property boundary	Double driveway is 6m wide, partly taking into account the oblique entry and short driveway. Engineers find the arrangement acceptable	Acceptable on merit
6.5	Garage Configuration		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): <ul style="list-style-type: none"> Single garage – 3m Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)	i) In front of the dwelling. ii) Garage width: 5.91m + garbage storage width of 800mm (approx.). iii) Garage length 6.1m iv) Max height at front: 2.65m + parapet for roof garden = 3.1m. v) Door is recessed vi) Parapet wall is 450mm + parapet of the garden of 450mm (slightly inset) vii) Clearance of 2.2	i) No. ii) No but acceptable on merit to enable garbage storage; iii) Yes iv) No, but acceptable on merit given internal space is only 2.2m high v) Yes vi) Partial re parapet to accommodate the roof garden. Acceptable on merit vii) 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	Front fence details of metal palisade	Yes
7.2	Front Fencing		
	i) 1200mm max. (solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design	1.8m with palisade. Gates open inwards	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>and evenly distributed</p> <p>iii) 1800mm max solid front fence permitted in the following scenarios:</p> <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> <p>iv) 150mm allowance (above max fence height) for stepped sites</p> <p>v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible</p> <p>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</p> <p>vii) Gates must not open over public land.</p> <p>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</p> <p>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</p>		
7.3	Side and rear fencing		
	<p>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</p> <p>ii) Fence may exceed max. if level difference between sites</p> <p>iii) Taper down to front fence height once past the front façade alignment.</p> <p>iv) Both sides treated and finished.</p>	Existing side fences to be retained, save in the rear. Fences to 2.6m proposed in rear.	No – condition for lower fences suggested.
7.4	Outbuildings		
	<p>i) Locate behind the front building line.</p> <p>ii) Locate to optimise backyard space and not over required permeable areas.</p> <p>iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height)</p> <p>iv) Nil side and rear setbacks where:</p> <ul style="list-style-type: none"> - Finished external walls (not requiring maintenance; - No openings facing neighbours lots; and - Maintain adequate solar access to the neighbours dwelling <p>v) For secondary street frontages a nil setback is only permitted if it adjoins a building constructed on the boundary.</p> <p>For detached garages at rear, first floor addition to existing may be considered subject to:</p> <ul style="list-style-type: none"> - Containing it within the roof form (attic) - Articulating the facades; 	Cabana is in the rear yard. It reduces deep soil provision. Side setbacks are 900mm. Maximum height is approximately 3.5m	Yes. Recommend condition to reduce cabana height

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> Using screen planting to visually soften the outbuilding; Not being obtrusive when viewed from the adjoining properties; Maintaining adequate solar access to the adjoining dwellings; and Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.		
7.5	Swimming pools and Spas		
	i) Locate behind the front building line. Minimise damage to existing tree root systems on subject and adjoining sites. Locate to minimise noise impacts on the adjoining dwellings. ii) Pool and coping level related to site topography (max 1m over lower side of site). iii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties. iv) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones. v) Despite iv) this may not apply where there is a need to retain existing view corridors from adjoining and nearby properties. vi) Position decking away from boundaries to minimise privacy impacts. vii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	i) Behind building line. Swimming pool will largely be placed on the lower part of the site with minimal excavation. Located adjacent to other's rear pools and yards. ii) pool coping at RL60.745 – level with rear yard of 1 Bloomfield Street to the rear. iii) fencing proposed at 2.6m iv) NA v) View corridors not an issue vi) pool at ground level. Privacy improved from existing vii) pump in covered area behind cabana	i) Yes Yes Yes ii) Yes. iii) No recommend reduce to 1.8m iv) NA v) NA vi) Yes vii) Yes
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	In garage	Yes
7.7	Communications Dishes and Aerial Antennae		
	i) Max. 1 communications dish and 1 antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> Located behind the front and below roof ridge; Minimum 900mm side and rear setback and Avoid loss of views or outlook amenity iii) Max. 2.7m high freestanding dishes (existing).	None proposed.	NA

