

Randwick Local Planning Panel (Public) Meeting

Thursday 13 February 2025



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, 13 February 2025 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. D1/25

Subject: 312 Rainbow Street, Coogee (DA/850/2024)

Executive Summary

Proposal:	Demolition of existing dwelling, removal of trees, and construction of a 2-storey dwelling house with basement level, in-ground swimming pool and pool house (outbuilding), and associated ancillary and landscaping works.
Ward:	East Ward
Applicant:	CM Studio
Owner:	S Cant & K Bright
Cost of works:	\$2,939,503.00
Reason for referral:	Over 10 unique submissions by way of objection were received.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, to Development Application No. DA/850/2024 for Demolition of existing dwelling, removal of trees, and construction of a 2-storey dwelling house with basement level, in-ground swimming pool and pool house (outbuilding), and associated ancillary and landscaping works, at No. 312 Rainbow Street, Coogee, for the following reasons:

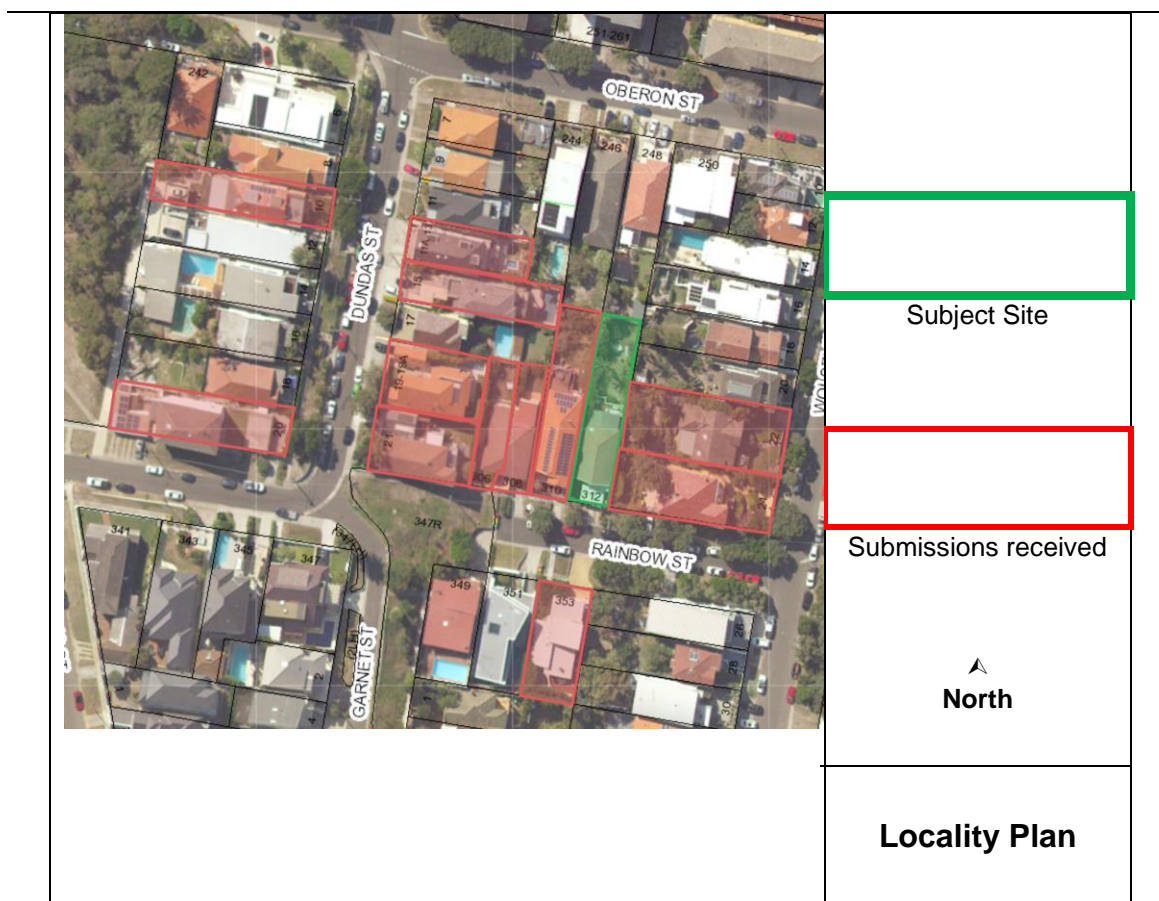
1. The proposed development is an excessive scale and is an overdevelopment of the site, resulting in non-compliance with the floor space ratio development standard pursuant to clause 4.4A (3) of RLEP 2012. The Applicant has failed to submit a Clause 4.6 Variation Request to vary the FSR development standard.
2. The proposal is inconsistent with the objectives of the R2 Low Density Residential Zone of RLEP 2012 in that the amenity of residents is negatively impacted by the proposal and, is not compatible with the desired future character of the locality by exceeding the level of built form anticipated for the subject site.
3. The proposed development will result in unreasonable visual bulk as viewed from the streetscape within a foreshore scenic protection area. Pursuant to clause 6.7 of RLEP 2012, Clause 2.11 (1)(c) of the Resilience and Hazards SEPP and Part B10 of RDCP 2013, Council is not satisfied that the development contributes to the scenic quality of the foreshore.
4. The Applicant has failed to submit a thorough and detailed view loss assessment which details anticipated view loss from neighbouring dwellings and the public domain in line with the *Tenacity Consulting v Warringah Council [2004]* view planning principle. Pursuant to Section 5.6 of the RDCP 2013, Council considers the proposal to have unreasonable view sharing impacts, particularly on the western adjoining property 310 Rainbow Street.
5. Pursuant to Section 5.3 and 4.4 of RDCP 2013, Council is not satisfied the development has sufficiently managed privacy impacts to neighbouring dwellings due to the large, proposed balconies to the north & east of the dwelling.
6. The proposed development results in excessive change to the natural earth including excavation and fill both exceeding 1m, resulting in a non-compliance with Section 4.7 of RDCP 2013.
7. The proposal has non-compliant front, side, and rear setbacks in line with Section 3.3 of the RDCP 2013 controls which further increases the bulk, scale and view loss impacts, and fails to comply with the objectives.
8. The proposal does not comply with the site planning controls, including site coverage, deep soil permeable surfaces and landscaping set out in Sections 2.4, 2.5, and 2.6 of the RDCP 2013, this results in non-compliance with Part B4 of RDCP 2013.
9. The proposal is not well articulated, resulting in unreasonable bulk along the western elevation and an inconsistency with Section 4.1 of RDCP 2013. The proposal does not respond to the natural topography of the site.

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10. The proposal does not maintain a two-storey height, manage the view or privacy impacts on neighbouring properties and has not respected the site topography and is therefore non-compliant with Section 3.2 of the RDCP 2013.
11. The proposed double width garage is inconsistent with the RDCP controls being double in width and dominating the façade and therefore does not satisfy the conditions within section 6.1 of RDCP 2013.
12. Pursuant to Sections 7.2 and 7.3 of the RDCP 2013, the proposed non-compliant front, side and rear fencing does not complement the streetscape and does not maintain reasonable levels of amenity and privacy for neighbouring properties.
13. The proposal is inconsistent with Section 4.15 1(e) of the Environmental Planning and Assessment Act 1979. Many of the submissions received are consistent with the reasons for refusal listed below. If approved, the proposal would set an undesirable precedent and would not be in the public interest.
14. The Applicant has failed to provide the following information:
 - (a) A clause 4.6 exception request relating to the exceedance of Clause 4.4A (Floor Space Ratio) in RLEP 2012 is required.
 - (b) A view loss analysis for all affected properties has not been conducted in accordance with Land and Environment Court Policy: Use of Photomontages and Visualisation Tools.
 - (c) A view loss assessment was not conducted in accordance with the Tenacity Consulting v Warringah Council [2004] Planning Principle.
 - (d) Insufficient information was provided for the respondent to conduct a view loss assessment in accordance with the abovementioned Planning Principle.
 - (e) Height poles should be erected by a suitably qualified professional to confirm the view loss, bulk and scale of the proposal.
 - (f) Insufficient information has been provided regarding the proposed levels of earthworks (cut and fill) to the rear yard and side boundaries.
 - (g) Insufficient information has been provided regarding the retaining walls associated with the proposed earthworks.
 - (h) Insufficient information has been provided regarding the Pool fencing, including the resultant height of any pool fence with particular regards to side and rear boundary fencing, and the resultant impacts on neighbouring properties, such as 248 Oberon Street, 18 and 20 Wolseley Road.
 - (i) Insufficient information has been provided to determine the visual impact of the development from the rear yards of the properties along Wolseley Road, with particular regards to the non-compliant elements being the three storeys and side setbacks.
 - (j) The proposed solar panels have not been shown on the architectural drawings and it is unclear the location of the panels or the angle of the panels.

Attachment/s:

Nil



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1. Executive summary

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

The proposal seeks development consent for demolition of existing dwelling, removal of 5 existing trees, and construction of a 2-storey dwelling house with basement level, in-ground swimming pool and pool house (outbuilding), and associated ancillary and landscaping works.

The key issues associated with the proposal relate to non-compliances within Part B and Part C1 of the RDCP including; view loss, front setback, rear setback, side setback, deep-soil permeable surfaces, tree canopy coverage, front fencing, side fencing, general building design, earthworks, privacy and parking facilities.

The proposal is contrary to the objectives of the foreshore scenic protection area under Section 6.7 of the RLEP and under section 2.11 of Chapter 2 of SEPP (Resilience and Hazards) 2021.

The most contentious issue is the insufficient view loss assessment as per the view loss planning principle *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. The impact on views from the public domain and neighbouring developments which currently obtain views of Coogee Beach, the foreshore, Wedding Cake Island and the horizon has not been conducted by the Applicant.

The proposal does not meet the objective to protect the amenity of residents as per the R2 - Low Density Residential objectives, it exceeds the Floor Space Ratio development standard as per Clause 4.4A (3) in RLEP 2012 with no submitted Variation Request as required in Clause 4.6 in RLEP 2012. Council is not satisfied that the proposal meets the requirements of Clause 6.7 (Foreshore Scenic Protection Area) within RLEP 2012.

There are several deficiencies and lack of detail in the information submitted with the development application.

Therefore, the proposal is recommended for refusal.

Land and Environment Court Proceedings – Deemed Refusal

The Applicant lodged a Class 1 application for the appeal against a deemed refusal of the subject application on 9 December 2024 (received by Council on 11 December 2024). The Statement of Facts and Contentions has been lodged with the Land and Environment Court by Council on 22 January 2025.

2. Site Description and Locality

The subject site is known as No. 312 Rainbow Street, Coogee and is legally described as Lot 11 in Section 1 of DP 975250. The site is 482.9m², is regular in shape and has a 10.365m frontage to Rainbow Street to the south. The eastern side boundary is 46.51m, the rear (northern) boundary is 10.365m and the western side boundary is 46.725m. The site contains a detached dwelling with a carport forward of the building line and a large grassed rear yard with a rear elevated deck. The current dwelling contains a ground floor and basement / lower ground level.

The site slopes west to east approximately 1.5m and south to north approximately 3m. Therefore, the lower points of the property are the eastern side and rear yard to the north. The subject site, due to the topography and locality enjoys vast views towards Coogee Beach, headlands, the horizon and Wedding Cake Island. The street contains detached and semi-detached dwellings which are staggered along the hill to provide for shared views and minimal earthworks to the land within the Foreshore Scenic Protection area. **See Figures 1-16.**



Figure 1: Aerial Photograph of the subject site (Source: NearMap)



Figure 1: Northern Oblique view of 312 Rainbow Street, Coogee (Source: NearMap, 2024)



Figure 3: Site context and view of Rainbow Street, Coogee taken from Garnet Street, South Coogee. (Source: Assessment Officer)

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Figure 4: Subject site from street view. (Source: Assessment Officer)



Figure 5: Side entrance to current dwelling on eastern side of subject site. (Source: Assessment Officer)



Figure 6: Current views obtained from dwelling on ground floor facing east and north. View obtained are Wedding Cake Island, Headlands and Coogee Beach. (Source: Assessment Officer)



Figure 7: Current view obtained from raised deck looking east from ground floor of subject site. (Source: Assessment Officer)



Figure 8: View looking west from existing rear deck towards 310 Rainbow Street, Coogee. (Source: Assessment Officer)



Figure 9: View north towards rear yard from existing raised rear deck. (Source: Assessment Officer)

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Figure 10: Rear of current dwelling showing ground floor and basement / lower ground level. (Source: Assessment Officer)



Figure 11: 310 Rainbow Street, Coogee to the west of subject site. (Source: Assessment Officer)

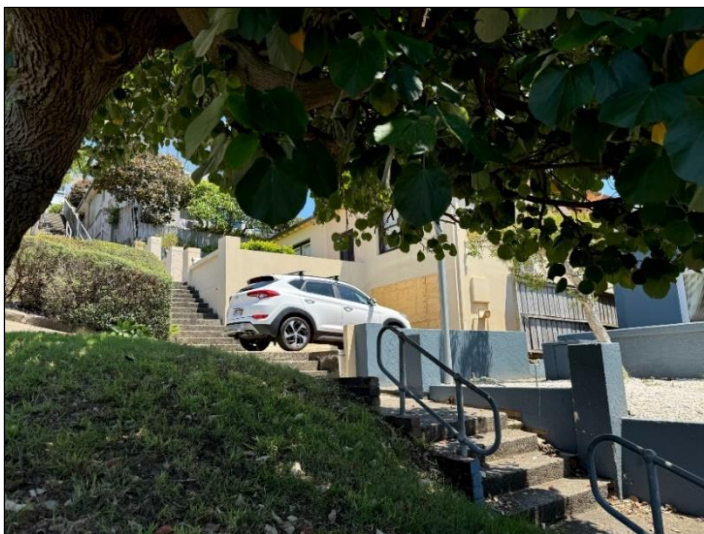


Figure 12: Rainbow Street looking west towards 308 and 306 Rainbow Street highlighting the topography of the subject street and pattern of development. (Source: Assessment Officer)



Figure 13: View of subject site to the right and 310 Rainbow Street to the west highlighting height difference between sites due to steep topography. (Source: Assessment Officer)



Figure 14: View east over 312 Rainbow Street where proposed dwelling will sit as viewed standing from 310 Rainbow Street living room. (Source: Assessment Officer)



Figure 15: View east from 310 Rainbow Street, looking from raised rear deck over 312 Rainbow Street. (Source: Assessment Officer)



Figure 16: View east from 310 Rainbow Street, looking from end of raised rear deck over 312 Rainbow Street. (Source: Assessment Officer)

3. Relevant history

A detailed search of Council's records indicate that the lot has an extended history of being used for a residential dwelling and associated structures. There are no recent applications for the subject site.

The subject site to the west (310 Rainbow Street, Coogee) lodged DA/2/2019 on 2 January 2019 for alterations to the existing dwelling plus 2 storey addition to rear, construction of tandem carport adjacent to eastern boundary and associated works. This was refused on 3 April 2020 for the following reasons:

- 1) The proposal is not consistent with the objectives of the R2 Zone of Randwick Local Environmental Plan 2012 in that the development fails to protect the amenity of residents.
- 2) The proposal does not satisfy the site coverage controls set out in Section 2.3 of Randwick Development Control Plan 2013 – Site Coverage.
- 3) The proposal does not satisfy the setback controls set out in Section 3.3 of Randwick Development Control Plan 2013 – Setbacks.
- 4) The proposal will result in loss of privacy for dwellings to the north of the site due to the rear extension.
- 5) The proposal does not satisfy the objectives of Section 6.7 Foreshore Scenic Protection Area of Randwick Development Control Plan 2013.
- 6) The proposal is inconsistent with the prevailing pattern of development nearby and will not contribute to the desired future character of the area.
- 7) The proposal will result in adverse amenity impacts to neighbouring properties with regard to view loss.

There are no other recent or relevant applications for the subject site or neighbouring sites.

An additional information request was sent to the Applicant on 22 November 2024 raising the extensive planning issues as explored below and requesting that the applicant withdraw the application as it would otherwise result in a recommendation for refusal because of the significance and severity of issues. No response was received within the given 14-day timeframe.

On 9 December 2024, the Applicant commenced Class 1 proceedings in the Land and Environment Court against the deemed refusal of the development application (the appeal was received by Council on 11 December 2024).

4. Proposal

The proposal seeks development consent for demolition of existing dwelling, removal of trees, and construction of a 2-storey dwelling house with basement level, in-ground swimming pool and pool house (outbuilding), and associated ancillary and landscaping works.

The proposal will be 2 storeys from street level and 3 storeys to the rear. The new proposed dwelling is approximately double the length of the current dwelling on the site and will have significantly more gross floor area and site coverage than existing. **See Figures 17-24, with the red dashed outline indicating footprint of current dwelling.**

Specifically, the proposal is for:

- (a) Demolition of the existing dwelling,
- (b) Removal of 5 trees on site,
- (c) Construction of two storey dwelling house with basement level, access via stairs and a lift.
 - Basement Level: storage rooms, plant, services, laundry, rumpus and alfresco.
 - Ground Floor: Double garage, bathroom, bedroom, study, large kitchen, dining and living area with access to a terrace, and a separate elevated courtyard.
 - First Floor: master bedroom with ensuite, separate WC, WIR and large balcony, two other bedrooms with balconies, shared bathroom, linen cupboard.
- (d) Construction of inground swimming pool, pool house (outbuilding) as well as an entry portico and bin store in the frontage.
- (e) Associated earthworks and ancillary landscaping works.

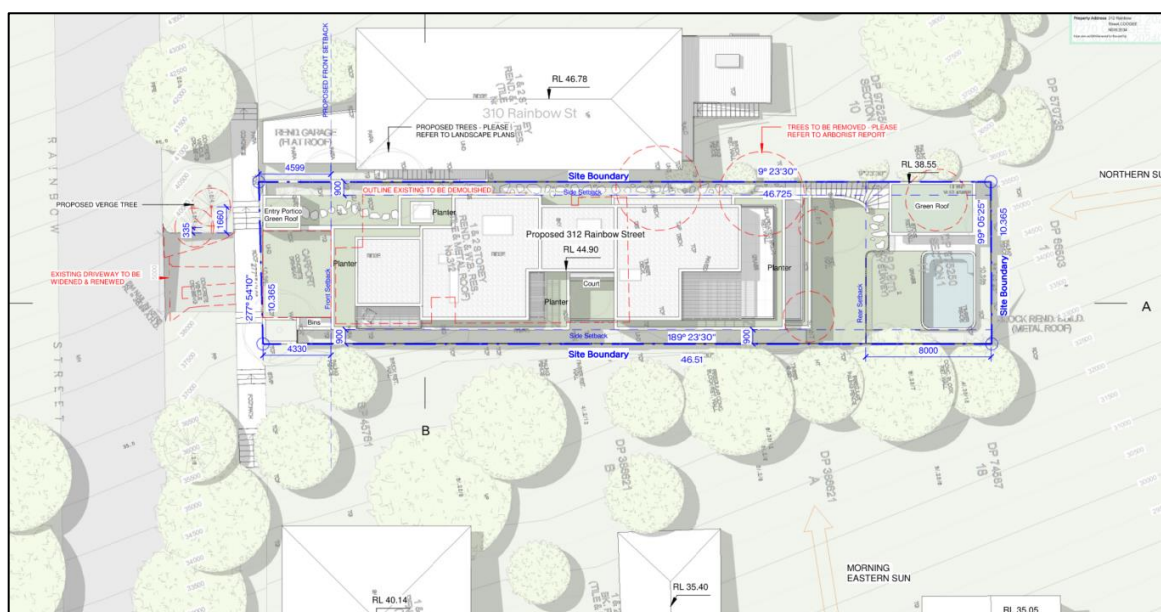


Figure 17: Site Plan from Applicants submitted plans.

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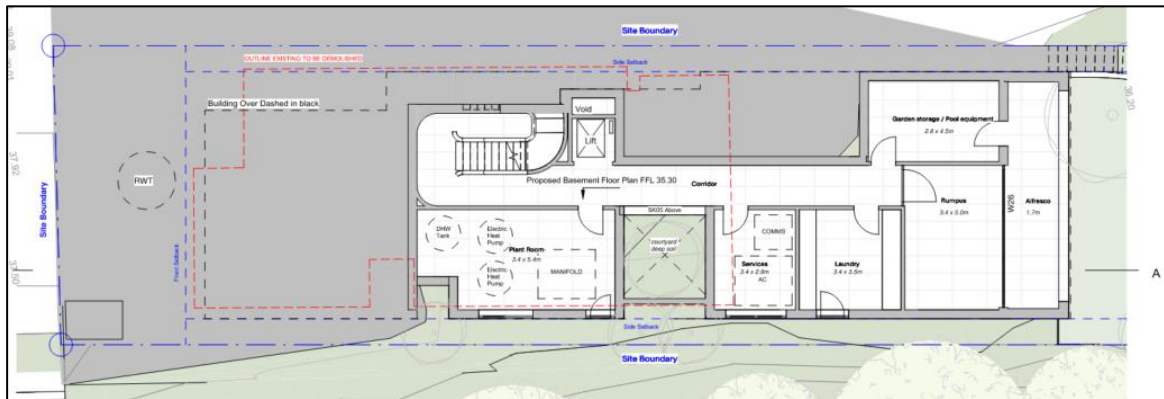


Figure 18: Basement Floor Plan from Applicants submitted plans.