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DCP Clause	Controls	Proposal	Compliance
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Proposed on level 1 balcony.	Yes, but would likely exceed height limit and permanent provisions are required by BASIX. Condition to have clothes drying at the lower ground level
7.9	Utility Connections		
	If power pole is within 15m of site (on same side of street), applicant must meet full cost for Ausgrid to relocate.	Noted. There is no pole within 15m	NA

1.1 Section B4: Landscaping and biodiversity

DCP Clause	Controls	Proposal	Compliance
4.1	<p>Objective to encourage well-designed and maintained green roofs</p> <ul style="list-style-type: none"> i) Undertake site analysis to assess site suitability ii) Identify roof access, growing medium, function and plant schedule iii) Select native and drought/heat tolerant species iv) Be designed with high standard components v) Maximise retention and reuse of stormwater vi) Identify the most suitable irrigation system vii) Integration of solar panels on the roof viii) Prepare a maintenance plan 	<p>Two green roofs – on the garage and the cabana.</p> <p>Roof access not shown.</p> <p>Plant schedules provided to satisfaction of landscape officer.</p> <p>Solar panels are on the roof not the roof gardens.</p> <p>No maintenance plan provided.</p>	Yes – condition for a maintenance plan

1.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	i) Comply with parking rates in Table 1. - 2 spaces per dwelling house with 3 or more bedrooms ii) Minimise the use of mechanical parking devices.	Two spaces provided in the garage	Yes

1.3 Section B10: Foreshore Scenic Protection Area

DCP Clause	Controls	Proposal	Compliance
	i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated. ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture). iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues). iv) Must not use high reflective glass v) Use durable materials suited to coast vi) Use appropriate plant species vii) Provide deep soil areas around buildings viii) Screen coping, swimming and spa pools from view from the public domain. ix) Integrate rock outcrops, shelves and large boulders into the landscape design x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.	i) Elevation to the street is articulated with garage (with rooftop planting) and balcony to Bed 1 set back. Recessed entry. ii) The cabana is inset into the land. iii) Render and concrete colours are light/sand natural colours. iv) Glass is to be used as is common in the area. v) Appear suitable vi) Deep soil in side setbacks vii) The landscape officer has found the landscaping to be satisfactory. viii) Swimming pool will not be visible from the public domain. ix) Rock shelves etc. are not visible. x) The site is not within the Foreshore Building Line	Yes

Responsible officer: Urban Perspectives, Town Planners

File Reference: DA/384/2023

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Draft Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/384/2023
Property:	23 Denning Street, SOUTH COOGEE NSW 2034
Proposal:	Demolition of the existing dwelling with associated structures and construction of a new part 2, part 3 storey dwelling house with double garage, rear swimming pool, associated site and landscape works

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>
0100 Rev F Site plan	Tzannes	26.09.24	30.09.24
1000 Rev C Demolition plans	Tzannes	20.06.23	05.07.23
1100 Rev F Lower Floor Plans – Proposed	Tzannes	26.09.24	30.09.24
1101 Rev F Floor plans Proposed	Tzannes	26.09.24	30.09.24
1102 Rev E Roof Plan – Proposed	Tzannes	26.09.24	30.09.24
2000 Rev E South Elevation	Tzannes	26.09.24	30.09.24
2001 Rev E North Elevation	Tzannes	26.09.24	30.09.24
2002 Rev E East and west elevations	Tzannes	26.09.24	30.09.24
3000 Rev F Section	Tzannes	26.09.24	30.09.24
3001 Rev D Section	Tzannes	20.06.23	05.07.23
5001 Rev B Materials and finishes	Tzannes	20.06.23	05.07.23

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
1400081S_02	21 June 2023	05.07.2023