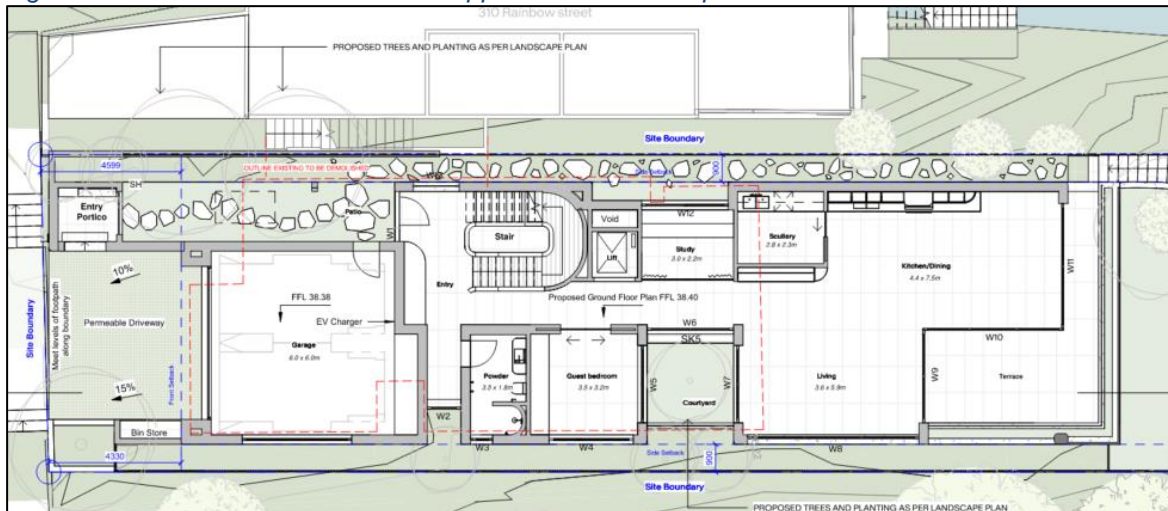


Figure 19: Ground Floor Plan from Applicants submitted plans

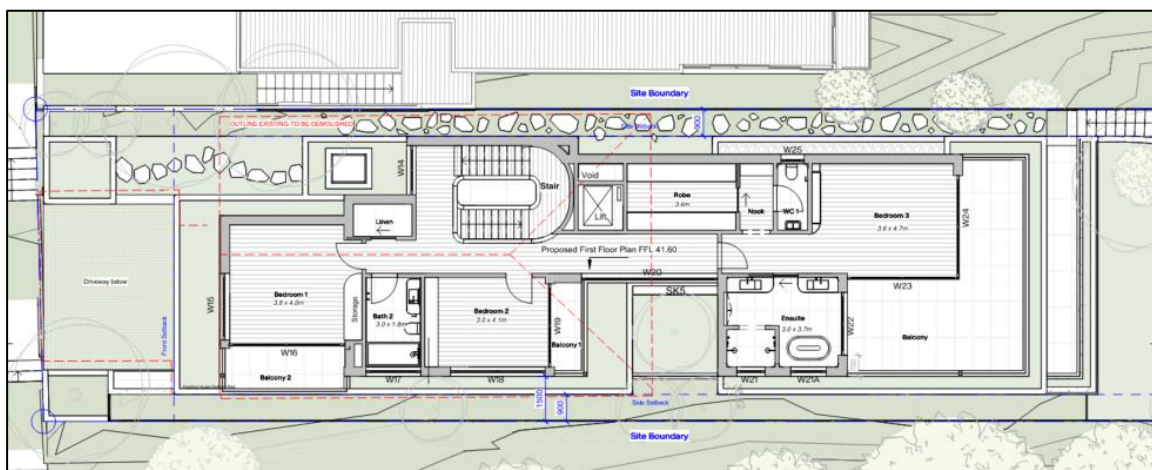


Figure 20: First Floor Plan from Applicants submitted plans.

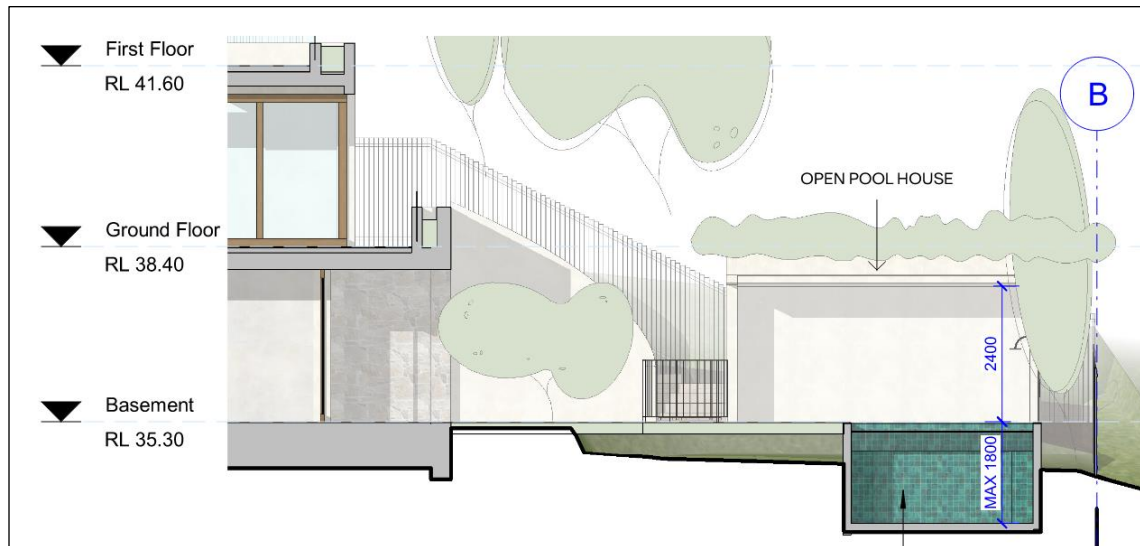


Figure 21: Rear garden elevation from Applicants submitted plans.



Figure 22: Eastern Elevation from Applicants submitted plans

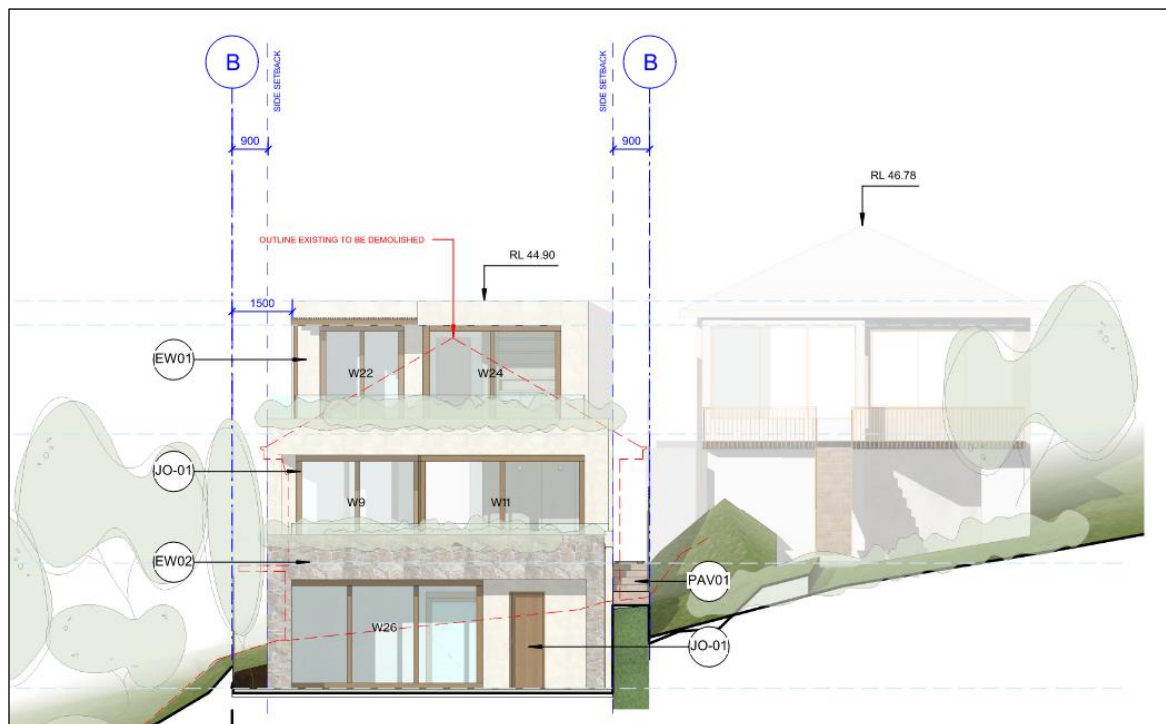


Figure 23: Rear elevation from Applicants submitted plans

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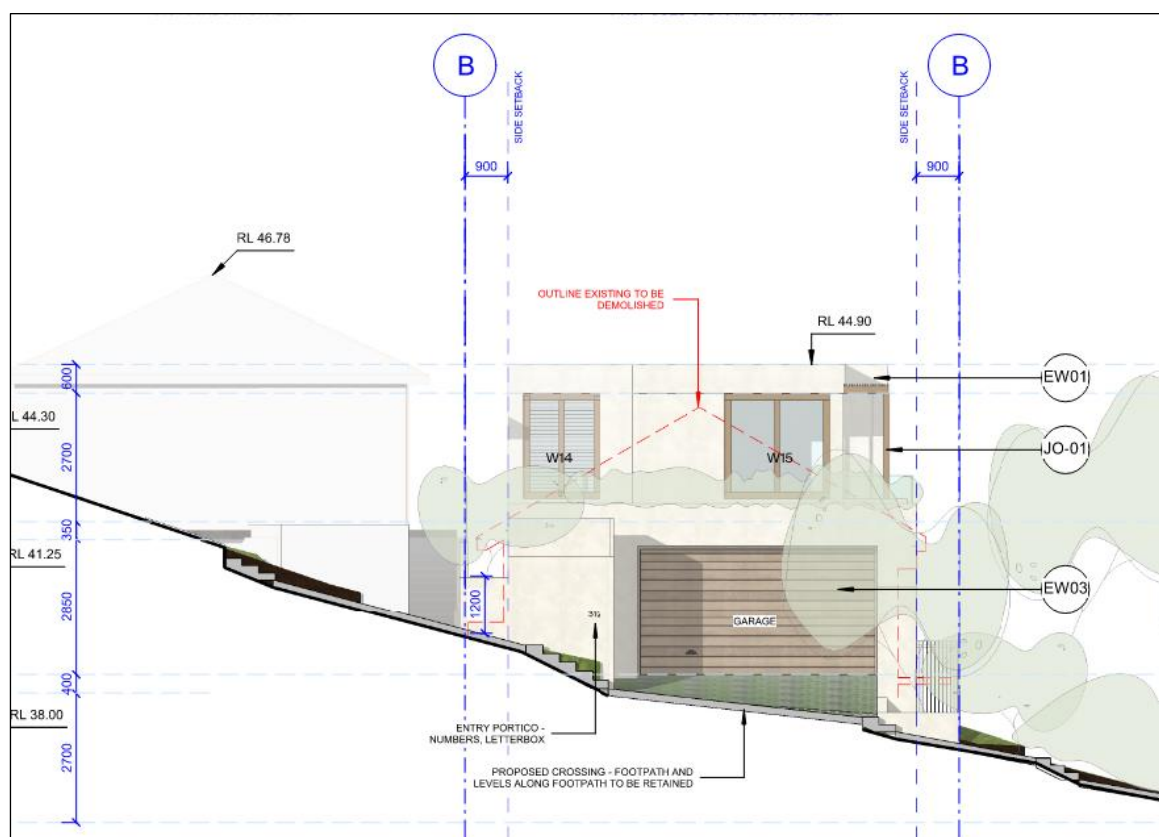


Figure 24: Front elevation from the Applicants submitted plans.

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 24 unique submissions were received as a result of the notification process (note: some recurring issues have only been addressed once below to save repetition and focus on all differing presented issues):

- No. 19 Dundas Street, Coogee
- No. 306 Rainbow Street, Coogee
- No. 308 Rainbow Street, Coogee

Issue	Comment
Believes the FSR has been incorrectly calculated and that it will go over the FSR control of 0:65:1. Therefore requiring a Clause 4.6 statement.	Council agrees there is a variation to FSR and hence, requires a Clause 4.6 Variation Statement which is not submitted.
Believes that Site Coverage has been incorrectly calculated and would be excessive.	Council agrees that the site coverage has been incorrectly calculated and that the proposal breaches the site coverage control in section 2.4 of Part C1 in the RDCP by 2.94%.
Believes that the wall height is excessive.	The proposal is within the maximum building height limit (development standard) under the LEP; however, it lacks articulation to the western elevation with substantially long blank walls.
Insufficient front and side setbacks.	Agreed. The proposal does breach setback controls and objectives from the RDCP.

Issue	Comment
The DA is lacking a view loss assessment and does not meet the standards for acceptable view loss (Tenacity Consulting v Warringah Council). The proposal is not skilful and has 'gone too far' (Furlong v Northern beaches Council 2022). Severe view loss for properties west of number 312.	While the proposal does include a short view loss assessment, it is insufficient and lacks details of potential view loss from neighboring sites and the public domain as per the view loss planning principle. Severity of view loss cannot be fully understood without a full and competent assessment including height poles. Please see Councils view loss assessment based on the information available.
The proposal doesn't meet aims of the LEP and zone objectives.	Agreed some R2 – Low Density residential zone objectives are not met however, the aims of the LEP are broad and the proposal is not specifically against them.
Excessive bulk and scale of the development emphasized as it does not step with the land.	Agreed.
Does not meet the desired future character of the area and does not positively contribute to the streetscape.	Agreed, the proposal breaches many controls and objectives which impact the front façade and front setback as viewed from the streetscape.
Proposal goes against controls and objectives in Foreshore Scenic Protection Area Section 6.7 in the LEP and Part B10 in the DCP and, Section 5.6 View Sharing in Part C1 of the DCP.	Agreed.
Moderate view loss from 308 Rainbow Street looking east, moderate in severity and impacting both front and rear of property.	Council agrees that view loss is possible from this site and elevation however, the severity cannot be determined without a complete and competent view loss assessment including certified erected height poles which has not been submitted by the Applicant. Please see Councils view loss assessment based on the information available.
Moderate view loss looking east from rear yard of 306 Rainbow Street.	Council agrees that view loss is possible from this site and elevation however, the severity cannot be determined without a complete and competent view loss assessment including certified erected height poles which has not been submitted by the Applicant. Please see Councils view loss assessment based on the information available.
Moderate view loss looking east from side of 19 Dundas Street.	Council agrees that view loss is possible from this site and elevation however, the severity cannot be determined without a complete and competent view loss assessment including certified erected height poles which has not been submitted by the Applicant. Please see Councils view loss assessment based on the information available.
11 proposed trees are over 8m in height. Once at full growth, this will remove any water views which would not be ruined by the proposed dwelling.	Agreed.

Issue	Comment
The proposal is not within the public interest as per section 4.15(1)(e) of the EP&A Act.	Agreed.

- No. 21 Dundas Street, Coogee

Issue	Comment
Concerned about the precedence of such development on surrounding properties, as the street slopes uphill worried everyone else will have to 'go up' to maintain views.	Any substantial future development to properties within the locality cannot proceed without a thorough assessment and development consent which takes into account planning controls regarding height, bulk, scale, view loss etc.
Bulk and size of the plan is excessive.	Agreed.

- No. 10 Dundas Street, Coogee + No. 20 Dundas Street, Coogee (replicas)

Issue	Comment
Concerned about the precedence of such development on surrounding properties, as the street slopes uphill worried everyone else will have to 'go up' to maintain views.	Any substantial future development to properties within the locality cannot proceed without a thorough assessment and development consent which takes into account planning controls regarding height, bulk, scale, view loss etc.
Doesn't protect the amenity of residents which is an objective of R2 zone in the RLEP.	Agreed.
Not in the public interest for such a big development impacting views of headland and coast.	Agreed.
Doesn't satisfy the objectives of 6.7. Foreshore Scenic Protection Area in the DCP.	Agreed.
Bulk on top, doesn't have an amendable setback in regards to view sharing and extension to back – too bulky.	Agreed.

- No. 13 Dundas Street, Coogee

Issue	Comment
View Loss – want the rear of the proposed dwelling to be behind the rear deck of 310 Rainbow Street.	Council notes that this would be a more favorable outcome to retain existing views.
Combination of above addressed issues including view loss, bulk, not satisfying the objectives in Clause 6.7 of RLEP and overdevelopment.	Addressed in other submissions.

- No. 15 Dundas Street, Coogee

Issue	Comment
Combination of above addressed issues including view loss, bulk, not satisfying the objectives in Clause 6.7 of RLEP and overdevelopment.	Addressed in other submissions.

- No. 22 Wolseley Road, Coogee

Issue	Comment
Overlooking and privacy impacts.	Council agrees that overlooking and privacy impacts are possible due to topography and size / location of proposed balconies to the north and east.
Overshadowing in winter from the bulk and height and lack of sunlight in winter.	Due to orientation Council agrees that there will be increased shadows cast during the afternoon towards the rear of the site however, as the property faces east, adequate light will be expected during the morning.

- No. 24 Wolseley Road, Coogee

Issue	Comment
Would like 'no stopping' signs implemented to one side of the road during construction due to pedestrian and vehicle risks.	Subject to approval, a traffic management condition could be explored.
Combination of above addressed issues with 22 Wolseley Road, Coogee.	Same as above.
Privacy into the rear garden/ private open space.	Agreed, included as a reason for refusal.

- Unknown Addresses

Issue	Comment
The DA due to height and proximity to 310 Rainbow Street would significantly impact the homes natural cooling and heating. They would no longer receive the easterly breeze in Summer which cools their home and the sun during the morning in winter to heat the house. Impacting energy efficiency and amenity.	Agreed.
Combination of above addressed issues including view loss and bulk.	Addressed in other submissions.

- No. 353 Rainbow Street, South Coogee

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Issue	Comment
View loss of the bay from north aspect of upper level.	<p>Council agrees that there will be some view loss. The exact severity cannot be determined without a complete and competent view loss assessment including certified erected height poles which has not been submitted by the Applicant.</p> <p>However, the view loss assessment by Council concludes that the overall view impacts will be minor. Please see the view loss assessment in the key issues section for more detail.</p>

- No. 310 Rainbow Street, Coogee

Issue	Comment
View from the east would turn into a rendered wall with little articulation, from what is ocean views.	Agreed. Lack of articulation goes against controls and objectives within section 4.1 of part C1 in the RDCP.
Proposal will block views to the east. Believes the SEE is worded to down play the effects to 310 Rainbow Street with regards to view sharing and retaining existing views.	Council agrees that view loss is possible from this site and elevation however, the severity cannot be determined without a complete and competent view loss assessment including certified erected height poles which has not been submitted by the Applicant.
The house is designed in a way to maximise how far north the dwelling can go e.g. voids.	Agreed, the voids and courtyards add to the length of the dwelling.
Impact on solar access to home and POS.	Agreed, the dwelling would receive less light particularly in the morning however, sunlight to the north will be retained.
Large proposed decks to rear would significantly overlook their POS and imposing privacy screens would only impact further on view loss.	Agreed.
Want a larger setback to their property to increase some solar access. They proposed 1.5m setback from eastern boundary but only 0.9m from the western boundary.	Council agrees that side setbacks are non-compliant on many sections of the dwelling proposed.

Issue	Comment
<p>Inadequate information to assess the application including:</p> <ul style="list-style-type: none"> - Lack of information on plans showing dimensions showing front and rear setbacks - Lack of survey information to show existing subterranean level - Lack of details of window openings of 310 Rainbow Street - Inadequate and inaccurate view loss assessment - No adequate site analysis or site plans - Inaccuracies in calculation plans 	Council agrees that some information is missing to perform an accurate and thorough assessment of the full proposal and potential impacts.
The development should be consistent with the area which includes larger rear setback to maximise views up the hill to the east.	Agreed, Council setback objectives include view sharing which appears to not of been met.
Incorrectly measured 'existing ground level' does not take into account subterranean level / basement which is existing which has made the existing floor level be significantly lower due to excavation.	Council measures existing ground level to be the level below an existing slab (200mm is used for approximate slab depth), therefore using the 'LFL' from the survey minus 200mm council can get an accurate existing ground level for the subterranean level.
Believes the garage door and crossover are substantial in width and unnecessary.	The subject site, in line with RDCP controls is permitted a single width driveway and garage/carport facility.
Doesn't give consent for work on the boundary or a fence higher than 1800m.	Some fencing on side boundary is proposed at a height of 4.05m which Council agrees is substantial in height, even on a sloping lot. If either owner has any current or future complaints regarding boundary fencing, they should consult the Dividing Fences Act 1991.
Concerns about landscaping blocking views, including shrubs capable of growing to 1m in height on roof gardens.	Council's Landscape Development Officer agree that the proposed landscaping will contribute to view loss once at a mature height.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Sustainable Buildings) 2022.

6.2. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the 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. As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 2 - Coastal Management

Clause 2.11 (1)(c) requires the consent authority to take into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

The proposal will result in adverse impact to the visual amenity of the coastal area and foreshore scenic protection area resulting from an overdevelopment of the site. The bulk, scale and size of the proposed development is excessive, including in comparison to neighbouring properties, and would be out of context with the immediate surrounding streetscapes and coastal character.

The adverse visual impacts will mean that the consent authority cannot be satisfied of the matters required to be satisfied under clause 6.7 of RLEP 2012 relating to the foreshore scenic protection area, and under section 2.11 of Chapter 2 of SEPP (Resilience and Hazards) 2021.

Clauses 2.12 and 2.13 relate to development in the coastal zone generally. The proposal is not likely to increase risk of coastal hazards.

Chapter 4 - Remediation of Land

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

The subject site has previously been used for the purpose of a residential dwelling house and as such is unlikely to contain any contamination. The nature and location of the proposal are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The site is zoned R2 – Low Density Residential under Randwick Local Environmental Plan 2012 and the proposal for demolition of existing dwelling and construction of a new larger dwelling is permissible with consent.

The proposal is **inconsistent with the objectives of the R2 Low Density Residential Zone of RLEP 2012** in that the amenity of residents is negatively impacted by the proposal and, is not compatible with the desired future character of the locality by exceeding the level of built form anticipated for the subject site. The various non-compliances outlined in the key issues section of this report demonstrate the inconsistency with the objectives of the zone.

The proposal is inconsistent with recent development approvals in the surrounding neighbourhood.

The submissions received and the key issues listed below demonstrate that the proposal is inconsistent with the desired future character.

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	0.67:1	No
Cl 4.3: Building height (max)	9.5m	8.89m	Yes

6.4.1. *Clause 4.6 - Exceptions to development standards*

The proposal results in a variation to the FSR development standard, proposing a FSR of 0.67:1 and a variation of 2.38%. The Applicant has not provided written justification for the departure from the FSR standard. Because the Applicant has not submitted a written variation request, it is considered that the requirements of Clause 4.6(3) have not been satisfied and that development consent cannot be granted for development that contravenes the FSR development standard.

6.4.2. Clause 6.2 – Earthworks

- (a) Clause 6.2 (3) of the RLEP states that before granting development consent for earthworks, the consent authority must consider the following matters:
- a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
 - b) *the effect of the development on the likely future use or redevelopment of the land*
 - d) *the effect of the development on the existing and likely amenity of adjoining properties*
 - e) *the source of any fill material and the destination of any excavated material,*
 - f) *the likelihood of disturbing relics,*
 - g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed excavation and earthworks significantly exceed that anticipated under RDCP 2013. It has not been demonstrated that associated impacts could be minimised or avoided. Insufficient details have been provided regarding retaining walls, and it is not clear that the proposal will not negatively affect the amenity of adjoining properties.

6.4.3. Clause 6.7 Foreshore scenic protection area

The subject site is located within a Foreshore Scenic Protection Area under Clause 6.7 of the Randwick LEP 2012. The consent authority may only grant consent to a building within the foreshore scenic protection area if it is satisfied that the proposal ***has minimized visual impacts on public areas of the coastal environment, and will contribute to the scenic quality of the coastal foreshore.***

The proposed development is generally inconsistent with the scale of surrounding development, with a proposed new dwelling which is double the length of the current dwelling and exceeding many planning controls from both the RLEP 2012 and RDCP 2013. The proposal is non-compliant with the following:

- Floor Space Ratio
- Site Coverage
- Deep Soil Permeable Surfaces
- Side, front and rear setbacks
- Building design
- Building height – number of storeys

The proposal is visually bulky, large in scale and has an inconsistent street façade with a large wall, portico and 2 car width garage dominating the street façade on a lot less than 12m in width.