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

Condition	
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.	
2.	<p>Amendment of Plans & Documentation</p> <p>The approved plans and documents must be amended in accordance with the following requirements:</p> <ol style="list-style-type: none"> The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height: <ul style="list-style-type: none"> W1.01 W1.02 The articulation provided on the southern wall on the first floor at WL1.13 to the robe must be increased in width to extend the full width of the robe – being a width of approximately 2.4m. The cabana roof must be reduced by 1.0m in depth on the eastern leading edge to align with the approved paving extent, with the corner blades to be placed under the reduced roof form within the paved area. The cabana and bathroom/pool equipment structure must be reduced to have a finished ceiling level of no higher than RL64.695 and a floor to ceiling level of no greater than 2.6m. The planter bed above shall not exceed RL65.295. Engineering details of the retaining wall between the cabana level and pool level must be provided prior to construction certificate to the satisfaction of the Principal Certifier. The clothes drying area on the first floor balcony shown in drawing 111 Rev F dated 26.09.24 must be deleted and must be relocated/replaced on the lower ground floor open terrace. The landscape plans by Bates Landscaping, Dwg, C002 – C010, Issue B, dated 26/9/2024 must be amended to: <ul style="list-style-type: none"> amend the cabana roof depth as required by condition 2c. amend reference to boundary fence/wall on C006 as 2.6m high and to read 1.8m high <p>Amended plans must be submitted to and approved by 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>

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	Condition
	Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.
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>Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
5.	<p>Section 7.12 Development Contributions</p> <p>In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$2,802,800 the following applicable monetary levy must be paid to Council: \$28,028.00.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
6.	<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</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>

Condition	
7.	<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"> • \$3000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
8.	<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>
9.	<p>Building Code of Australia</p>

	Condition
	<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>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>
11.	<p>Excavation Earthworks and Support of Adjoining Land</p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
12.	<p>Excavation, Earthworks and Support of Adjoining Land</p> <p>A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none"> • when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land; • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p>

Condition	
Condition Reason: To ensure adjoining land is adequately supported.	
13.	<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> <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>Condition Reason: To ensure all roadway works are designed and constructed in accordance with Council requirements.</p>
14.	<p>Design Alignment Levels</p> <p>The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$816.00 calculated at \$60.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements, to Council standard, and to ensure payment of fees to Council.</p>
15.	<p>Stormwater Drainage</p> <p>A site stormwater drainage system is to be provided in accordance with the following requirements (as applicable):</p> <ol style="list-style-type: none"> The stormwater drainage system must be designed and constructed to satisfy the relevant requirements in the Building Code of Australia, Roof stormwater must be directed to a suitably designed and constructed rainwater tank, as required in the relevant BASIX Certificate for the dwelling, The overflow from the rainwater tank and other surface stormwater must be directed to a suitably designed sediment/silt arrestor pit which drains to a suitably designed infiltration area having a minimum base area of 5m², A stormwater overflow pipe (located a minimum 50mm above the outlet to the infiltration area) is to be provided from the sediment/silt arrestor pit to drain to Council's kerb and gutter in front of the site, The design and construction of the infiltration areas must be appropriate having regard to the site and ground characteristics. <p>Should the site or ground conditions preclude the construction of an infiltration pit (i.e. due to rock being located within 300mm of the base of the infiltration area), an infiltration pit need not be provided and the stormwater is to be discharged directly to the kerb and gutter via a sediment/silt arrestor pit.</p>