An assessment of the impact on views currently enjoyed from the public domain has not been conducted. The view loss from the private domain will vary from minor to significant depending on the elevation and orientation of surrounding development, which must be confirmed with an accurate view loss assessment was submitted along with height poles.

The design of the dwelling at the site will detract from the prevailing height, bulk, and scale of the surrounding residences, which are staggered in height down the slope of Rainbow Street.

The proposal will compromise the scenic qualities of the foreshore location and has not been thoughtfully designed to protect existing views from neighbouring properties.

The proposal does not satisfy the above objectives of the clause and is not worthy of support.

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 updated RDCP 2013 are applicable to the proposed development, and the proposal shall be assessed against the new DCP.

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

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 of 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 <u>generally</u> does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is <u>not</u> consistent with the dominant character in the locality.</p> <p>The proposal will 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. However, the site has insufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in	The issues raised in the submissions have been addressed in this report.

Section 4.15 'Matters for Consideration'	Comments
accordance with the EP&A Act or EP&A Regulation	
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

8.1. Discussion of key issues

View Loss

Pursuant to Part C1, Section 5.6 of the DCP, new buildings and alterations and additions must comply with the following objectives relating to view sharing:

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

The proposal is within a Foreshore Scenic Protection Area and will result in view loss from neighbouring properties including 353 Rainbow Street and 310 Rainbow Street. The impact on properties such as 306, 308 Rainbow Street, 15, 17, 19 Dundas Street and 351 Rainbow Street is currently unclear. If approval was granted it would set an undesirable precedent, which would further impact more dwellings than listed above.



Figure 25: view from 312 Rainbow Street facing west - the properties from left to right are: 19, 17 and 15 Dundas Street (Source: Assessment Officer)

The DCP clearly advises:

The NSW Land and Environment Court has developed a Planning Principle relating to view sharing based on the case of Tenacity Consulting v Warringah Council [2004] NSWLEC 140. Where view loss impact is likely to occur, development proposals must address this subsection of the DCP as well as the aforementioned Planning Principle in detail in a DA submission.

The supplied SEE fails to provide a substantial and acceptable view loss assessment demonstrating that the proposed view loss impacts are acceptable and, that the proposal passes the Tenacity test. The supplied view loss assessment is insufficient and has not included all potential view loss from surrounding neighbours. It has also not sufficiently demonstrated the proposal has been skilfully designed to reasonably maintain neighbouring views.

Council has conducted a view loss assessment against the tenacity principles based on the information available. Council has also utilised a submission which included a photomontage of the proposed impacts. The overall assessment had the following conclusions:

Neighbouring properties are expected to experience view loss which is not supportable in relation to the View Sharing Planning Principle (Tenacity Consulting v Warringah Council [2004] NSWLEC 140), in particular this will be 310 Rainbow Street (adjoining western property). The proposal is non-compliant against many of the building envelope planning controls and objectives of the RDCP and RLEP. These non-compliances will directly contribute to the substantial view loss.

A future proposal must utilize a more skillful design to ensure equitable and reasonable view sharing for neighbouring properties and the public vicinity.

Tenacity View Loss Assessment:

1. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

353 Rainbow Street

Views enjoyed by this property include:

- Views to the Northeast of Wedding Cake Island from multiple rooms (unaffected by the proposal).
- Views of Coogee Headland along to Clovelly (much of which is unaffected by the proposal, some of the existing view is obscured by trees on neighbouring properties)
- Views to the north of the Coogee Headland interface with the ocean, **affected by the proposal.**
- Views to the east of the Pacific Ocean, unaffected by the proposal.

The existing views facing north (over the development site) are moderate value, being the Coogee beach headland, including its interface with the water (Ocean). This view is partially obscured by the existing dwelling.



Figure 26: View from 353 Rainbow Street – 1st floor secondary living space facing north (Source: Assessment Officer)



Figure 27: View to the east of the Pacific Ocean (Source: Realestate.com.au)

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Figure 28: View of Wedding Cake Island at ground level (Source: Realestate.com.au)



Figure 29: view of Wedding Cake Island from 353 Rainbow Street (Source: Council)

310 Rainbow Street

Significant views enjoyed from 310 Rainbow Street include:

- To the east, of the Pacific Ocean, **affected by the proposal.**
- To the northeast of Wedding Cake Island, **affected by the proposal.**
- To the north, of Coogee Headland to Clovelly Headland, unaffected by the proposal.



Figure 30: View from 310 Rainbow Street facing east towards the development site and Wedding Cake Island – taken from the first floor dining area (Source: Assessment Officer)



Figure 31: View from the rear garden of 312 Rainbow Street, facing east over the development site and towards Wedding Cake Island – taken from the 1st floor deck (Source: Assessment Officer)



Figure 32: View to the north of the Coogee Headland to Clovelly - unaffected by the proposal (Source: Assessment Officer)

Other properties

The existing views from 306 and 308 Rainbow Street are unclear. Photos from the real estate website indicate they are:

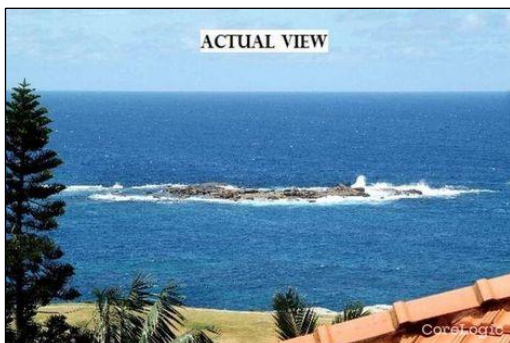


Figure 33: view from 308 Rainbow Street (Source: Property Value, 2005)



Figure 34: View from 306 Rainbow Street (Source: Realestate.com.au, 2009)

It is unlikely that most of this existing view will be affected, as shown in the Aerial Image below. However, the Applicant must confirm this. The photomontages in Figure 46 demonstrates the impact on 308 Rainbow Street from a certain position in the rear garden.



Figure 35: Yellow lines represent the views towards Wedding Cake Island.

The existing views from 15, 17 and 19 Dundas Street are unclear. The realestate.com.au Pty Ltd website (www.realestate.com.au) did not include any useful photographs. These properties are significantly higher and it is unlikely their views will be significantly affected, however, the Applicant must confirm this, particularly whether their lower levels will be impacted. For reference purposes, the RL of the ridge of 19 Dundas is 57.41, whereas the RL of the proposed highest point is 44.9, demonstrating a large slope and change in height.

The existing views from 351 Rainbow Street are unclear. The following photograph was obtained from the property value website.



Figure 36: Existing view from 351 Rainbow Street (Source: Property Value, 2010)

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Figure 37: Location of 312 Rainbow Street in relation to significant views (Source: NearMap)



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Figure 38: View impacts from neighbouring properties (Source: NearMap 2024)

Different colours have been used to demonstrate the affected views from neighbouring properties and the approximate direction of these views.

Green = view from the rear garden of 306 Rainbow Street to Wedding Cake Island.

Blue = view from the rear garden of 308 Rainbow Street to Wedding Cake Island.

Red = views from dining room and rear balcony of 310 Rainbow Street towards wedding cake island and the Pacific Ocean.

Yellow = views from upper secondary living area of 353 Rainbow Street towards Coogee Beach headland.

2. The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

353 Rainbow Street

The affected view to the north is from a secondary living area on the upper level over Rainbow Street over the front boundary. The photo of the existing view was taken from a standing position. This is not the primary view from this room, with views of wedding cake island and the majority of the Coogee headland being retained.

310 Rainbow Street

The affected view to the northeast of Wedding Cake Island and surrounding Pacific Ocean is obtained from the first-floor deck at the rear of the property, as well as the dining room and living room.

The view to the east of the Pacific Ocean is also obtained from dining room and rear balcony as well as the living room.

Both these views are across the side boundary. The views are obtained from both standing and sitting positions. These views are expansive and are a main feature of these areas on the property.

Other properties

Any (potential) views from 15, 17 and 19 Dundas Street which are affected by the proposal is across the rear boundary of the properties affected and the side boundary of the development site.

Any (potential) affected views from 306 and 308 Rainbow Street would be from the rear garden across side boundaries of both the affected and development site.

Any (potential) affected views from 351 Rainbow Street is over the front boundary of the affected site and the front of the development site.

3. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

353 Rainbow Street

As detailed in part 1 of the view assessment, this property has many views, the majority of which are unaffected by the proposal. The impact caused by the proposal (relating to the view from 353) is not unreasonable, noting the two storey frontage and compliance with the building height. The affected view is from a secondary living area and is not the primary view in this room, furthermore, the majority of the view in question will be retained.

The overall impact for 353 Rainbow Street is minor.

310 Rainbow Street

310 Rainbow Street has two significant view corridors, being to the north (unaffected – Coogee Headland to Clovelly) and to the east/ northeast (**affected – Wedding Cake Island and Pacific Ocean**).

The view corridor to the east and northeast is expected to be severely impacted with most of the view lost from the rear balcony and all of the views lost from inside the dwelling. Please refer to Figures 40 – 45 for photomontages provided in a submission.

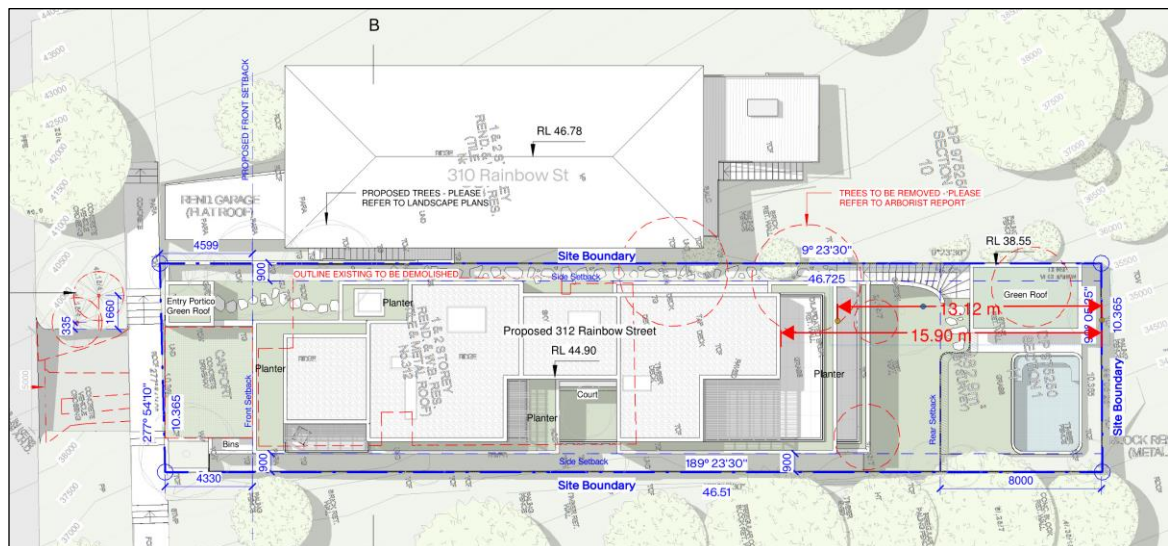


Figure 39: Site plan demonstrating the location of the balcony at 310 Rainbow St in relation to the proposal.

Wedding Cake Island is a highly valued views and this is obtained from primary living areas, which is also of high importance.

The extent of the impact from the rear balcony has not been made clear by the Applicant. This was communicated to the Applicant by Council.

Overall, the view loss from 310 Rainbow Street is severe to devastating based on the current proposal and the lack of information to make a certain judgement.

Other properties

The impacts on 15, 17 and 19 Dundas Street is expected to be negligible.

The impacts on 306 and 308 Rainbow Street is expected to be minor, but further information is required for confirmation.

The impact on 351 Rainbow Street is expected to be negligible to minor, but further information is required for confirmation.

4. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the Applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

353 Rainbow Street

The Applicant should consider whether a more skillful design could better retain the views.

310 Rainbow Street

The property which has severe to devastating impacts imposed on it is 310 Rainbow Street.

The proposal is not considered to be reasonable, based upon the numerous non-compliances outlined below, including FSR, rear setback, side setback, earthworks/ building design, and number of storeys under the RDCP building height.

The proposal is not compliant and therefore it must be redesigned to ensure the proposal complies with the Tenacity principles. Furthermore, it is a requirement for a compliant design to consider whether a more skillful design could have less impacts on view loss for 310 Rainbow Street.

The Applicant is advised to consider a skillful design which could mostly achieve the desired amenity and development potential but would suitably retain views for 310 Rainbow Street.

View loss montages provided by submitter.

The following photomontages were provided to Council in a submission. They have been included below as they confirm the view assessment above. It is the Applicants responsibility to conduct a view assessment to demonstrate the impacts on neighbouring properties.

However, the montages provided do clearly show the severe to devastating impacts on views for 310 Rainbow Street.

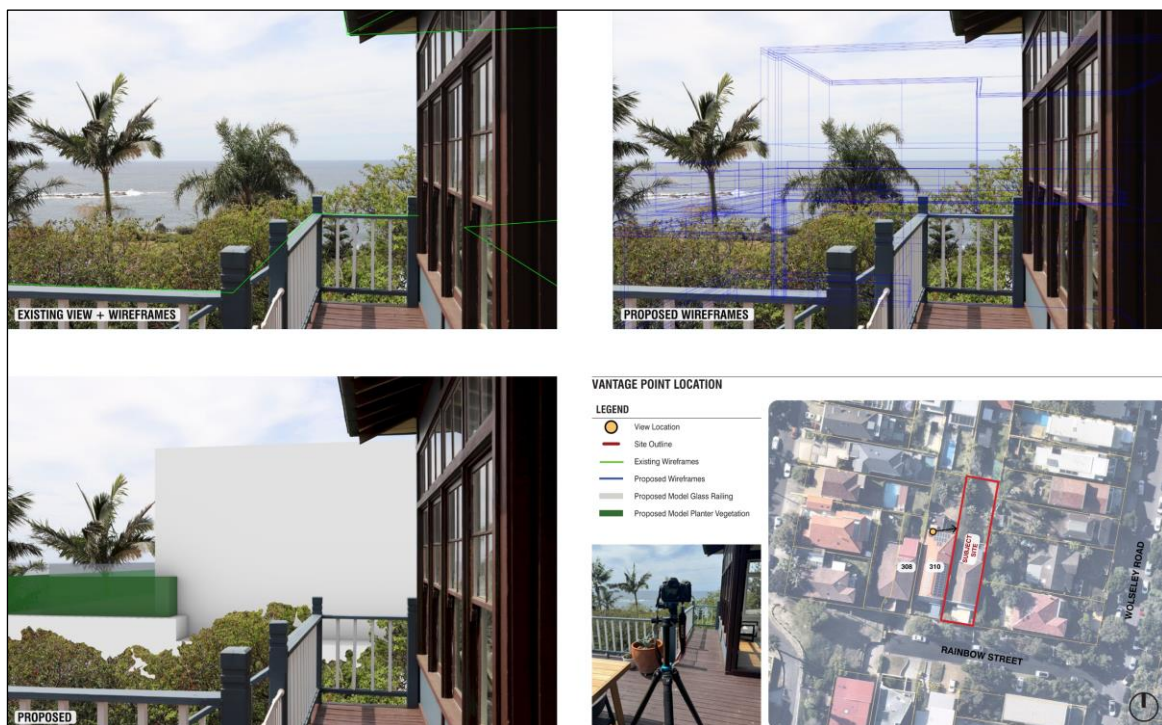


Figure 40: Montage provided demonstrating the expected impact on 310 Rainbow Street from the rear deck (Source: AE Design)

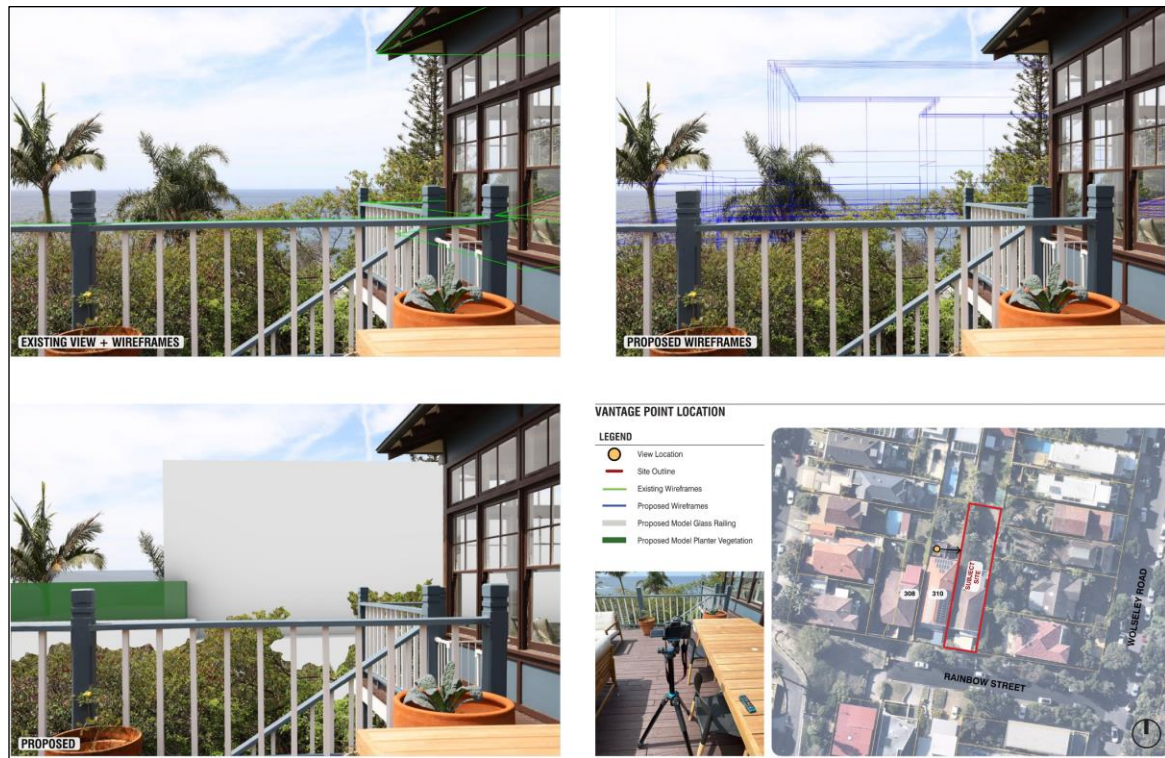


Figure 41: Montage provided demonstrating the expected impact on 310 Rainbow Street from the rear deck (Source: AE Design)

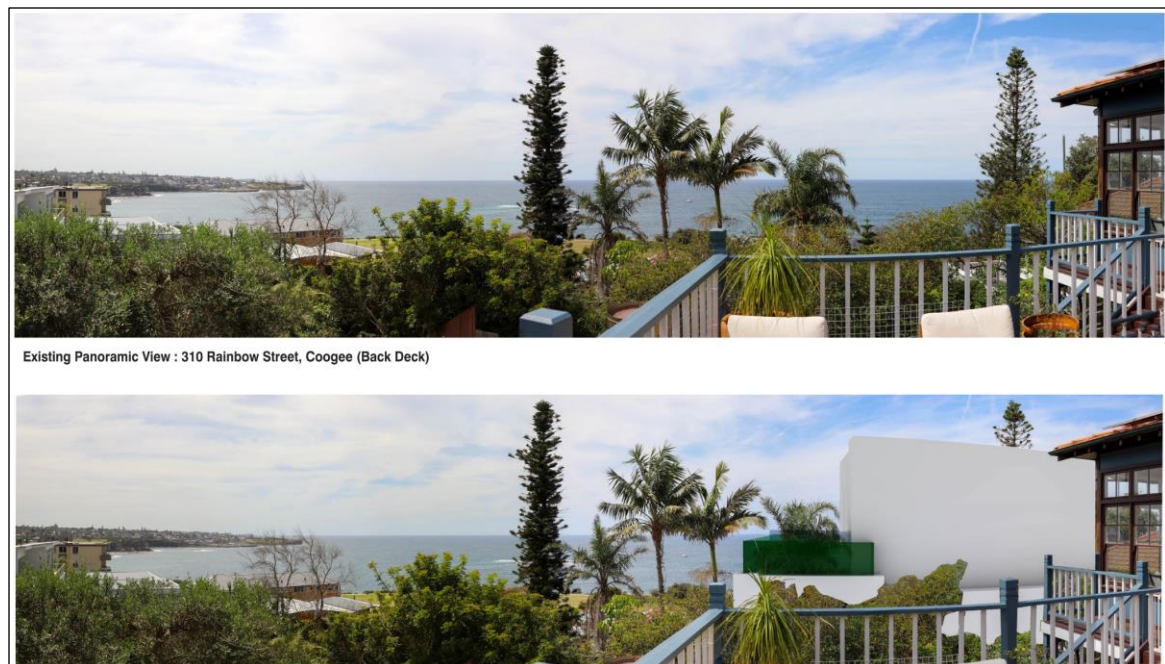


Figure 42: Montage provided demonstrating the expected impact on 310 Rainbow Street from the rear deck (Panorama View) (Source: AE Design)

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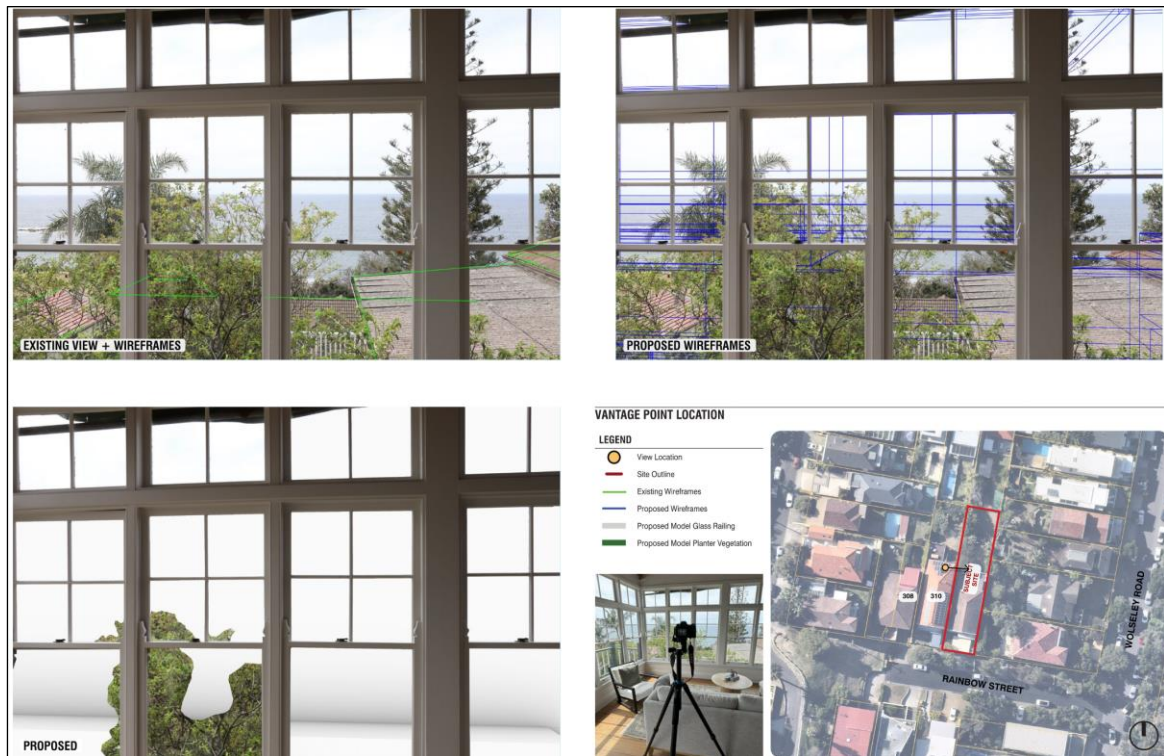