Condition
<p>f) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;</p> <ol style="list-style-type: none"> i. There are suitable clear-outs/inspection points at pipe bends and junctions. ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet. <p>g) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.</p> <p>h) Details of the design and construction of the stormwater drainage system, sediment site arrestor pit/s and infiltration areas must be submitted to and approved by the Principal Certifier with the Construction Certificate and all works are to be carried to the satisfaction of the Principal Certifier.</p> <p>i) Any rainwater tank overflow/stormwater runoff which cannot be directed to the infiltration area and to the kerb and gutter at the front of the property (due to topographical constraints), shall be discharged either:</p> <ol style="list-style-type: none"> i. Through private drainage easements to Council's kerb and gutter (or underground drainage system); or ii. To a separate suitably sized infiltration area to the satisfaction of the Principal Certifier. As a guide, infiltration areas which do not have an overflow to the street should be sized based on a minimum requirement of 1 m² of infiltration area (together with 1 m³ of storage volume) for every 20 m² of roof/impervious area draining to the infiltration area. <p>j) The design and construction of the infiltration areas must be appropriate having regard to the site and ground characteristics.</p> <p>Infiltration areas must be a minimum of 3.0 metres from any structure (note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure) and 2.1 metres from any adjacent side or rear boundary.</p> <p>If there is no formal overland escape route from the infiltration area to Council's kerb and gutter/street drainage system, a suitable investigation is required to be carried out by a <i>professional engineer</i> to determine the suitability of the ground for infiltration and the design of the proposed infiltration system,</p> <p>Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the infiltration area, or the ground conditions comprise low permeability soils such as clay.</p> <p>Should ground conditions preclude construction of an infiltration pit (i.e. rock and/or a high-water table be present on the site) and the owner/applicant be unable to obtain a private drainage easement to dispose of the stormwater to Council's stormwater drainage system, consideration may be given to the use of a pump out system.</p> <p>k) Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer and the pump-out system designed and</p>

Condition
constructed generally in accordance with Council's Stormwater Code.
Pump-out systems must be provided with two pumps and be installed, connected in parallel (with each pump being capable of discharging at the required discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well is required to be sized for the 1 in 100-year, 2 hour storm assuming both pumps are not working,
l) Any pump-out water must pass through a stilling pit prior to being discharged by gravity to the kerb and gutter,
m) Details of the design and construction of the stormwater drainage system, sediment site arrestor pit/s and infiltration area/s must be submitted to and approved by the Principal Certifier with the Construction Certificate and all works are to be carried to the satisfaction of the Principal Certifier.

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

16. **Stormwater Drainage**

Sediment/silt arrestor pit/s are to be provided within the site at or near the street boundary prior to stormwater being discharged from the site or into any infiltration areas. The sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements, to the satisfaction of the Principal Certifier:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen located over the outlet pipe (Mascot GMS Multi-purpose filter screen or similar)
- A child proof and corrosion resistant fastening system for the access grate (spring loaded j-bolts or similar).
- The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.

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

17. **Building Code of Australia – Swimming Pools**

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

Details of compliance are to be provided in the Construction Certificate.

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

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

Condition	
<i>Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i>	
Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.	
18.	<p>Swimming Pool Safety</p> <p>Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"> • Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation. • Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance. • Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems. • Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises. <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p>
19.	<p>Landscape Plan</p> <p>Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Bates Landscaping, Dwg, C002 – C010, Issue B, dated 26/9/2024, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p>
20.	<p>Protection of Neighbouring Trees</p> <p>In order to ensure retention of the two mature <i>Syagrus romanzoffiana</i> (Cocos Palms) and the two <i>Strelitzia</i> species that are located wholly in the front setback of the adjoining private property to the south, no.25 Denning Street, in good health, the following measures are to be undertaken:</p> <ol style="list-style-type: none"> a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunks and crowns to be clearly and accurately shown on all plans in relation to the works. b) There must be no excavations, battering of soil or other alterations in the existing soil levels or within a radius of 1 metre from the outside edge of the tree trunks and details of compliance are to be included on all relevant architectural, demolition, engineering (structural, stormwater & drainage) and landscape documentation submitted for the construction certificate application. c) The trees are to be physically protected by retaining the existing single brick wall on the southern/common boundary, immediately to their north, until such time as the approved Landscape works are being installed in this area.