Figure 43: Montage provided demonstrating the expected impact on 310 Rainbow Street from the Dining room (Source: AE Design)

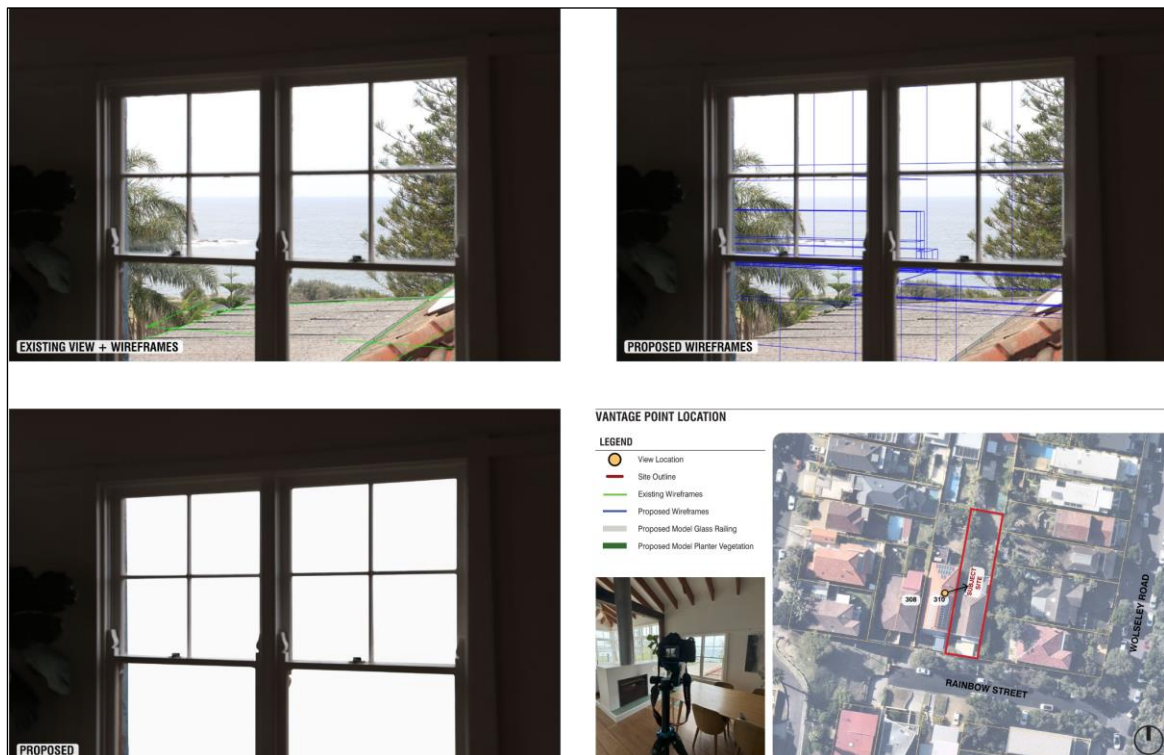


Figure 44: Montage provided demonstrating the expected impact on 310 Rainbow Street from the Living room (Source: AE Design)



Existing Panoramic View : 310 Rainbow Street, Coogee (Living)



Figure 45: Montage provided demonstrating the expected impact on 310 Rainbow Street from the dining room (Panorama View) (Source: AE Design)

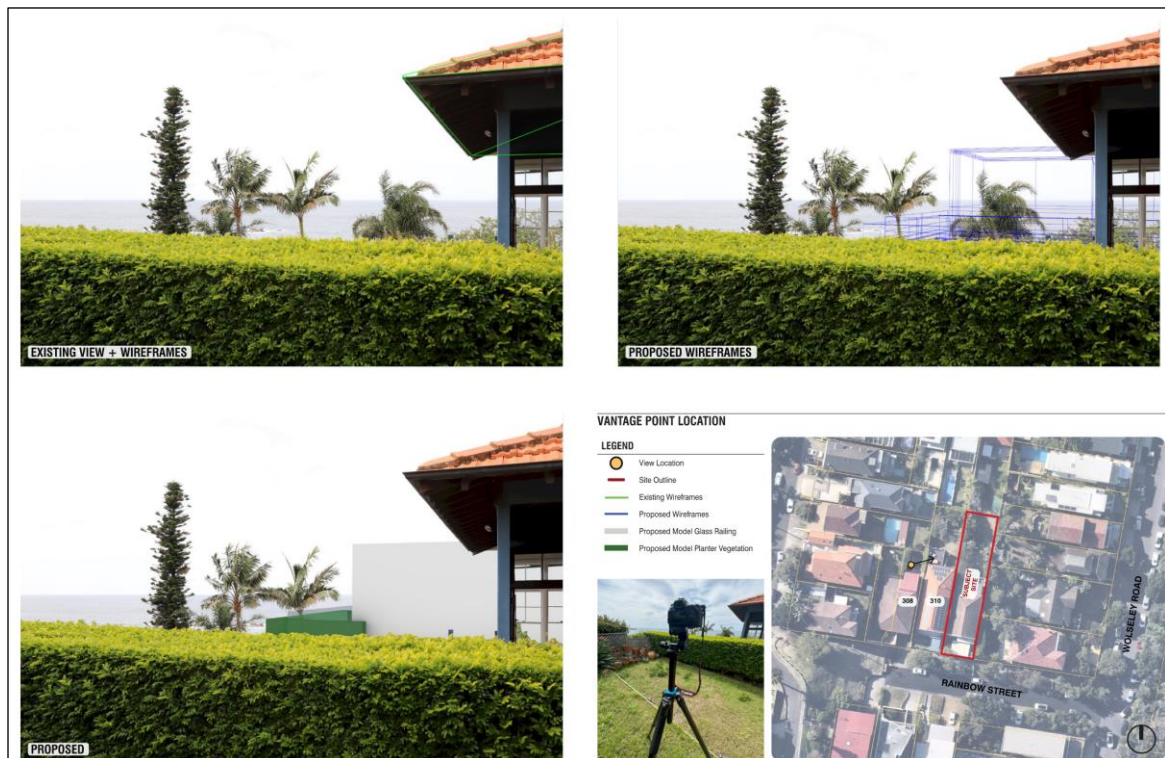


Figure 46: Montage provided demonstrating the expected impact on 308 Rainbow Street from the rear garden (Panorama View) (Source: AE Design)

Floor Space Ratio (FSR)

The supplied SEE and architectural plans do not correctly calculate the proposed dwelling's GFA and FSR nor is it measured against the correct FSR control.

As per Clause (3) of section 4.4A *Exceptions to floor space ratio – Zones R2 and R3* in Randwick LEP 2012, the maximum floor space ratio for the site with area >450m² and ≤600m² is 0.65:1.

The GFA has been calculated by the Assessment Officer as 321.34sqm, producing an FSR of 0.67:1 (refer **Figures 47 & 48**). This results in a departure from the development standard that requires a Clause 4.6 variation statement, which has not been submitted.

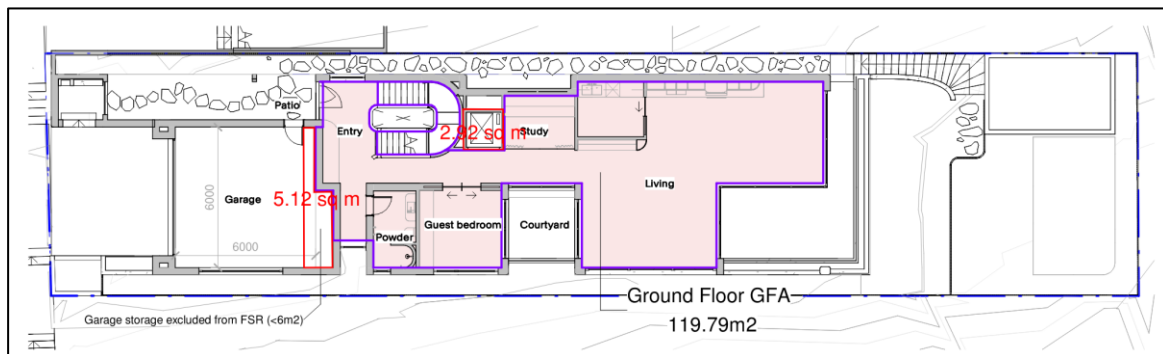


Figure 47: Applicants submitted architectural plans identifying Ground Floor GFA including Assessment Officer's markup of GFA calculation in red.

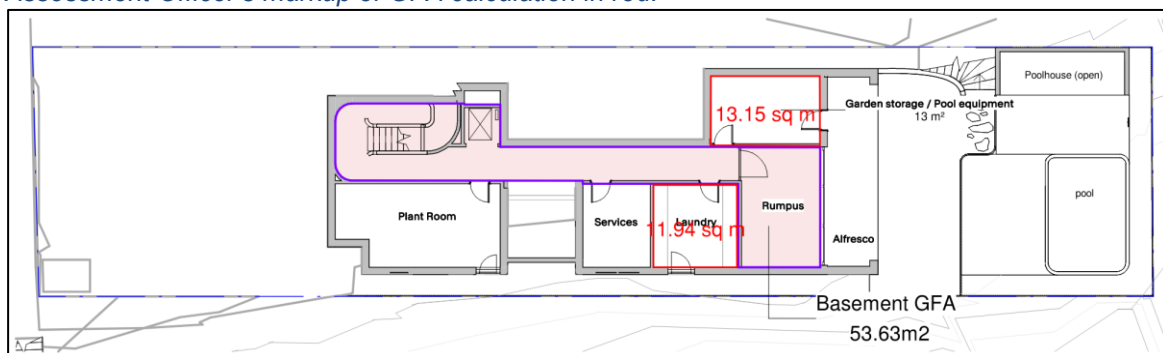


Figure 48: Applicants submitted architectural plans identifying Basement GFA including Assessment Officer's markup of GFA calculation in red.

The 'garden storage / pool equipment' room does not meet the Randwick LEP definition of a 'basement' as the floor level of the storey immediately above is greater than 1 metre above ground level (existing) and has therefore been included as GFA (**see Figure 49**). The 'laundry' within the 'basement' level meets the GFA calculation definition and therefore must be included in the calculations. The garage is in excess of the required car parking facilities which can be excluded from GFA. Lastly, the lift must be calculated towards GFA on all levels, as it is not used for common vertical circulation. As displayed, the above mark ups consider these four identified areas which were excluded from the Applicant's GFA calculations.

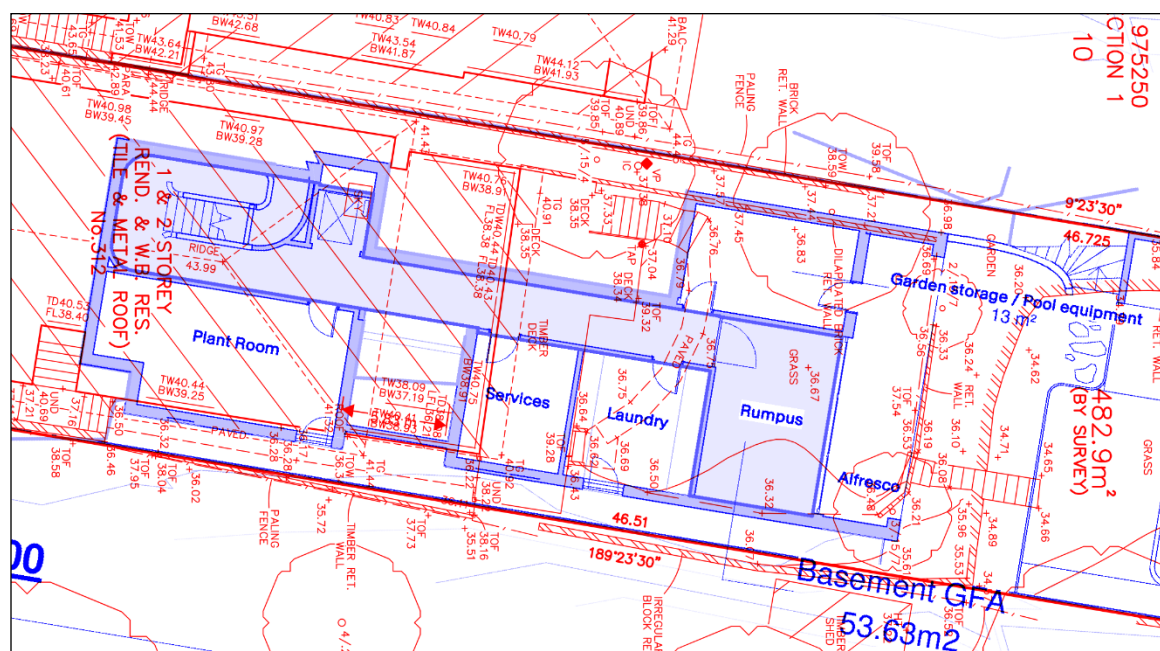


Figure 49: Applicant's submitted Basement Floor Plan overlaid with the Survey Plan by Assessment Officer to determine existing floor levels.

The basement level plant and service rooms include operable windows and would be capable of being utilised as habitable rooms, which would result in a GFA of 353.34m² and FSR of 0.73:1.

Non-compliance with the FSR development standard provides an indication that the proposed development is an overdevelopment of the site and results in a development of excessive bulk and scale.

The proposal is inconsistent with the following objectives of Clause 4.4 of RLEP:

- I. Objective 1(a) as it will result in a built form that is inconsistent with the block and setback controls, as well as the existing streetscape character, and therefore the desired future character of the locality.
- II. Objective 1(b) as it is not well articulated, containing large expanses of unarticulated and blank walls, with walls lengths in excess of 12m without suitable articulation.
- III. Objectives 1 (d) as it will adversely impact on the amenity of neighbouring adjoining and land in terms of visual bulk, loss of privacy and views.

Setbacks

Side setback

Pursuant to Part C1, Section 3.3.2 of the DCP, new buildings and alterations and additions must comply with the following minimum side setbacks based on the primary frontage width of 10.365m. A 0.9m side setback is required for the building height of 0 to 4.5m, with this tapering in as per the calculations within the minimum side setback 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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$

A review of the side setbacks demonstrated non-compliance with this control to a varying extent throughout the length of the building (see **Figures 50-52**). The non-compliant side setbacks contributes to the unacceptable view loss, visual bulk and scale of the proposed dwelling and is not supported by Council.

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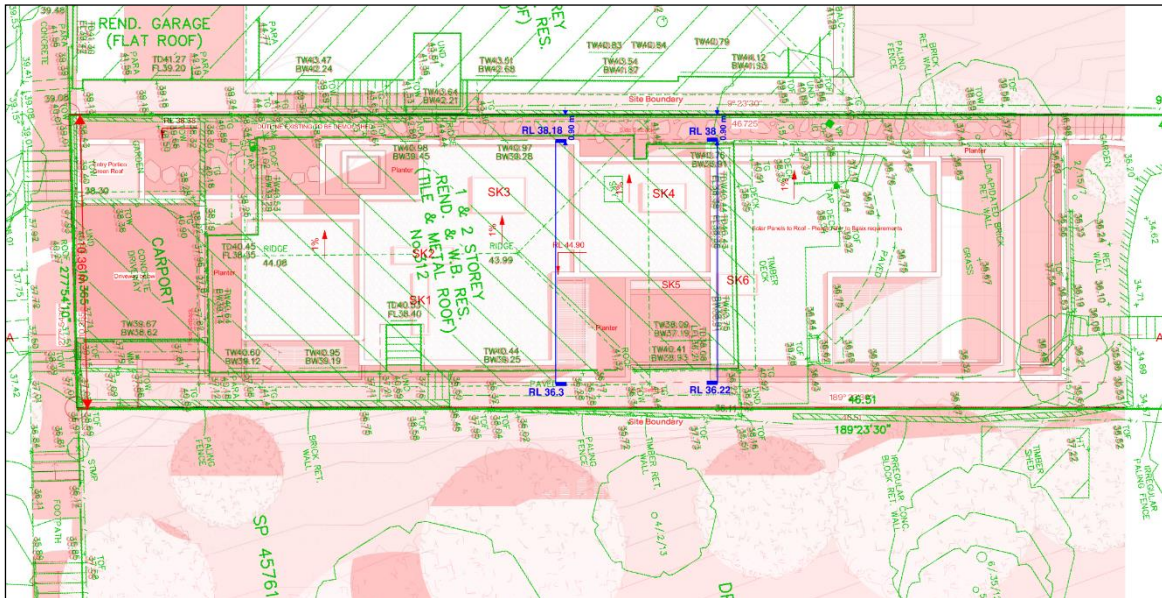


Figure 50: Overlay of submitted survey and roof plan marked up by Assessment Officer to create sectional diagrams of side setback non-compliance.

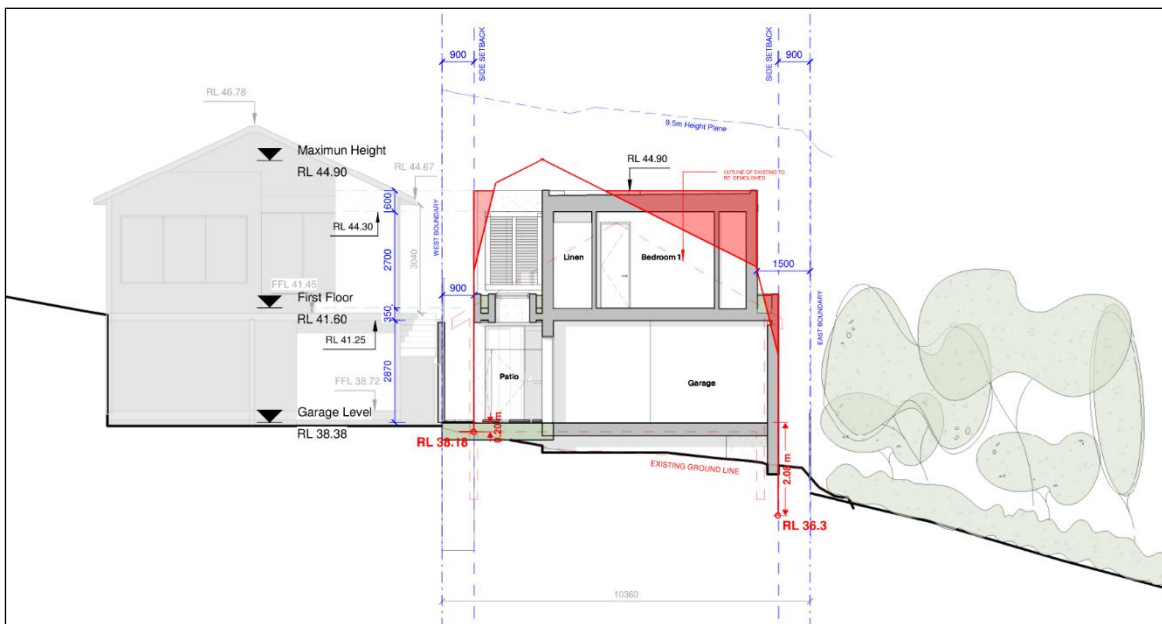


Figure 51: Section B marked up by Assessment Officer.

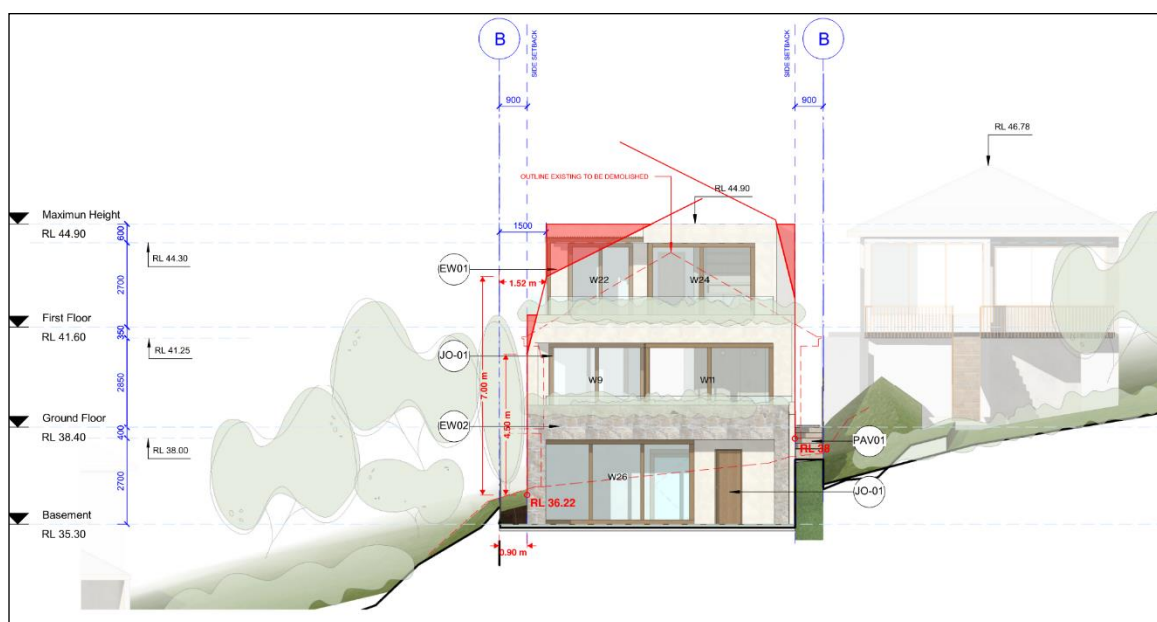


Figure 52: Elevations – North marked up by Assessment Officer.

The non-compliant side setbacks will have the following impacts:

- Increased visual privacy impacts for neighbouring properties, especially 18 – 24 Wolseley Road.
- Increased view loss for neighbouring properties, especially 310 Rainbow Street.
- Increased visual bulk and scale for neighbouring properties.

Front setback

As per Part C1, Section 3.3.1 of the DCP, it is required that front setback areas be free of structures. The proposed front covered portico along with the bin storage and adjoining walls are structures within the front setback which is not supported. This increases the bulk and scale of the proposal from the streetscape as well as decreasing areas for potential deep soil and permeable surfaces. The dwelling should also not protrude further forward than the building line of 310 Rainbow Street to ensure the predominant front setback is maintained.