Condition	
	<p>d) The erection of signage on the northern aspect of this wall with the following words clearly displayed: "TREE PROTECTION ZONE", "Wall to Remain".</p> <p>Condition Reason: Protection of existing environment public infrastructure, community assets and significant trees.</p>
21.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
22.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment. b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the 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>

	Condition
23.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition Reason: Prescribed condition under section 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>
24.	<p>Dilapidation Reports</p> <p>A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:</p> <ul style="list-style-type: none"> • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises; • demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary); • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and • as may be required by the Principal Certifier for the development. <p>The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.</p> <p>The dilapidation report must be submitted to the Principal Certifier, the Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
25.	<p>Construction Site Management Plan</p> <p>A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles • tree protective measures • dust control measures • details of sediment and erosion control measures

Condition

- site access location and construction
- methods of disposal of demolition materials
- location and size of waste containers/bulk bins
- provisions for temporary stormwater drainage
- construction noise and vibration management
- construction traffic management details
- provisions for temporary sanitary facilities
- measures to be implemented to ensure public health and safety.

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

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

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

26. **Construction Site Management Plan**

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.

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

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

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

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

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

DURING BUILDING WORK

Condition

28. **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.

Condition

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.

29.

Restriction on Working Hours

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

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

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

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

30.

Construction Site Management

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

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

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

All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.

Condition

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.

31.

Public Safety & Site Management

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

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

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	Condition
	<p>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>
32.	<p>Excavations and Support of Adjoining Land</p> <p>The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.</p> <p>Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
33.	<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>
34.	<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>
35.	<p>Road/Asset Opening Permit</p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <ul style="list-style-type: none"> • A <i>Road / Asset Opening Permit</i> 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 <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> 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 <i>final occupation certificate</i> for the development.

Condition	
	<ul style="list-style-type: none"> Relevant <i>Road / Asset Opening Permit</i> fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place. <p>For further information, please contact Council's Road / Asset Opening Officer on 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>Tree Management</p> <p>Consent is granted for removal of all existing vegetation within the site due to their small size and insignificance, as well as to accommodate the proposed works as shown, subject to full implementation of the approved Landscape Plans.</p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</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>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>
39.	<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"> Construct a new concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements. <p><i>Note: Should the No Parking Sign need to be relocated to allow for construction of the new vehicular crossing it is to be relocated to the southern side of the new vehicular crossing.</i></p> <ol style="list-style-type: none"> 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.

Condition	
	Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
40.	<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>
41.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> (a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 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 and that works are completed in accordance with Council's requirements with Council's approval.</p>
42.	<p>Street and/or Sub-Address Numbering</p> <p>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.</p> <p>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.</p> <p><i>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.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>

Condition	
43.	<p>Swimming Pool Safety Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
44.	<p>Swimming Pool Safety A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.</p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
45.	<p>Swimming Pool Safety The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>
46.	<p>Stormwater Drainage The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with Australian Standard 3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and the conditions of this development consent.</p> <p>The certification must be provided following inspection/s of the site stormwater drainage system by the certifying engineers and shall be provided to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure compliance with the consent and relevant standards, and adequate management of stormwater.</p>
47.	<p>Landscape Certification Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plan by Bates Landscaping, Dwg, C002 – C010, Issue B, dated 26/9/2024.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
48.	<p>Landscape Certification</p>

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	Condition
	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.
	Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.
49.	<p>Landscape Certification</p> <p>That part of the nature-strip upon Council's footway which is damaged during the course of the works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>
50.	<p>Roof garden maintenance management plan</p> <p>Prior to any Occupation Certificate, a maintenance management plan for the roof garden above the garage and cabana must be written by a qualified professional in the landscape industry, must be submitted to, and be approved by, the Principal Certifier. The management plan must identify the irrigation, watering and care techniques to be employed to ensure the ongoing retention of the roof gardens.</p> <p>Condition Reason: To ensure the retention of the landscaped elements above the garage and the cabana and to ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>

OCCUPATION AND ONGOING USE

	Condition
51.	<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>
52.	<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>
53.	<p>Waste Management</p> <p>Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.</p> <p>Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.</p>
54.	<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>
55.	<p>Use of parking spaces</p>

Condition	
	<p>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.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
56.	<p>Maintenance of landscaping</p> <p>The roof garden maintenance management plan required by condition 50 must be implemented for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
57.	<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"> 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><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</i></p>

Condition

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

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

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

DURING DEMOLITION WORK

Condition

58. **Demolition Work**

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

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

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

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

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

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