The non-compliant building design is inconsistent with the objectives of Part C1, Section 3.3 of the RDCP 2023, and will result in the following adverse impacts:

- (i) Does not establish an appropriate front setback and garden which contributes to the character of the neighbourhood.
- (ii) Exacerbates the bulk and scale to an unacceptable level as perceived from the streetscape.
- (iii) Decreases areas for potential deep soil and permeable surfaces by having a double garage, driveway, entry portico and bin storage area in the front setback.

Rear Setback

As per Part C1, Section 3.3.3 of the DCP, it is required that rear setbacks provide increased rear setbacks beyond the numerical requirement of 8m, having regard to the following:

- Existing predominant rear setback line in the subject urban block
- The need to achieve reasonable view sharing with the neighbouring dwellings and the public domain
- The need to adequately protect the privacy and solar access to the neighbouring dwellings.

The proposed 11.49m rear setback meets the numerical requirement but is significantly less than the existing rear setback of 23.19m from the dwelling and 19.6m from the unroofed rear deck.

Although there is no predominant rear setback line, it is noted that the proposed setback does not achieve reasonable view sharing with neighbouring dwellings and the public domain. This particularly affects 310 Rainbow Street as shown in the view sharing assessment.

The rear setback directly causes unacceptable view loss (particularly on the upper level) to neighbouring dwellings. The rear setback contributes to privacy impacts due to the proposed large balconies to the rear and side. The proposal does not retain adequate areas for deep soil planting, which is an objective of the setback section.

Deep soil permeable surfaces

A portion of the ‘deep soil’ includes the area below the roofed entrance with stepping stones (see **Figures 54-55**), this does not meet the definition of ‘deep soil’. As the area mostly consists of paving and is undercover, the area does not provide sufficient area for water penetration or the growing of plants and therefore, is excluded from the calculation of deep soil.

The permeable driveway cannot be included in deep soil permeable surfaces calculations because it is not an area that is used to grow plants, and will be used for vehicular access and/or parking. The courtyard on the eastern elevation cannot be included in deep soil permeable surfaces calculations because it is elevated and requires a slab to be constructed.

Therefore, the deep soil permeable surfaces provided is 155.1m2 which equates to 32.1% and does not comply with the minimum 40% requirement.

Because the driveway cannot be counted as deep soil permeable surfaces, the proposal does not comply with the requirement for 25% of the front setback to be deep soil permeable surfaces. This noncompliance is demonstrated in Figure 56.

Site area	Minimum Deep Soil Permeable Surfaces (% of site area)
Up to 300 sqm	30%
301 to 450 sqm	35%
451 to 600 sqm	40%
601 sqm or above	45%

Figure 53: Required deep soil is 40% of the site area (Source: RDCP)

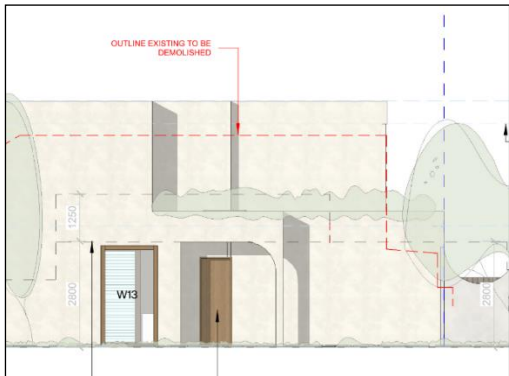


Figure 54: Elevations – West displaying covered entrance area.

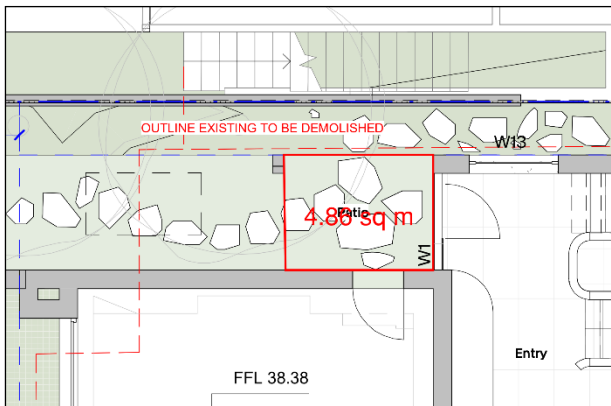


Figure 55: Ground Floor Plan marked up by Assessment Officer.

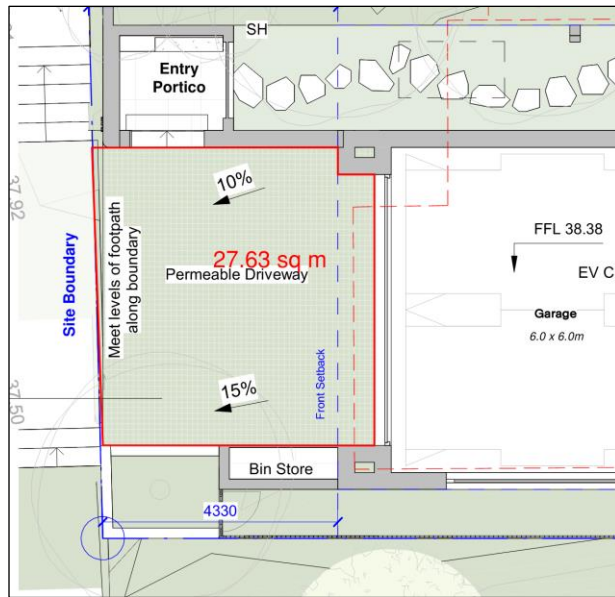


Figure 56: Permeable driveway which cannot be included in the deep soil calculations

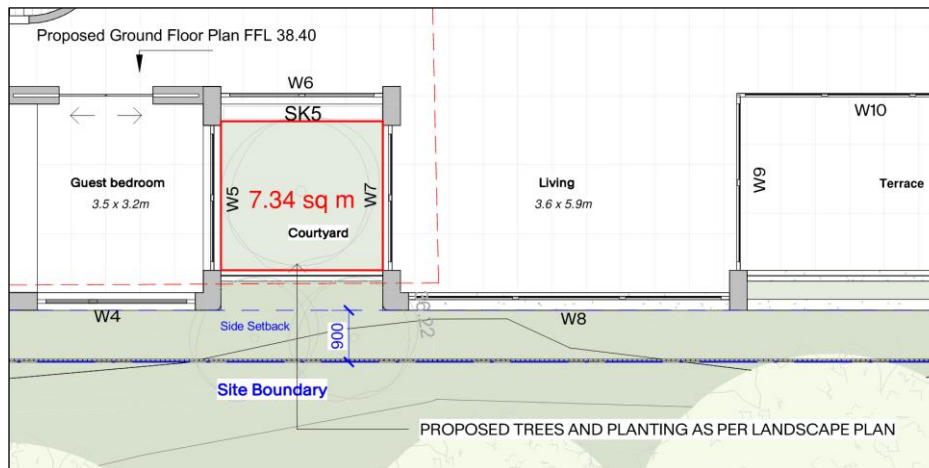


Figure 57: Courtyard which cannot be included in the deep soil calculations

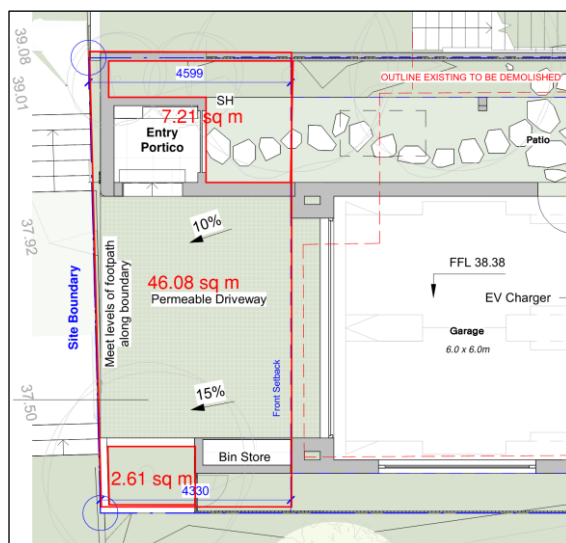


Figure 58: Markup of the front setback area and which areas are deep soil permeable surfaces

Landscaping and tree canopy cover

The Landscape Development Officer has determined that the *Howea forsteriana* Kentia Palms can attain a mature height of 7m and that these will not be permitted in an area where they will directly contribute to view loss, furthermore, the *Howea forsteriana* Kentia Palms are not 'canopy trees' as per the DCP. The proposed *Plumeria acutifolia* (Frangipani) within the frontage can obtain a mature height of 5m and is therefore not permitted in that location as it will block line of sight from exiting vehicles, impeding on the safety of pedestrians. The inappropriateness of these trees mean that a 25% canopy coverage would not be achieved.

Councils Landscape Development Officer considers that the development site could achieve a 25% tree canopy coverage with a compliant building design. However, the proposal is excessive meaning that the proposal is non-compliant with control i) of Section 2.6 of the RDCP.

The non-compliant building design and inadequate landscaping is inconsistent with the objectives of Part C1, Section 2.6 of the RDCP 2013, and will result in the following adverse impacts:

- (i) The building frontage does not contain sufficient landscaped areas, and will have adverse impact upon the streetscape and character of the locality.
- (ii) The development does not provide a visual balance between building structures and open space.
- (iii) The requirement for trees to be deleted to address sight line concerns for neighbours and vehicular access will result in non-compliance with the canopy coverage controls, demonstrating that the proposed development built form is excessive and unable to contribute to canopy coverage for the locality.

Fencing

Front Fencing

Pursuant to Part C1, Section 7.2 of the DCP, front fencing must be limited to 1.2m, with a maximum height of 600mm being solid wall. However, the proposal, as measured from the footpath includes a solid wall height of 1.2m. The front wall also includes the front entry portico, which measured from the footpath exceeds a height of 3.4m. This excessive bulk is extremely prominent from the streetscape and detracts from the scenic foreshore area. The proposed front fence / wall should step with the slope of the land as does the stepped foot path in front of the property.

Control vi) specifically excludes roofed entry portals, therefore, this proposal does not comply with control vi). Furthermore, the proposed roof entry is uncharacteristic of the existing streetscape.

Side and rear Fencing

Section 7.3 of the DCP states the maximum height for a common boundary fence is limited to 1.8m, with stepped fencing allowed to be a maximum of 2.2m at any one point for sloping sights. The proposed western side boundary fence towards the frontage is proposed to be at a height of 2.8m – 4.05m. This proposed height is well above the maximum allowed height and is not supported by Council.

The open pool house has a rear wall along the western boundary to a maximum height of 3.28m, which does not comply with controls i) or ii).

Forward of the front building line, the side fencing is at a height of 2.8m on the western elevation, which does not comply with control iii).

The side fencing along the eastern elevation is unclear, especially how this relates with the adjoining properties on Wolseley Road. It is considered that the side fencing would result in adverse visual impacts upon neighbouring properties.

There is also insufficient information and detail of the rear fencing which may result in adverse visual impacts upon neighbouring properties.

The non-compliant fencing is inconsistent with the objectives of Part C1, Section 7 of the RDCP 2023, and will result in the following adverse impacts:

- I. The design does not provide suitable visual interaction with the public domain.
- II. The design adversely affects the amenity of the pedestrian environment.

General Building Design

Articulation

Section 4.1 in Part C1 of the DCP, states that side elevations cannot exceed 12m in length without articulation and that developments on sloping sites must step with the land. This is particularly important within a foreshore scenic protection area to ensure that the building is well articulated and stepped with the natural topography of the coastal area.

The 12.7m wall length on the first floor of the western elevation is not articulated and is not supported as it adds to the unrelieved bulk of the proposal. This is also not supported because the articulation of the wall from the stairs insufficient, being only 0.6m. This combined length is >18m.

The property to the west (310 Rainbow Street) in addition to losing views, will face an unrelieved blank wall which is not broken up or sufficiently articulated and presents as a large mass. This lack of articulation is not supported by Council. A mix of materials, openings and fenestrations should be used along lengthy walls to ensure the mass is broken up and well-articulated.

Building design objectives:

Section 4.1 of the RDCP (Part C1) has the following relevant objectives:

- *To ensure the form, scale, massing and proportions of dwellings recognise and adapt to the characteristics of a site in terms of topography, configuration, orientation and surrounding natural and built context.*

The extensive earthworks and excavation of the site does not recognise or adapt to the existing topography or site characteristics. The excessive scale and massing is caused by the cumulative non-compliances with built form controls. The proposal is inconsistent with the natural and built context.

Building Height

Pursuant to Section 3.2 of the RDCP (Part C1) 2013, the development is subject to the following objective and control:

- *To ensure low density residential development maintains a two-storey height and street*

frontage.

iv. An alternative design that varies from the two-storey height and street frontage in the Zone R2 may be acceptable having regard to the following considerations:

- Site topography
- Site orientation
- Allotment configuration
- Flooding requirements
- Allotment dimensions
- Potential impacts on the visual amenity, solar access, privacy and views of the adjoining properties.

The proposal shall be part two, part three storeys, with the three storey component located at the rear portion of the development. the proposal does not comply with the relevant objectives and requirements of Section 3.2 which stipulate a two-storey height.

The third storey will contribute to view loss impacts from neighbouring properties and shall have adverse visual impact as viewed from the adjoining properties.

Insufficient information has been provided regarding the visual impact of the three storeys as viewed from the rear yards of the properties along Wolseley Road. This has been addressed in the view sharing section of this report.

Earthworks

There is approximately 3.1m of cut proposed for the southern end of the basement. This exceeds 1m which is the maximum amount of excavation permitted as per Section 4.7 of Part C1 of the DCP (see Figure 59). The proposed plant room and services rooms are excessive for a single detached dwelling. The level of excavation to facilitate these rooms is not supported.

The proposed courtyard to the eastern elevation also involves fill exceeding 2m to facilitate the proposed ground floor level of the dwelling, with a supporting retaining wall. This exceeds the 1m allowance and alters the topography of the foreshore scenic protection area and natural topography of the coastline. This substantial amount of cut and fill is not supported.

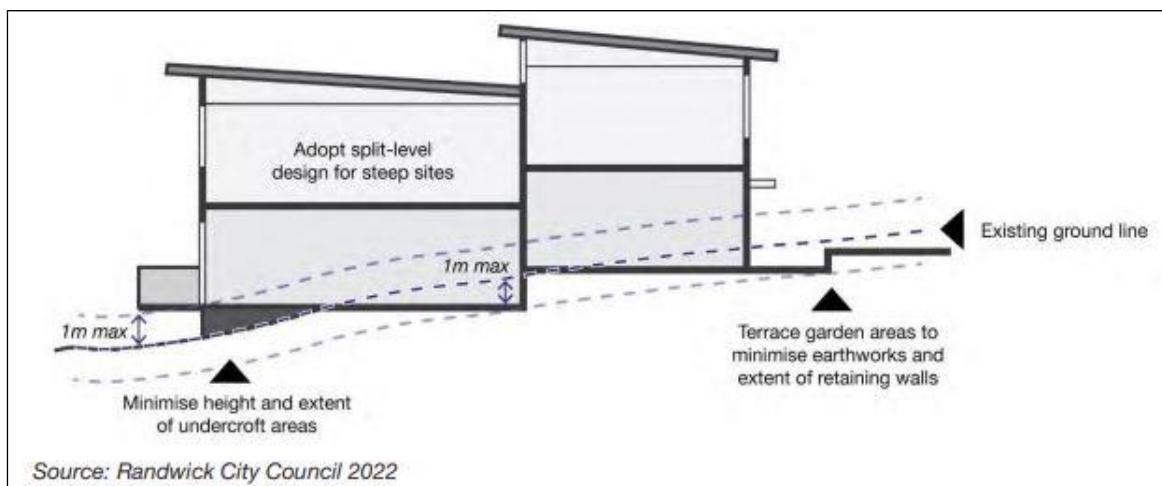


Figure 59: Measures for minimising earthworks (Source: DCP)

While the topography of the site is slightly sloping, a two-storey dwelling could easily be constructed with excavation and backfill limited to 1m and it has not been demonstrated that the site gradient is too steep to reasonably construct a dwelling within the specified excavation and cut requirements.

The proposal does not adequately demonstrate how the natural landform has been terraced to create the POS. The proposal does not minimise the height or depth of earthworks in accordance with control vii).

The proposal has not sufficiently adopted a split-level design to minimise excavation and backfilling.

Outside the building envelope, it is unclear the level of earthwork proposed. This includes the side passages and rear yard, which appears to raise the RL of the rear sloping site by 1m. This would also result in a rear fence being significantly higher than existing, adding to potential view loss and/or privacy concerns. Sections fail to show the rear yard level changes.

Council is not sure as to where retaining walls will be placed on the site. Council is concerned that the walls will result in additional visual bulk and view impacts, of which is not supported.

Overall, the non-compliant building design is inconsistent with the objectives of Part C1, Section 4.7 of the RDCP 2023, and will result in the following adverse impacts:

- I. Excessive changes to the natural ground levels.
- II. Backfilling and excavation will result in large retaining walls adjoining or nearby to neighbouring properties.
- III. Potential visual privacy impacts created from excessive cut and fill.

Privacy

The large, proposed balconies to the rear of the property (to the north and east) raise privacy concerns for neighbouring properties to the west and east due to the non-compliant setbacks, depth and location. It is also noted that measures to reduce overlooking such as privacy screens, would not be supported by Council as it would increase the bulk and scale of the proposal, as well as resulting in further view loss.

There is also insufficient site line analysis to support the extensive glazing to the eastern side of the dwelling, overlooking the rear of dwellings at Wolseley Road which has the potential to further impact the privacy and amenity for neighbouring residents.

The balcony (Balcony 2) on the eastern elevation is not supported because it does not comply with control iii), iv) and v) of Section 5.4.

Many of the proposed living room windows are orientated to the side and not to the front or rear in contradiction to the control, and shall result in adverse overlooking impacts to neighbouring properties.

The terrace on the ground floor will result in direct overlooking to the adjoining properties to the east and north, and has not been shown to minimise overlooking through careful positioning and orientation.

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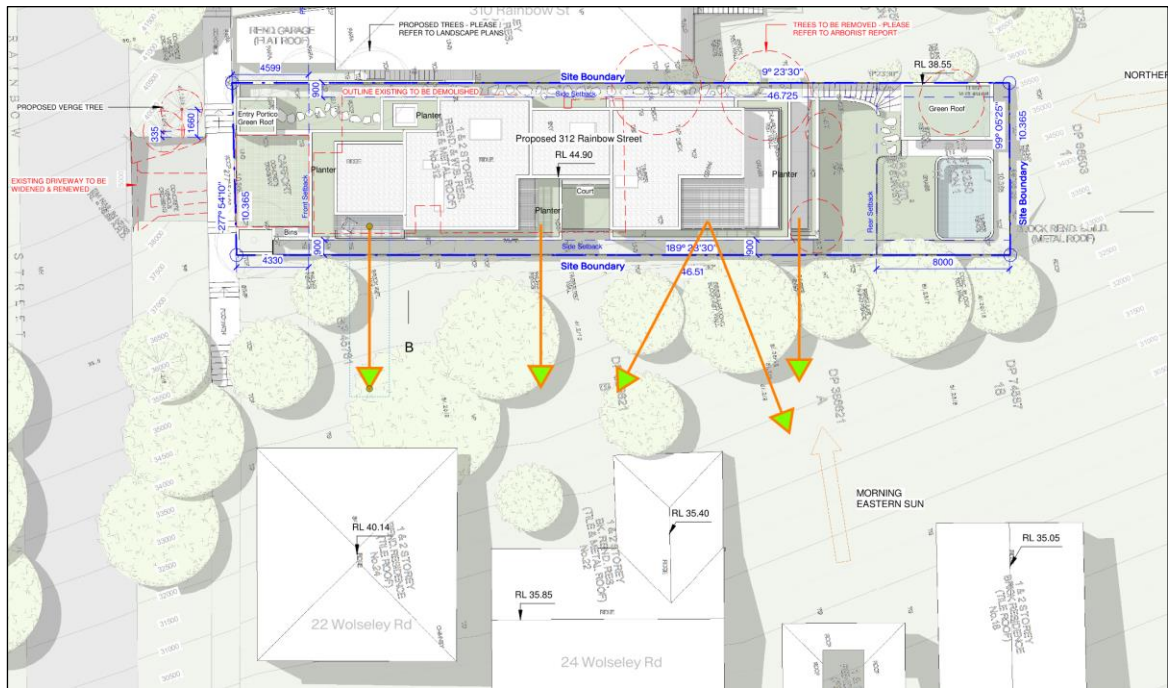


Figure 60: Demonstration of potential visual privacy impacts of adjoining properties on Wolseley Road (arrows)



Figure 61: Rear Private Open Space of 24 Wolseley Street (Source: Assessment Officer)

Garage

The proposed double width garage is not supported on a street frontage of 10.365m (Council's controls require a minimum of 12m).

The proposed garage is not located behind the front façade, and extends 1.53m-0.9m forward of the front façade of the building.

There is not a consistency of double width garages within the streetscape. The double garage also compromises opportunities for deep soil planting within the front setback area. The proposal does not meet the required 25% for deep soil permeable surfaces in the frontage.

There are alternative parking arrangements, which could meet the two parking spaces required. Such as a tandem garage or hardstand in front.

The non-compliant building design is inconsistent with the objectives of Part C1, Section 6 of the RDCP 2023, and will result in the following adverse impacts:

- I. The carparking and access facilities will visually dominate the property frontage and streetscape.
- II. The double width driveway and garage directly reduce the deep soil permeable surfaces.
- III. The garage will adversely impact the amenity of the streetscape.

Councils Development Engineer has the following contentions with the proposal:

- The gradients of the internal driveway and the vehicular crossing in Rainbow Street have not been assessed against the relevant standards in AS 2890.1
- Any widening of the existing vehicular crossing in Rainbow Street in a westerly direction will potentially impact on the provision of an off street car space west of the crossing. No assessment has been undertaken.
- The proposed garage requires alterations to the existing vehicular crossing in Rainbow Street and changes to stairs, landings and driveway gradients need to meet all relevant standards.

Site Coverage

The site coverage for the site is breaching the site coverage control in section 2.4 of Part C1 in the RDCP by 2.94%. The RDCP allows sites within 461-600sqm a maximum site coverage of 50% however, the total proposed site coverage is 259.43m² which equates to a site coverage of 53.7% and therefore does not comply with control i).

The following areas should not be excluded from the site coverage calculations:

- I. courtyard on the eastern elevation
- II. the lower ground floor alfresco

This reduces the coverage of deep soil planting and permeable surfaces and is therefore not supported.

Roof terraces and balconies

The balcony on the first floor and the elevated terrace on the ground floor will not maintain privacy for neighboring properties. The trafficable roof spaces have not been shown to adequately maintain views for surrounding properties.

This non-compliance is directly linked to the visual privacy, view sharing, rear setback and side setback noncompliance's.

Public Interest

The development application should be refused because the proposed development is not in the public interest having regard to the non-compliances with numerous controls and the objections raised in the public submissions. The proposed development would set an undesirable precedent for future development in the locality.

Insufficient information

The application should be refused as insufficient information has been provided to allow for the proper assessment of the proposed development.

- I. A clause 4.6 exception request relating to the exceedance of Clause 4.4A (Floor Space Ratio) in RLEP 2012 is required.
- II. A view loss analysis for all affected properties has not been conducted in accordance with Land and Environment Court Policy: Use of Photomontages and Visualisation Tools.
- III. A view loss assessment was not conducted in accordance with the Tenacity Consulting v Warringah Council [2004] Planning Principle.
- IV. Insufficient information was provided for the respondent to conduct a view loss assessment in accordance with the abovementioned Planning Principle.
- V. Height poles should be erected by a suitably qualified professional to confirm the view loss, bulk and scale of the proposal.
- VI. Insufficient information has been provided regarding the proposed levels of earthworks (cut and fill) to the rear yard and side boundaries.
- VII. Insufficient information has been provided regarding the retaining walls associated with the proposed earthworks.
- VIII. Insufficient information has been provided regarding the Pool fencing, including the resultant height of any pool fence with particular regards to side and rear boundary fencing, and the resultant impacts on neighbouring properties, such as 248 Oberon Street, 18 and 20 Wolseley Road.
- IX. Insufficient information has been provided to determine the visual impact of the development from the rear yards of the properties along Wolseley Road, with particular regards to the non-compliant elements being the three storeys and side setbacks.
- X. The proposed solar panels have not been shown on the architectural drawings and it is unclear the location of the panels or the angle of the panels.

9. Conclusion

The proposal results in numerous non-compliances with RLEP 2012 and RDCP 2013, and is considered an overdevelopment of the site. The proposal also results in adverse impacts upon adjoining properties in relation to view loss, visual impact, and visual and acoustic privacy. As such, the application is recommended for refusal for the reasons detailed below.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, to Development Application No. DA/850/2024 for Demolition of existing dwelling, removal of trees, and construction of a 2-storey dwelling house with basement level, in-ground swimming pool and pool house (outbuilding), and associated ancillary and landscaping works, at No. 312 Rainbow Street, Coogee, for the following reasons:

1. The proposed development is an excessive scale and is an overdevelopment of the site, resulting in non-compliance with the floor space ratio development standard pursuant to clause 4.4A (3) of RLEP 2012. The Applicant has failed to submit a Clause 4.6 Variation Request to vary the FSR development standard.
2. The proposal is inconsistent with the objectives of the R2 Low Density Residential Zone of RLEP 2012 in that the amenity of residents is negatively impacted by the proposal and, is not compatible with the desired future character of the locality by exceeding the level of built form anticipated for the subject site.
3. The proposed development will result in unreasonable visual bulk as viewed from the streetscape within a foreshore scenic protection area. Pursuant to clause 6.7 of RLEP 2012, Clause 2.11 (1)(c) of the Resilience and Hazards SEPP and Part B10 of RDCP 2013, Council is not satisfied that the development contributes to the scenic quality of the foreshore.
4. The Applicant has failed to submit a thorough and detailed view loss assessment which details anticipated view loss from neighbouring dwellings and the public domain in line with the *Tenacity Consulting v Warringah Council [2004]* view planning principle. Pursuant to Section 5.6 of the RDCP 2013, Council considers the proposal to have unreasonable view sharing impacts, particularly on the western adjoining property 310 Rainbow Street.
5. Pursuant to Section 5.3 and 4.4 of RDCP 2013, Council is not satisfied the development has sufficiently managed privacy impacts to neighbouring dwellings due to the large, proposed balconies to the north & east of the dwelling.
6. The proposed development results in excessive change to the natural earth including excavation and fill both exceeding 1m, resulting in a non-compliance with Section 4.7 of RDCP 2013.
7. The proposal has non-compliant front, side, and rear setbacks in line with Section 3.3 of the RDCP 2013 controls which further increases the bulk, scale and view loss impacts, and fails to comply with the objectives.
8. The proposal does not comply with the site planning controls, including site coverage, deep soil permeable surfaces and landscaping set out in Sections 2.4, 2.5, and 2.6 of the RDCP 2013, this results in non-compliance with Part B4 of RDCP 2013.
9. The proposal is not well articulated, resulting in unreasonable bulk along the western elevation and an inconsistency with Section 4.1 of RDCP 2013. The proposal does not respond to the natural topography of the site.
10. The proposal does not maintain a two-storey height, manage the view or privacy impacts on neighbouring properties and has not respected the site topography and is therefore non-compliant with Section 3.2 of the RDCP 2013.
11. The proposed double width garage is inconsistent with the RDCP controls being double in width and dominating the façade and therefore does not satisfy the conditions within section 6.1 of RDCP 2013.
12. Pursuant to Sections 7.2 and 7.3 of the RDCP 2013, the proposed non-compliant front, side and rear fencing does not complement the streetscape and does not maintain reasonable levels of amenity and privacy for neighbouring properties.
13. The proposal is inconsistent with Section 4.15 1(e) of the Environmental Planning and Assessment Act 1979. Many of the submissions received are consistent with the reasons

for refusal listed below. If approved, the proposal would set an undesirable precedent and would not be in the public interest.

14. The Applicant has failed to provide the following information:
- (a) A clause 4.6 exception request relating to the exceedance of Clause 4.4A (Floor Space Ratio) in RLEP 2012 is required.
 - (b) A view loss analysis for all affected properties has not been conducted in accordance with Land and Environment Court Policy: Use of Photomontages and Visualisation Tools.
 - (c) A view loss assessment was not conducted in accordance with the Tenacity Consulting v Warringah Council [2004] Planning Principle.
 - (d) Insufficient information was provided for the respondent to conduct a view loss assessment in accordance with the abovementioned Planning Principle.
 - (e) Height poles should be erected by a suitably qualified professional to confirm the view loss, bulk and scale of the proposal.
 - (f) Insufficient information has been provided regarding the proposed levels of earthworks (cut and fill) to the rear yard and side boundaries.
 - (g) Insufficient information has been provided regarding the retaining walls associated with the proposed earthworks.
 - (h) Insufficient information has been provided regarding the Pool fencing, including the resultant height of any pool fence with particular regards to side and rear boundary fencing, and the resultant impacts on neighbouring properties, such as 248 Oberon Street, 18 and 20 Wolseley Road.
 - (i) Insufficient information has been provided to determine the visual impact of the development from the rear yards of the properties along Wolseley Road, with particular regards to the non-compliant elements being the three storeys and side setbacks.
 - (j) The proposed solar panels have not been shown on the architectural drawings and it is unclear the location of the panels or the angle of the panels

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

General Comments

The site is in a difficult location for construction traffic and management of the site in general. Standard conditions would apply for the majority of development engineering matters however insufficient information was provided on the design of civil works in Rainbow Street and the transition from the works in Rainbow Street to the proposed onsite parking spaces.

Civil Works and Internal Driveway / Garage Design

In considering this application Development Engineering had concerns about the lack of detail provided on the design of the vehicular crossing in Rainbow Street, including impacts on the existing stairs and footpath and impacts on the provision of on-street parking. The gradients of the internal driveway and the vehicular crossing in Rainbow Street have not been assessed against the relevant standards in AS 2890.1.

The proposed garage requires alterations to the existing vehicular crossing in Rainbow Street and changes to stairs, landings and driveway gradients need to meet all relevant standards.

Any widening of the existing vehicular crossing in Rainbow Street in a westerly direction will potentially impact on the provision of an on-street car space west of the crossing. No assessment has been undertaken.

The suitability of the driveway gradients going from the garage opening to the vehicular crossing in Rainbow Street and extending to the existing road pavement has not been assessed against the relevant provisions of AS 2890.1.

1.2. Landscape Development Officer

Within the Rainbow Street verge, adjacent the western side setback of subject site, two mature *Callistemon viminalis* (Weeping Bottlebrush TD) both 4 metres high, good condition, good health, low landscape value, power lines running through both crowns, both trees plotted close together in small verge, whilst the proposed crossover is to be widened to the west, the most easterly tree needs to be removed from verge to accommodate the new works, with removing a tree in such close proximity to another, retaining the most westerly tree would see root damage and canopy loss, which removal of both can be applied, with another of the same species to be planted in their place within the council verge.

Within Landscape Ground Floor Plan (Dwg DA-102) a *Plumeria acutifolia* (Frangipani) plotted within them eastern frontage side setback of the dwelling, close to proposed driveway, this species must be deleted from plans as it will grow to a mature height of 6 metres, to which will make line of site difficult for vehicles exiting the driveway, a smaller shrub must be planted which will grow to a mature height of 600mm to be planted in its place.

Centrally within the eastern side setback, either side of the eastern side guest room, three *Leptospermum laevigatum* (Coastal Tea Trees) which will attain a mature height of 6 metres, all measuring close to the dwelling and well within the DCP 2.5 metre control, these three Coastal Tea Trees must be deleted from plans, with a smaller native plantings which will attain a height of 3 metres at maturity to be planted in their place.

This also goes with the *Plumeria acutifolia* (Frangipani) plotted within the eastern side setback courtyard garden, which can grow to a mature height of 6 metres, within the C1 2023 DCP 2.5 metre control, this Frangipani must be deleted from plans, with a smaller native planting which will attain a height of 3 metres at maturity to be planted in its place.

Moving within the western side setback, along the western common boundary, directly adjacent the front portico, two *Podocarpus elatus* (Illawarra Plum) which can grow to a mature height of 15 metres, all three are within the C1 2023 DCP 2.5 metre control, these Plum trees must be deleted from plans, with a smaller native planting which will attain a height of 3-5 metres at maturity to be planted in its place, just to the north of the Plum trees, within the wider section of the side setback, two *Phoenix roebelen* (Dwarf Date Palm) which can attain a height of 7 metres, whilst they are very slow growing and may not reach their full dimensions, they can be retained.

Moving wholly within the rear setback of the property, east of rear garden stairs, within Wellness Floor and close to alfresco dining area, small garden bed with three palms drawn within, north of Pool House, two *Howea forsteriana* (Kentia Palms) which the Wellness Floor Plan (Dwg DA-103) states five palms, calculations of these Palms are not clear on plans showing the precise locations and numbers of these species.

The three palms within the alfresco garden bed, can attain a mature height of 15 metres, all measuring within the C1 2023 DCP 2.5 metre control, replacement plantings of smaller species of *Phoenix roebelen* (Dwarf Date Palms) to replace the three would be better choice and outcome for this area.

The northern pool house Palms must also be deleted from plans, again with mature height of 15 metres, growing within a small deep soiled area behind the pool house, the Palms may become too large for small area, may see structural issues to pool house in the future, which planting of smaller, coastal native species, or shaded plants would be more suited in such cramped space.

To compensate the loss of Palms, smaller species can be applied around this property, which can be seen in (*Control (V) below*) this is due to constrained dimensions and to limit view losses.

The (C1 DCP 2023)

2.6 Landscaping and tree canopy cover states;

Control

v) *Canopy trees must achieve a minimum mature height of 5m. For allotments with constrained dimensions or site conditions, smaller trees with minimum mature height of 4m may be accepted by Council subject to achieving the minimum 25% canopy cover as per sub-clause ii)*

vi) *The trunk of canopy trees should be planted a minimum of 2.5m from any existing or proposed building.*

The existing species within the property, are as follows:

Mature *Schefflera actinophylla* (Umbrella Tree T1) 3 metres high, low landscape value, plotted within the western rear side setback of property, in direct conflict with pool house.

Mature *Howea forsteriana* (Kentia Palm T2) 6 metres high, good condition, good health, low landscape value, in direct conflict with the proposed rear dwelling.

Early mature *Archontophoenix cunninghamiana* (Bangalow Palm T3) 6 metres high, good condition, good health, low landscape value, in direct conflict with the proposed rear dwelling.

Late mature *Cotoneaster glaucophyllus* (Cotoneaster T4 & 5) 3 & 4 metres high, fair condition, fair health, not protected, listed as an undesirable species under the DCP.

Comments

We can advise that council's officer has no issues with removal of five remaining trees within the existing site, two noted as undesirable species under the DCP, which must be removed from site, which leaves three low value palms which are in direct conflict with the proposed works, the loss of these species will be compensated with abundance of new landscaping throughout this proposal.

All remaining neighbouring trees are clear from any works, with boundary fences used as suitable protection fencing.

Appendix 3: DCP Compliance Table

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 482.9sqm	Yes
2.1	Minimum lot size		
	Minimum lot size LEP 2012 = 275sqm	No change. 482.9sqm	Yes
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	No proposed change. 10.365m	Yes
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	451 to 600 sqm = 50% Proposed = 53.7%	No
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	451 to 600 sqm = 40% Proposed = 32.1%	No
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	451 to 600 sqm = 4 large trees Many of the proposed trees are in conflict with Landscape Officer advise and must be deleted, therefore, the site does not meet the requirement.	No
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 = 7mx7m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.65:1	Proposed = 0.67:1	No
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 8.89m	Yes
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m	Ceiling and floor heights meet the requirements of the	No

D1/25


D1/25

DCP Clause	Controls	Proposal	Compliance																								
	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. 	NCC. 2 storey presentation from the street. 3-storey presentation at the rear does not maintain views and privacy.																									
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.	Council is unable to determine the average setback of adjoining dwellings due to lack of information submitted with application. However, it is believed that the front setback is over 6m from 310-306 Rainbow Street. Proposed setback is 4.33 – 4.6m Also includes a structure in front setback, not compliant with control iii	No																								
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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	Side setback varies from side to side due to varied existing ground levels on survey. Many areas of non-compliance as per diagrams of sections. Most non-compliance is on the first floor level and to the eastern boundary which has a lower existing ground level although there is still some non-compliance on the western side.	No
Minimum side setbacks																											
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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 	Minimum = 8m Existing = 23.20m Proposed = 11.49m The proposed setback does not protect privacy and solar access to neighbouring	No																								

DCP Clause	Controls	Proposal	Compliance
	<p>private)</p> <ul style="list-style-type: none"> - 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>dwellings. It also does not allow for reasonable view sharing from the public and private domain.</p>	
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The building does not step on the sloped site. It involves major excavation to the land. Whilst the current building and surrounding buildings have their parking facility to the east of the site with minimal excavation occurring to the high side / west side, this proposed dwelling proposes major basement excavations onto the 'high side'/ west side and cut into the land.</p> <p>Rising the 'ground level' due to the protruding basement also causing the wall height on the west side to be increased furthering to the issue of view loss and solar access for the neighbour.</p> <p>The western elevation on the first floor is also >12m long.</p>	No

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DCP Clause	Controls	Proposal	Compliance
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><i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i></p>	<p>Doesn't meet objectives. It doesn't maintain privacy as it overlooks many peoples POS and impacts on the view sharing as the balconies extend far back towards the rear.</p>	No
4.5	Roof design and features		
	<p><i>Dormers</i></p> <p>i) Dormer windows do not dominate</p> <p>ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>iii) Multiple dormers consistent</p> <p>iv) Suitable for existing</p> <p><i>Clerestory windows and skylights</i></p> <p>v) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>vi) Contained within roof form and not visible from street and surrounding properties.</p>	<p>Skylight location and design is suitable for the overall design of the dwelling.</p>	Yes
4.6	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes.</p> <p>ii) Finishing is durable and non-reflective and uses lighter colours.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</p> <p>vi) Recycle and re-use sandstone</p>	<p>Materials are suitable for use however; more variation needed for western elevation to reduce bulk appearance. The finishes will be durable for the coastal environment.</p>	Yes
4.7	Earthworks		
	<p>i) Excavation and backfilling limited to 1m, unless gradient too steep</p> <p>ii) Minimum 900mm side and rear setback</p> <p>iii) Subterranean spaces must not be habitable</p> <p>iv) Step retaining walls.</p> <p>v) If site conditions require setbacks <</p>	<p>The 'fill' for the courtyard to the east on the low side exceeds 1m, this will create a retaining wall which is almost 2m in height, this is</p>	No

DCP Clause	Controls	Proposal	Compliance
	<p>900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</p> <p>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</p> <p>vii) cut and fill for POS is terraced <i>where site has significant slope:</i></p> <p>viii) adopt a split-level design</p> <p>ix) Minimise height and extent of any exposed under-croft areas.</p>	<p>extremely excessive.</p>  <p>Fill on the eastern side of the basement also exceeds 1m of fill which is deemed unnecessary as the basement could be contained to the 'low side' / east side.</p> <p>There is no split level design even though there is significant slope.</p> <p>The application lacks information on proposed earthworks to the side and rear boundaries.</p>	
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	<p>i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June</p> <p>ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p>	POS and living rooms receiving a min of 3hrs of sunlight.	Yes
	Solar access to neighbouring development:		
	<p>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.</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. 	Neighbouring development receives a min of 3hrs of sun to POS and north facing living rooms.	Yes

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> 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. 		
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>Living rooms open to the outside, many other rooms have access to a balcony or large windows, natural ventilation is ample and skylights are also proposed.</p>	Yes
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>Habitable room windows do not have direct viewing into other existing habitable rooms on neighbouring dwellings as the windows mostly face east which is elevated and looks over the existing dwellings to the east on Wolseley Road.</p> <p>To the west, there are no habitable room windows which would overlook.</p>	Yes
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p>	<p>The proposed balconies on the ground floor and first floor level are likely to overlook the POS of properties on Wolseley Road, the eastern neighbour and the rear neighbour.</p>	No

DCP Clause	Controls	Proposal	Compliance
	vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.	It is not suitable for privacy screens as they would exasperate the bulk of the design and further impact on view sharing.	
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	Noise sources are not located next to adjoining bedroom windows.	Yes
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)	Front entry portico blocks view and access to front door of dwelling however if this was removed it would be advisable. Bedroom on first storey overlooks the front for casual surveillance.	Partial non-compliance
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.	There have been no measures taken to maintain existing view from the public and private spaces surrounding the site, particularly those west of the side on Rainbow street and Dundas street. The building is extremely bulky and large and extends to the rear of the property more than double the length of the current dwelling. It is also higher and has a blank large wall to the west which blocks neighbouring properties' views of the east and particularly the iconic view of wedding cake island and the bay. This proposal does not step with the site nor does it try to protect	No

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DCP Clause	Controls	Proposal	Compliance
		and maintain existing views for residents, it has been stretched as far back as possible whilst maintaining a lower FSR through plant rooms, voids, balconies and court yards which strategically don't count towards GFA. A sufficient and complete view loss assessment has not been submitted by the Applicant to indicate full extent of proposed view loss.	
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) 	Double car garage located at front façade on 10.365m frontage, not acceptable on lot less than 12m in width.	No
6.3	Setbacks of Parking Facilities		
	<ul style="list-style-type: none"> 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. 	Garage incorporated into dwelling bulk.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: <ul style="list-style-type: none"> - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	5m double driveway width proposed. This is 'permeable'. No double driveway / garage permitted due to lot of width.	No
6.5	Garage Configuration		
	<ul style="list-style-type: none"> i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): 	Garage is 6mx6m so exceeds the minimum requirements.	No

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1) 		
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	<ul style="list-style-type: none"> 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 	Blank rendered masonry is proposed to face the street as the proposed portico is incorporated into the front wall.	No
7.2	Front Fencing		
	<ul style="list-style-type: none"> i) 1200mm max. (solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <p><i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i></p> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines. 	<p>Front wall is 1200mm plus the entry portico which is incorporated into the front wall, this is all solid and exceeds the 600mm control for solid portion of fence/wall.</p> <p>‘roofed entry portal’ / entry portico is not a character of the street and does not complement the existing front setbacks of homes without structures.</p>	No
7.3	Side and rear fencing		
	<ul style="list-style-type: none"> i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past 	Side fence to vary between 1800mm – 4050mm on western side. This is extremely excessive even on a sloping site.	No

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DCP Clause	Controls	Proposal	Compliance
	the front façade alignment. iv) Both sides treated and finished.		
7.4	Outbuildings		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> – Finished external walls (not requiring maintenance; – No openings facing neighbours lots; and – Maintain adequate solar access to the neighbours dwelling v) For secondary street frontages a nil setback is only permitted if it adjoins a building constructed on the boundary. For detached garages at rear, first floor addition to existing may be considered subject to: <ul style="list-style-type: none"> – Containing it within the roof form (attic) – Articulating the facades; – Using screen planting to visually soften the outbuilding; – Not being obtrusive when viewed from the adjoining properties; – Maintaining adequate solar access to the adjoining dwellings; and – Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.	<p>The proposed pool outbuilding has a small setback however this is deemed acceptable as there will be sufficient space for ongoing maintenance, no solar impacts to neighbouring lots and opens out towards the properties POS and pool.</p> <p>The outbuilding is in a position that was previously deep soil permeable surfaces. The development does not comply with the deep soil permeable surfaces controls.</p> <p>The outbuilding proposes a wall height of 3.2m, which does not comply with control iii).</p>	No
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. i) Pool and coping level related to site topography (max 1m over lower side of site). ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties. iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones. iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors. v) Position decking to minimise privacy impacts. vi) Pool pump and filter contained in acoustic	<p>Pool pump and filter not shown.</p> <p>Unable to understand level of garden bed next to pool fence to determine if compliant.</p> <p>Conditions can be imposed, subject to approval to make it compliant.</p>	No

DCP Clause	Controls	Proposal	Compliance
	enclosure and away from the neighbouring dwellings.		
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.	A/C equipment located within basement 'services' room. This will have nil acoustic issues to neighbouring dwellings and not be visible from the street.	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).	N/A	N/A
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	In laundry facility.	Yes
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.	Engineering to confirm.	TBC Condition able. /

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3.3 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	Proposed materials and colours are suitable for the coastal location however, it is visually bulky and dominates the locality. The proposal has not adequately addressed the presentation to the public domain.	No.

	Building Line) must be constructed or clad with sandstone.		
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Responsible officer: Charlotte Asbridge, Student Environmental Planning Officer

File Reference: DA/850/2024

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Development Application Report No. D2/25

Subject: 34 Frenchmans Road, Randwick (DA/946/2024)

Executive Summary

Proposal:	Demolition of existing building and structures, tree removal and construction of a 2-storey attached dual occupancy with basement levels (for storage) and swimming pools, attached carport for western dwelling, associated ancillary and landscaping works (Heritage Conservation Area).
Ward:	North Ward
Applicant:	Futureflip Pty Ltd
Owner:	Ms A N Remen
Cost of works:	\$1,461,900.00
Reason for referral:	Over 10 unique submissions by way of objection were received.

Recommendation

That the RLPP refuse consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/946/2024 for demolition of existing building and structures, tree removal and construction of a 2-storey attached dual occupancy with basement levels (for storage) and swimming pools, attached carport for western dwelling, associated ancillary and landscaping works (Heritage Conservation Area), at No. 34 Frenchmans Road, Randwick, for the following reasons:

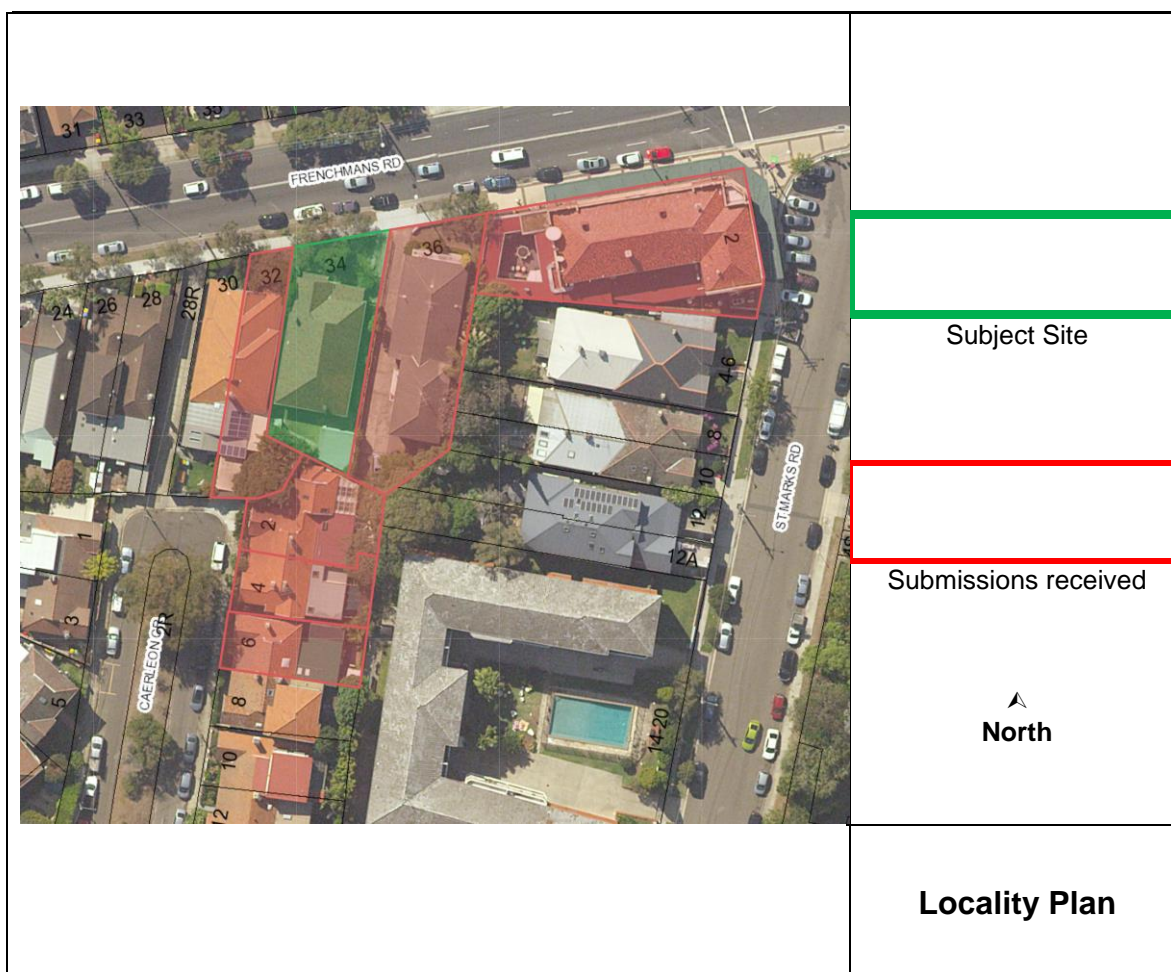
1. The proposal is inconsistent with the objectives of the R3 Medium Density Residential Zone of the RLEP 2012 in that the proposal does not protect the amenity of residents or recognise the desirable elements of the existing streetscape and built form. The desirable elements of the existing streetscape and built form include the Caerleon Crescent Heritage Conservation Area.
2. The proposed demolition of a contributory building in the Caerleon Crescent Heritage Conservation Area is not supported under the objectives and controls under Clause 5.10 of the RLEP 2012.
3. The proposal is non-compliant with the parking requirements under Part B7 of the RDCP 2013, providing 2 spaces instead of the required 4. Council is not supportive of changes to the design to accommodate the required parking for the western dwelling due to the presence of a Sydney Red Gum Street Tree which must be retained in accordance with Part B4 of the RDCP 2013.
4. Council also does not support an additional crossover due to Heritage considerations under Part B2 of the RDCP in addition to the TfNSW concurrence requirement for new crossover to have vehicles entering and leaving in a forward direction on a classified road.
5. The proposed built form is inconsistent with the objectives and several controls under Part B2 (Heritage) of the RDCP 2023.
6. The design of the proposed dual occupancy does not comply with Section 4.2 of Part C1 of the RDCP 2013, because the proposal does not respect and enhance the architectural character of the streetscape.
7. The proposed excavation to a depth of approximately 3m below natural ground level for the basement level is excessive and does not comply with Section 4.7 (Earthworks) of Part C1 of the RDCP 2013.

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8. The proposal does not comply with the front setback controls in Section 3.3.1 of Part C1 of the RDCP, given that the front setback is not consistent with the established development pattern of adjoining properties.
9. The proposal does not comply with the side setback controls in Section 3.3.2 of Part C1 of the RDCP, given that the extension of the ground floor roof to the side boundaries results in an inappropriate built form outcome.
10. The proposal does not comply with the deep soil permeable surfaces control in Section 2.5 of Part C1 of the RDCP, given that areas underneath the built form at the first floor cannot be counted as deep soil.
11. The proposed carport (eastern dwelling) and roofline of the western dwelling at the front of the property does not comply with the BCA for fire separation/safety. Construction of an enclosing fire-rated wall within 0.24m of the side boundaries is not supported by Council due to the potential amenity impacts on neighbouring properties and the streetscape.

Attachment/s:

Nil



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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 development consent for the demolition of existing building and structures, tree removal and construction of a 2-storey attached dual occupancy with basement levels (for storage) and swimming pools, attached carport for western dwelling, associated ancillary and landscaping works (Heritage Conservation Area).

The key issues associated with the proposal relate to non-compliances with Part B (parking and heritage) and Part C1 of the RDCP including controls for the design of dual occupancies, earthworks, engineering report, setbacks, solar access, overshadowing, and visual privacy.

The SEE submitted with the application does not address Part B2 (Heritage), this report has conducted a full assessment against Part B2. The Heritage Impact Statement submitted with the application considers that the existing building should be demolished. Council does not support this and considers the existing building, particularly the frontage should be retained and incorporated in any future redevelopment scheme.

The proposal does not meet the objectives of recognising the desirable element of the existing streetscape and built form or the protection of amenity for residents, as per the R3 Medium Density Residential Objectives in the RLEP 2012.

Accordingly, the proposal is recommended for refusal.

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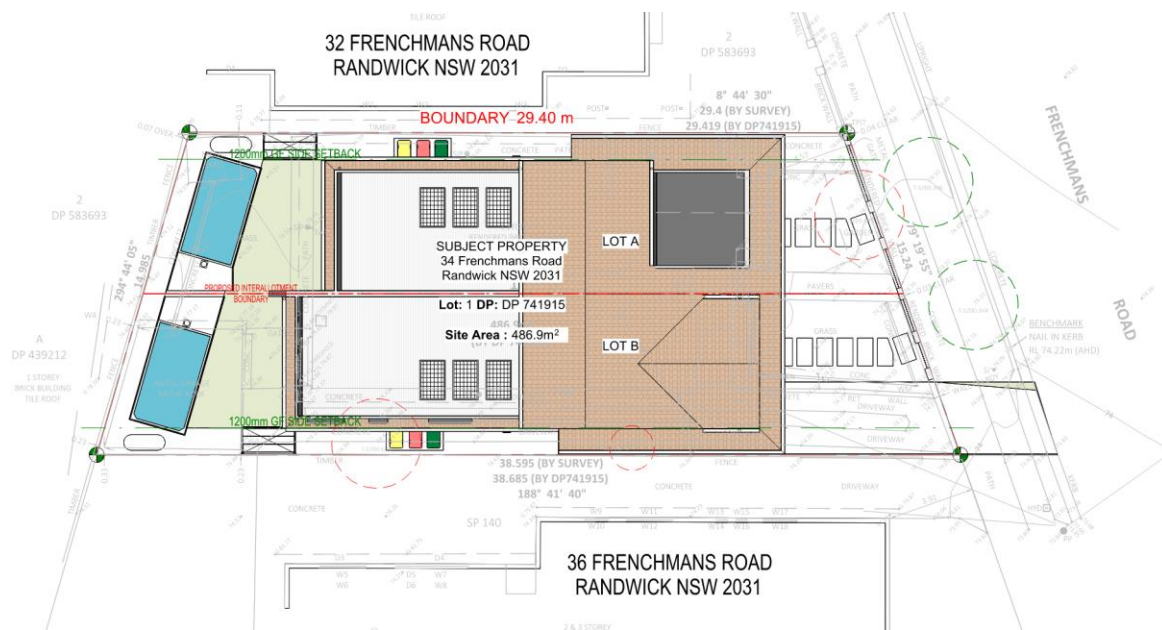


Figure 1: Site Plan - 34 Frenchmans Road, Randwick

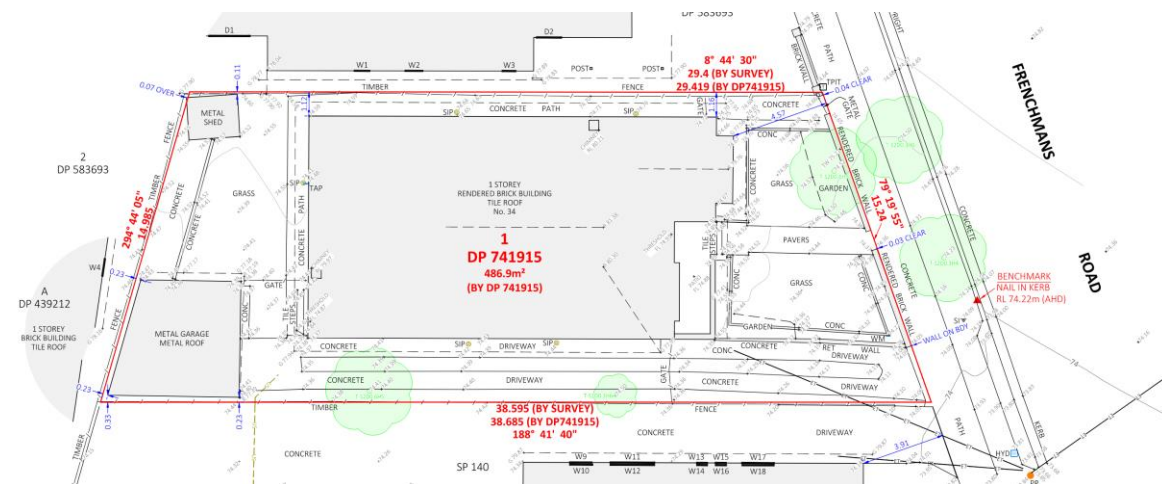


Figure 2: Survey Plan - 34 Frenchmans Road, Randwick

On 28 November 2024, Council issued a letter raising a number of issues with the proposal and recommended that the applicant to withdraw the application. The reasons for this are summarised below:

- 1) Car parking
- 2) Heritage
- 3) Engineering Report
- 4) Tree Retention
- 5) Setbacks
- 6) Design of Dual Occupancies
- 7) Earthworks
- 8) Solar Access
- 9) Overshadowing
- 10) Visual Privacy

On 11 December 2024 the applicant confirmed that they will not be withdrawing the application and would like Council to proceed with the processing of the application.

2. Site Description and Locality

The subject site is known as 34 Frenchmans Road, Randwick and is legally described as Lot 1 in DP 741915. The site has an area of 486.9m², is irregular in shape and has a 15.24m frontage to Frenchmans Road to the North. The site has a 38.68m eastern side boundary, a 14.98m southern rear boundary and a 29.42m western side boundary.

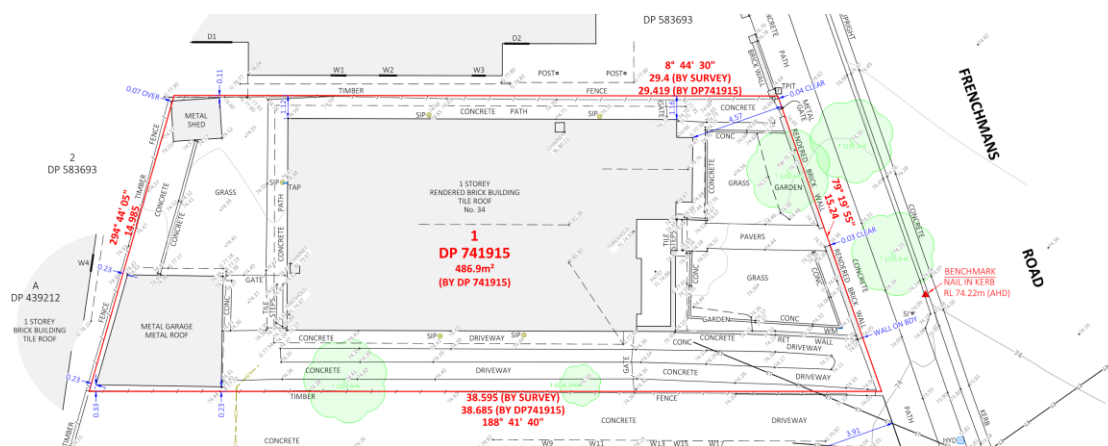


Figure 3: Survey Plan for 34 Frenchmans Road

The site contains a single storey rendered brick building with a tile roof. The site is situated within the Caerleon Crescent Heritage Conservation Area. The existing development is identified as being contributory to this Heritage Conservation Area. A full assessment of the heritage value has been conducted within this report in the later appendices and by Council's Heritage Officer.

The site slopes approximately 0.6m from west to east across the property frontage (RL 74.66 to RL 74.06). The site rises slightly from the street frontage to the rear (RL 74.36 to RL 74.47 from the property frontage to the rear of the site).



Figure 4: Subject site frontage - 34 Frenchmans Road, Randwick (Source: Council)

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Figure 5: Rear Garden of 34 Frenchmans Road, Randwick (Source: Applicant)



Figure 6: Rear Garden of 34 Frenchmans Road - facing east (Source: Applicant)

Development to the North

Across Frenchmans Road is a free standing dwelling (37 – 39 Frenchmans Road) and the Shell Petrol Station on the corner with Clovelly Road.



Figure 7: 37 - 39 Frenchmans Road (Source: applicant)



Figure 8: Shell Petrol Station (Source: applicant)

Development to the East

To the east is a small walk up residential flat building and the Duke of Gloucestershire Pub.



Figure 9: Neighbouring property to the east - 36 Frenchmans Road (Source: Council)



Figure 10: Duke of Gloucestershire Pub - Located a couple of properties to the east (Source: Google Maps)

Development to the South

Located to the south of the development site is Caerleon Crescent, which is a cul-de-sac. The subject site does not have a rear boundary to Caerleon Crescent, instead, it adjoins 2 Caerleon Crescent.



Figure 11: 2 & 4 Caerleon Crescent (Source: applicant)

Development to the West

Located to the west is 32 Frenchmans Road, which is a single storey semi-detached dwelling.



Figure 12: Neighbouring property to the west - 32 Frenchmans Road



Figure 13: Caerleon Crescent Heritage Conservation Area (Source: Interactive Mapping)

3. Relevant history

A search of Councils records has revealed no recent relevant applications at the development site.

4. Proposal

The proposal seeks development consent for:

- The demolition of all existing structures on site and construction of an attached dual occupancy with basement levels and swimming pools, and an attached carport for western dwelling. Specifically, the proposal involves:

Basement Level

- Storage areas, accessible to the main dwelling by stairs, being 33m² and 36m² in size.

Ground Floor Level (for each dwelling)

- Kitchen, living, dining with a butlers pantry – proposed Fireplace.
- Laundry
- W/C

First Floor Level (for each dwelling)

- Master bedrom with ensuite
- 3 other bedrooms
- Bathroom

Exterior/Landscaping (for each dwelling)

- Swimming pool
- Bin storage areas along the side elevation
- Hardstand and carport for the eastern dwelling
- Landscape plan for both dwellings

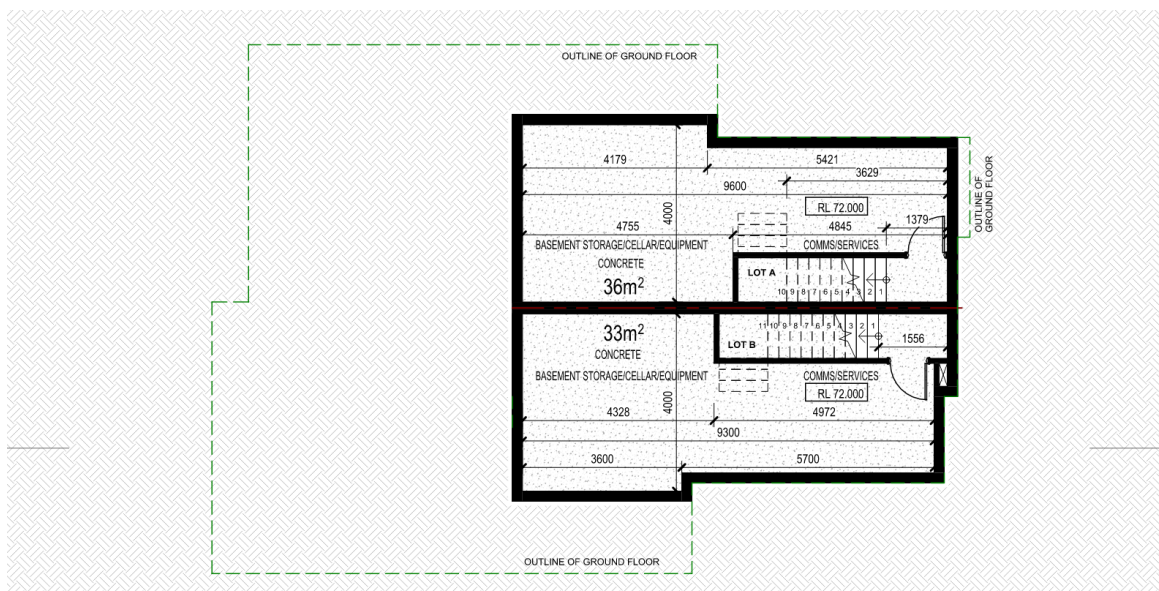
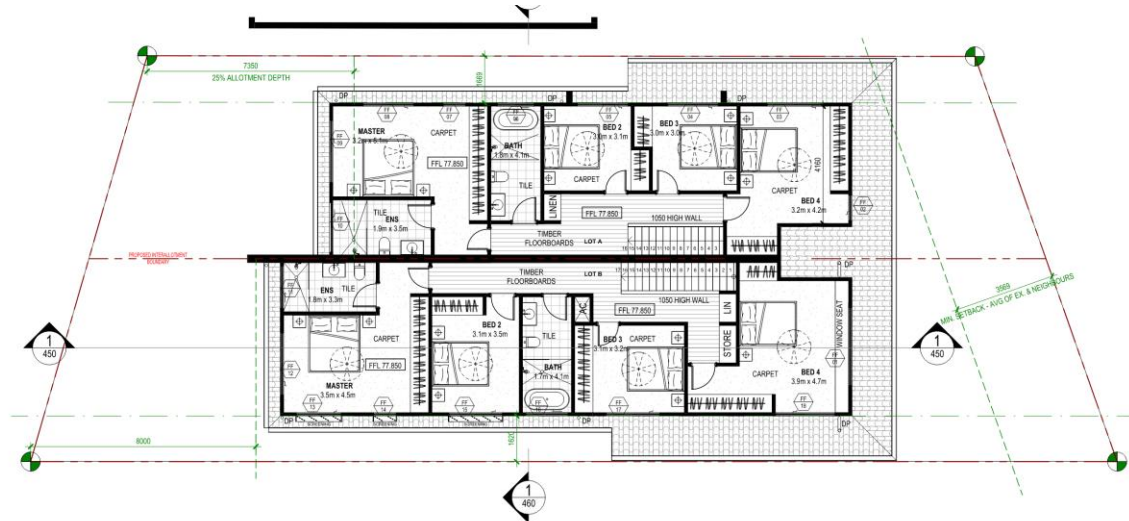
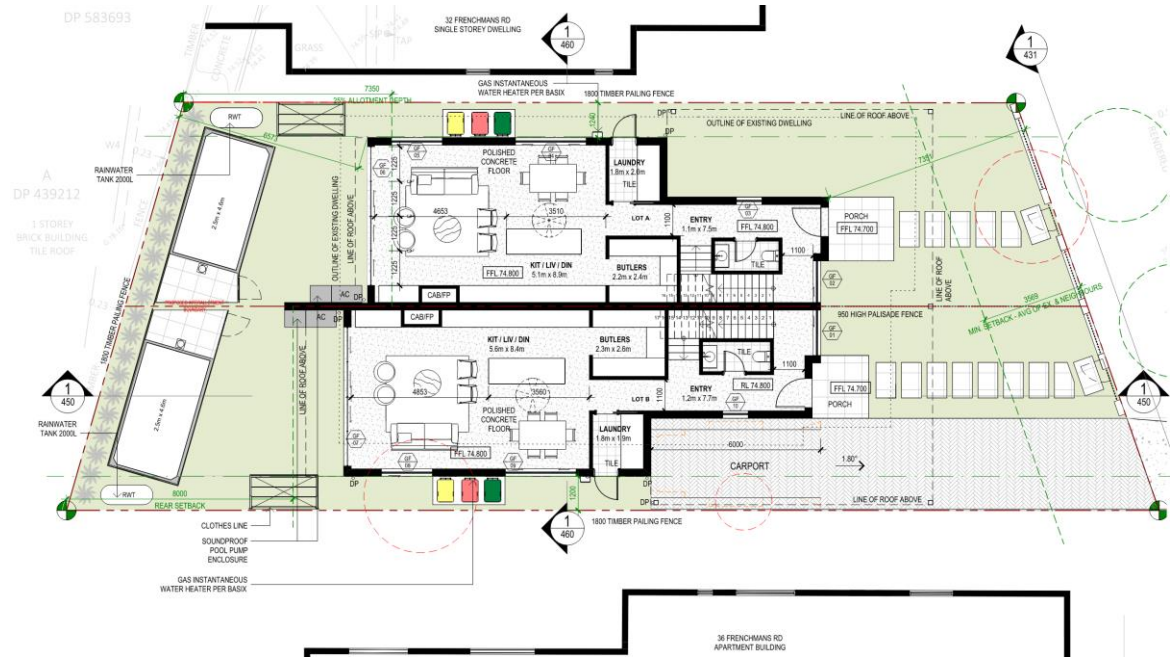


Figure 14: Proposed Basement Level - 34 Frenchmans Road



Architectural elevation drawing of a two-story building. The drawing shows the ground floor (GF) and first floor (FF) with various rooms and features. The building is situated on a lot with a boundary line and a 950 high palisade fence. The drawing includes dimensions for the building height (2700) and the lot width (2800).

Ground Floor (GF):

- Rooms: BR (Bedroom), CL (Living Area), BR (Bedroom).
- Features: 950 HIGH PALISADE FENCE, GF 01, GF 02.
- Dimensions: 2700 (height), 2800 (width).

First Floor (FF):

- Rooms: CL (Living Area), BR (Bedroom).
- Features: FF 01, FF 02, BULK HEAD BEHIND WINDOW, FT (Front Terrace).
- Dimensions: 2700 (height).

Roof and Elevation:

- Roofline: RL 81.598, RL 82.952.
- Compliant Building Envelope: Indicated by a green dashed line.
- Boundary: Indicated by a red dashed line.

Vertical Levels:

- FF CEILING: AHD 80.550
- FIRST FLOOR: AHD 77.850
- GF CEILING: AHD 77.500
- GROUND FLOOR: AHD 74.800
- BASEMENT: AHD 72.000

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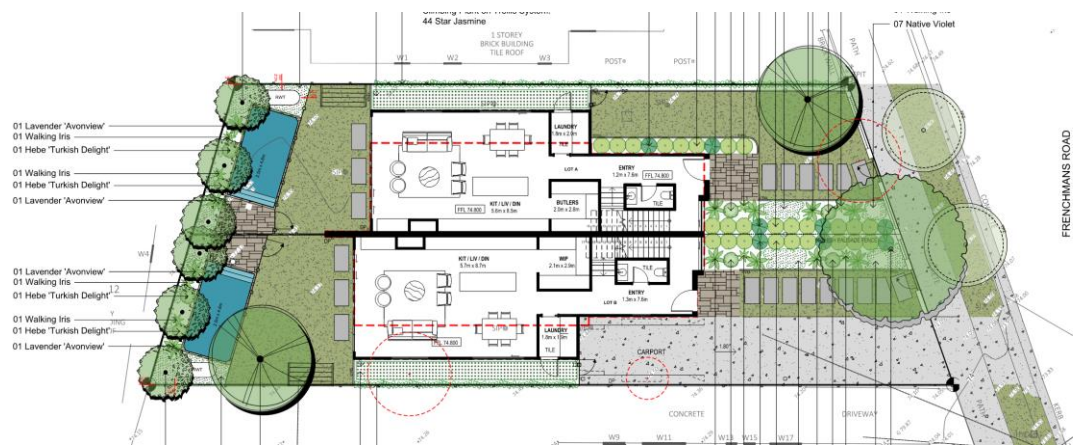


Figure 20: Landscape plan for 34 Frenchmans Road

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:

- 2 Carleon Crescent

Issue	Comment
<p>Form of the application contains errors including:</p> <ul style="list-style-type: none"> - Site plans do not demonstrate proposed front and rear setback (north and south). - Inground swimming pools not changing the ground level - Reference to parking on western dwelling, when the parking is on the eastern dwelling. 	<p>The shape of the allotment makes the measurements of the proposed front and rear setbacks variable.</p> <p>The excavation of the inground swimming pools will change the ground levels. Furthermore, the coping is raised slightly above the EGL.</p> <p>Agreed, the parking is on the eastern dwelling and no parking is proposed on western dwelling.</p>
<p>The display period was not increased along with the extension provided.</p> <p>The displayed materials didn't include some of the expert reports.</p>	<p>An extension was granted by Council, the documentation is available on Council's DA Tracker.</p> <p>A review of the DA Tracker confirmed that the required supporting information was made available during notification for comment.</p>

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Issue	Comment
<p><u>Heritage Conservation</u></p> <p>Site is within the Caerleon HCA, which is said to be “largely intact”.</p> <p>Demolition not generally supported unless the building is structurally unsound. Application contains no finding from a structural engineer that the building is structurally unsound.</p> <p>The information in the HIA doesn't provide assurance that:</p> <ul style="list-style-type: none"> - the building is structurally unsafe. - Unreasonable financial burden to rectify issues. <p>Incorrect statement that “<i>The subject site represents a poorly oriented residual allotment created in the original subdivision and the bungalow [sic] does not fit the typical historic development pattern of the conservation area</i>”</p> <p>The cost of repairs is inaccurate. Many of the properties in the zone have undergone similar works and none have been demolished.</p>	<p>Agreed, the structural engineers report does not find that the building has significant structural issues.</p> <p>Agreed, the HIA does not provide reasonable assurance that the building is structurally unsafe or that there are unreasonable financial constraints to repairs.</p> <p>Agreed, the residential lot is not poorly orientated.</p> <p>Noted, that many other surrounding properties have undergone similar works and have not been demolished.</p>
<p><u>Excavation</u></p> <ul style="list-style-type: none"> - Object to the scale of excavation and the basement levels. - Excavation risk to vehicle and pedestrian traffic as well as damage to adjacent properties. 	<p>Agreed, the scale of excavation is excessive.</p> <p>Suitable construction management conditions would manage impacts of excavations.</p>
<p><u>Drainage</u></p> <p>Impacts on stormwater drainage at 2 Caerleon Crescent.</p>	<p>Council's Development Engineer reviewed the plans and advised that the drainage plans would not be approved as a part of the DA and that detailed drainage plans would need to be submitted to the principal certifier prior to issuing a construction certificate.</p>
<p><u>Access, Traffic and Parking</u></p> <ul style="list-style-type: none"> - Does not provide off-street parking for the western residence. Additional burden for on-street parking. - Increased traffic flow on heavily congested area. 	<p>Agreed, the 50% variation to parking is a reason for refusal.</p> <p>The increase to traffic flow is considered to be negligible to minor.</p>
<p><u>Solar Access</u></p> <ul style="list-style-type: none"> - Loss of solar access to the northern side of their property - Effect on living area, bedroom, partially enclosed deck, and rear garden. 	<p>The applicant's shadow diagrams do not adequately demonstrate the impacts on 2 Caerleon Crescent.</p> <p>However, noting the location of the existing garage adjoining the rear boundary and the orientation of the site, the impacts are expected to comply with DCP requirements.</p>

Issue	Comment
<u>Privacy</u> <ul style="list-style-type: none"> - Loss of privacy caused by the location of the two swimming pools. 	<p>The western swimming pool would not adjoin 2 Caerleon Crescent.</p> <p>The swimming pools are enclosed by a 1.8m boundary fence.</p>
<u>Other Matters</u> <ul style="list-style-type: none"> - Removal and replacement of the boundary fence to the property boundary. 	<p>The owner of the development site and 2 Caerleon Crescent should refer to the Dividing Fences Act 1991 which regulates the cost of a dividing fence is shared between adjoining landowners, where an owner wishes to erect a new dividing fence or undertake work to an existing dividing fence. The Act also sets out the procedures for resolving disputes involving the cost, type and position of a fence. Either property owner may apply to a local court or local land board to have any matters in dispute decided.</p>

- 32 Frenchmans Road (1st submission)

Issue	Comment
The property is structurally sound, one of two freestanding properties on south side of Frenchmans road.	<p>The engineering report submitted with the application concludes that the property is structurally sound.</p> <p>Agreed. The subject dwelling is also the only free standing dwelling on the southern side of Frenchmans Road within the HCA.</p>
Noise from the pool pump	The pool pump is shown to be in a soundproof enclosure and is situated sufficiently from neighbouring properties.
Placement of bins	No concerns were raised by Council's Engineer regarding waste management.
Reduction of sunlight to solar panels	The shadow diagrams submitted with the application demonstrate that proposal will not result reduce direct sunlight to these solar panels to below 3 hours.
Parking is difficult	Agreed. The development engineer does not support the variation to parking rates.


- 6/36 Frenchmans Road

Issue	Comment
Overshadowing in the afternoons to balcony, living area and bedroom.	There will be additional overshadowing in the afternoon. However, this additional overshadowing will not directly cause less than 3 hours of direct sunlight to north facing living areas or POS.

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Issue	Comment
Size, noise, time to construct will impact rental income.	It is agreed that the proposal is excessive. The construction impacts will be managed by conditions, which will protect reasonable amenity for neighbouring properties.
Reduce the charm of the area by demolishing the federation style home.	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.
Non-compliances for setbacks, parking, earthworks and front fence.	The non-compliances with setbacks, parking and earthworks are described in detail and contribute to the recommendation for refusal.
Impact of the first floor.	The first floor is non-complaint with the side setback controls. The proposal is recommended for refusal and any future first floor should comply with the DCP.

- 4 Caerleon Crescent

Issue	Comment
Doesn't align with heritage aesthetics of area.	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.
Health risk due to the availability of light to the backyard, increasing damp and mould.	The proposal included shadow diagrams, which have not fully addressed the impacts on neighbouring properties. However, it is expected that the reduction in light to 4 Caerleon Crescent is minimal noting the subject site orientation.
Swimming pools causing noise and disturbance, the two pumps.	The two pumps are proposed to be located in soundproof enclosures. The dual occupancy is not supported, therefore, the configuration of two pools should be changed in a revised scheme.
Impacts on structural integrity of other properties.	Suitable conditions requiring dilapidation reports and for all works to occur within the development site would be included on any approval.
Impact the integrity of the shared sewer line	Councils mapping demonstrates the location of the sewer main is not in conflict with the works. See below. 

- 4 Caerleon Crescent

Issue	Comment
Reduction of light to the backyard, increase in damp and moss, health and safety risk.	The proposal is located sufficiently far away from 4 Caerleon Crescent so as to not unreasonably reduce light.
Noise from the pools, their use and the pumps.	The pool pumps are in soundproof enclosures. Council does not support the dual occupancy and therefore doesn't support two swimming pools.
Location of waste, smells, vermin, risk to health.	The "waste" is residential council bins and is not unreasonable. The location of these bins could be relocated. However, the impacts on 4 Caerleon Crescent are negligible.
Risk to the sewer line, properties flooded by sewage.	The sewer is not in conflict with the works, see the map above.
Does not align with heritage requirements.	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.

- 4 Caerleon Crescent

Issue	Comment
Compliance with HCA	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.
Engineer report detailing that integrity of 4 Caerleon will not be impacted.	4 Caerleon is not adjoining the development site. Any approval will include conditions requiring a dilapidation report.
Impacts on the sewer	The sewer is not in conflict with the works, see the map above.
Impact on direct light to 4 Caerleon and the associated health risks.	The proposal is located sufficiently far away from 4 Caerleon Crescent so as to not unreasonably reduce light.
Noise from the pool, being in close proximity to bedrooms and living spaces	The pools are not in close proximity to bedrooms and living spaces of 4 Caerleon Crescent. A future application must identify windows and living spaces at 2 Caerleon Crescent.

- 6 Caerleon Crescent

Issue	Comment
Not in keeping with heritage principles or values.	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.

Issue	Comment
Heritage value of the area is being weakened.	See above.

- 2 St Marks Road

Issue	Comment
Double glazing will need to be installed to meet the noise requirements	This was raised to the applicant when Council requested that they withdraw the application and could have been managed via conditions.
Necessary level of internal acoustic amenity be satisfied with windows and doors closed and mechanical ventilation operating.	See above.

- 5/36 Frenchmans Road

Issue	Comment
Overshadowing in the afternoon, dark, dank, mouldy and increase costs.	The proposal complies with the overshadowing requirements under the RDCP – Section 5.1 of Part C1. See the DCP table for further detail.
Increase road congestion, another driveway and the overuse of services.	The proposal will not result in an additional driveway.
Entitled to privacy, quiet enjoyment which will be diminished.	The visual privacy impacts on 36 Frenchmans Road were not adequately demonstrated for Councils assessment.
The design is not in keeping with the area	Agreed. This has also been reviewed by Councils Heritage Officer and the recommendation is for refusal.

- 2/36 Frenchmans Road

Issue	Comment
Not compatible with the existing character of the neighbourhood.	Agreed. Councils Heritage Officer does not support the demolition of the building. The proposal does not comply with the Heritage DCP.
Overcrowding and will strain our current infrastructure, roads, public services and local amenities.	The shortfall of car parking is not supported. The site is not considered to be appropriate for a dual occupancy.
Noise pollution	The proposal is not expected to generate unreasonable noise impacts on neighbouring properties.

Issue	Comment
Opportunity to work with residents to develop a solution that benefits all parties.	<p>The applicant is advised to consider all the submissions and make changes in any future application.</p> <p>The applicant has obtained the submissions and wishes for the development to be reviewed by Council in its current form.</p> <p>The recommendation is for refusal.</p>

- 32 Frenchman's Road.

Issue	Comment
Impact the streetscape, could lead to more development of this type in the area.	Agreed that the proposal is not consistent with the streetscape.
Unclear if the windows will impact privacy. Should have paneling to stop overlooking of 32 Frenchmans Road.	Refer to detailed assessment below. Privacy interface not supported by Council.
Bin placement on the western side is adjacent to bedroom window, this should be moved.	It is agreed that a more suitable location for the bins could be found via detailed refinement if the proposal was supported to proceed.
Pool is adjacent to veranda and living area, this will be used for parties and large gathering and will impact all neighbours in the area.	The dual occupancy is not supported. However, generally, the pools do comply with the development controls.
The proposal does not have enough parking	Agreed, this shortfall is not supported by the development engineer.
Condition the dilapidation report, noise management strategy, geotechnical management strategy. Construction methodology	Suitable conditions would have been included in any future approval to manage these impacts.
Dust and debris retained on site.	Suitable conditions would be included in any future approval.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and SEPP (Sustainable Buildings) 2022. The submitted BASIX Certificate includes a BASIX materials index which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

6.2. SEPP (Biodiversity and Conservation) 2021

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

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

The proposed development involves the removal of vegetation. Council's Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal and landscaping and replacement species. The proposal satisfies many relevant objectives and provisions under Chapter 2. However, the proposal does not comply with the minimum requirement for deep soil permeable surfaces under Section 2.5 of the RDCP.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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

The subject site has only previously been used for residential accommodation and as such is unlikely to contain any contamination. The nature and location of the proposed development construction of a new dual occupancy are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

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

The proposal is inconsistent with the following specific objectives of the zone in that the proposed activity and built form does not:

- Recognise the desirable elements of the existing streetscape and built form, it does not contribute to the Heritage Conservation Area.
- It does not protect the amenity of residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.728:1	Yes
Cl 4.3: Building height (max)	9.5m	8.04m.	Yes

The site is within the R3 zone and within a heritage conservation area. The proposal is for a dual occupancy and is not inclusive of subdivision.

6.4.1. Clause 5.10 - Heritage conservation

The subject site is within the Caerleon Heritage Conservation Area and is identified as a contributory item within the HCA.

The engineering report provided with the application and the heritage impact assessment are inconsistent. The engineering report does not demonstrate that the building is so structurally unsound as to necessitate demolition, or that the costs of such repairs would warrant demolition and rebuilding.

Council's Heritage Officer has reviewed the proposal and their comments can be seen in the referrals section of this report, which outline the proposal has not satisfied the requirements of Clause 5.10. An assessment against the Heritage DCP can be found in Appendix 2.

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 updated RDCP 2013 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 <u>generally does not satisfy</u> 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 not 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. However, the site does not have sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is not considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(e) – The public interest	The proposal does not promote the objectives of the zone and will result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered to be in the public interest.

8.1. Discussion of key issues

Carparking

Council's Development Engineer, provided the following comments:

Parking Issues

*Under Part B7 of Council's DCP 2013 each of the proposed 4-bedroom residences is required to provide a minimum of 2 off-street carspaces. The submitted plans **do not** demonstrate compliance with this requirement with only one vehicle access and two carspaces being provided for the eastern most dwelling.*

No off-street parking has been provided for the western most dwelling resulting in a parking shortfall of 2 carspaces (50%) for the proposed development.

The parking shortfall is considered excessive and is not supported by Development Engineering. The shortfall has been acknowledged in Sec 4.4.1 of the SEE which highlights the sites proximity to local shops, services and bus route.

This is acknowledged however the locality is also experiencing very high parking pressures mainly due to the site's proximity to the Duke Of Gloucester Hotel which is less than 30m to the east of the subject site and also does not provide any off-street parking.

It is likely that if additional off-street parking is provided Transport for NSW will have a requirement that vehicles will need to enter and exit the site in a forward direction. This will require that almost the entire front setback to be a hardstand area to allow for turning maneuvers.

In view of the above, the proposal is not supported.

Heritage Assessment

Councils Heritage Officer, provided the following comments:

- It is understood that the existing building has internal and external alterations, however, the front façade has kept most of its original fabric/form (including roof) and presentation to the street. The building is considered to have contributory characteristics to the heritage conservation area and streetscape.*
- At its current scheme the proposed design appears to have compromised visual/material connection to the streetscape at ground level with a top heavy/visually dominant upper-level departing from the characteristics of the HCA and the contributory building. Question/concerns raised whether any other design solutions have been considered to retain the front façade/two front main rooms and further consideration of incorporating the new form into the old/principal building.*
- A more appropriate form/design is a return to its original building footprint, of particular the front elevation/setback, and retaining its contributory elements and street presentation. The new/proposed development/addition must be in a scale compatible in the height and bulk and setback within the HCA and consistent with RDCP 2023.*
- Utilising the existing building footprint, is also beneficial as it provides opportunity to explore a larger ground level floor plan and reduction of the bulk and scale of the upper-level.*
- Any new development must retain the open landscaped front setback and minimise introduction of any new hard surfaces. It is recommended to retain the permeable/ribbon driveway similar to the existing.*

Key issues from the Heritage DCP and the Heritage Conservation Section of the LEP.

Section 5.10 of the RLEP states that consent is required for demolishing or altering the exterior of a building within a Heritage Conservation Area. Consent is also required for the erection of a building and subdividing of land within a Heritage Conservation Area.

- Councils Heritage Officer does not support the existing building being demolished.

There are numerous non-compliances with the Heritage DCP as outlined in Appendix 2.

Engineering Report

The submitted engineering report concludes there is only slight damage to minimal areas of the dwelling, however the submitted heritage impact statement states that there is significant structural damage. The applicant was made aware of and asked to rectify this discrepancy.

Councils Manager, Building Regulation reviewed the engineering report and stated: *whilst the building requires a good level of maintenance and repairs to be carried out, the documentation does not demonstrate that the building is so structurally unsound as to necessitate demolition or, that the costs of such repairs would warrant demolition and rebuilding.*

Tree Retention

Tree T1 must be retained at the advice of the Landscape Officer:

Due to an absence of overhead power lines on this side of the street, T1 has the potential to become a significant tree in the future streetscape and local landscape as it can attain a height of 15m+ without having to be lopped & pruned, so its retention is seen as a highly favourable outcome.

It is acknowledged that the proposal is to retain this tree. However, this has been included because Council does not support the removal of this tree to provide parking to the western dwelling. As such, adequate parking is unable to be facilitated on site for the proposal.

Front Setback

The ground floor front setback is excessive, being a minimum of 7.351m, compared to the existing front setback of 4.57m. The neighbour to the east is 3.91m and the west is 4.83m, therefore, the proposal is not the average of adjoining properties. Furthermore, the HCA has characteristics of a small front setback.

The first floor setback is a minimum of 4.74m. Most buildings within the HCA are single storey, with some having first floor additions behind the front apex, and the proposal will be inconsistent with the existing streetscape. The apartment building at 36 Frenchmans Road is detracting from the HCA.

Side Setbacks

The proposal does not comply with the minimum side setback controls under RDCP. The site has no constraints, which hinder full compliance with these controls.

The basement level complies with the side setback controls. The external walls of the ground floor level comply, however, the roof line of the ground floor does not comply and extends to within 0.24m of the side boundaries and should be revised to comply with the control requirement as shown in the below diagram.

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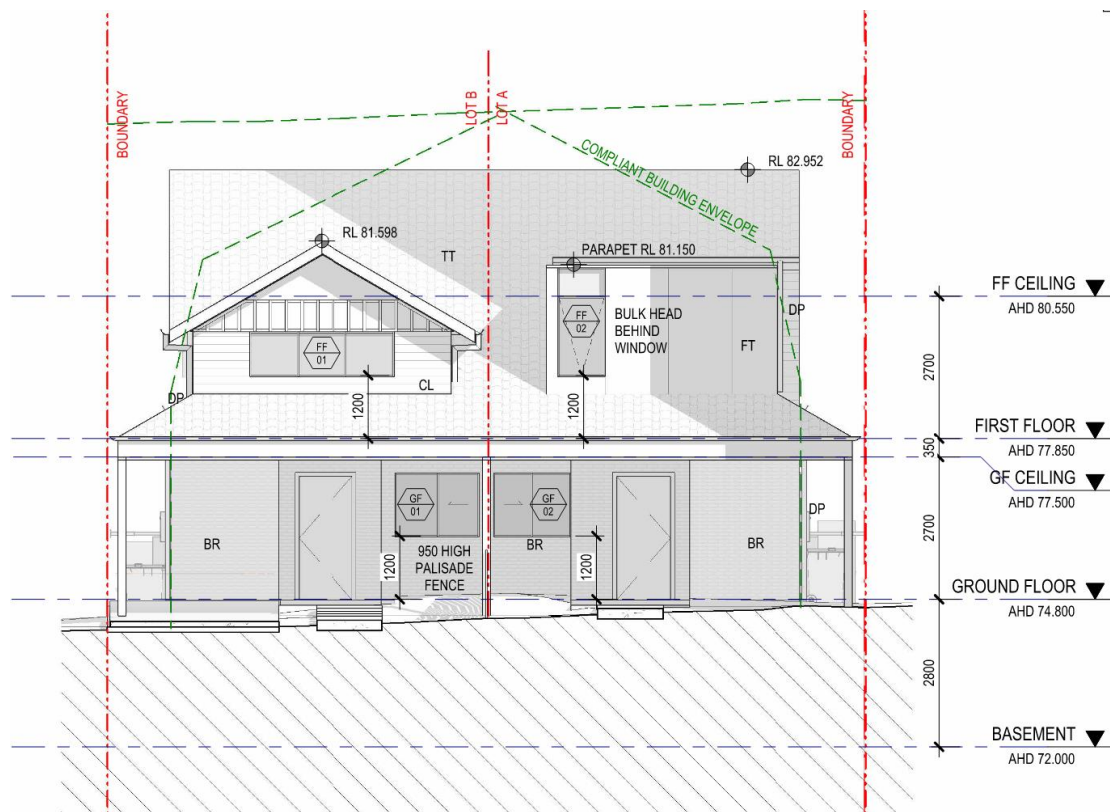


Figure 21: Extent of Side setback non-compliance - Front Elevation (Source: Applicant)



Figure 22: Extent of side setback non-compliance - Rear Elevation (Source: Applicant)

Design of Dual Occupancies

The design of the proposed dual occupancy does not comply with Part C1, Section 4.2 of RDCP. The architectural design does not respect and enhance the architectural character of the streetscape, as noted in the heritage comments below. Overall, the site is not considered suitable for development of a dual occupancy in the context of the heritage conservation area and the proposed demolition of contributory item.

Landscaping

Councils measurements of the deep soil permeable surfaces are as follows:

189.53m² of deep soil permeable surfaces, which equates to 38.9%. This does not comply with the requirement to have 40% deep soil permeable surfaces under Section 2.5 of the Randwick Development Control Plan.

Figure 23 below details the included and excluded deep soil permeable surfaces. The areas outside the external walls have been included and the pool areas have been excluded as per the DCP definitions. The cover entrances to the dwellings have not been included.

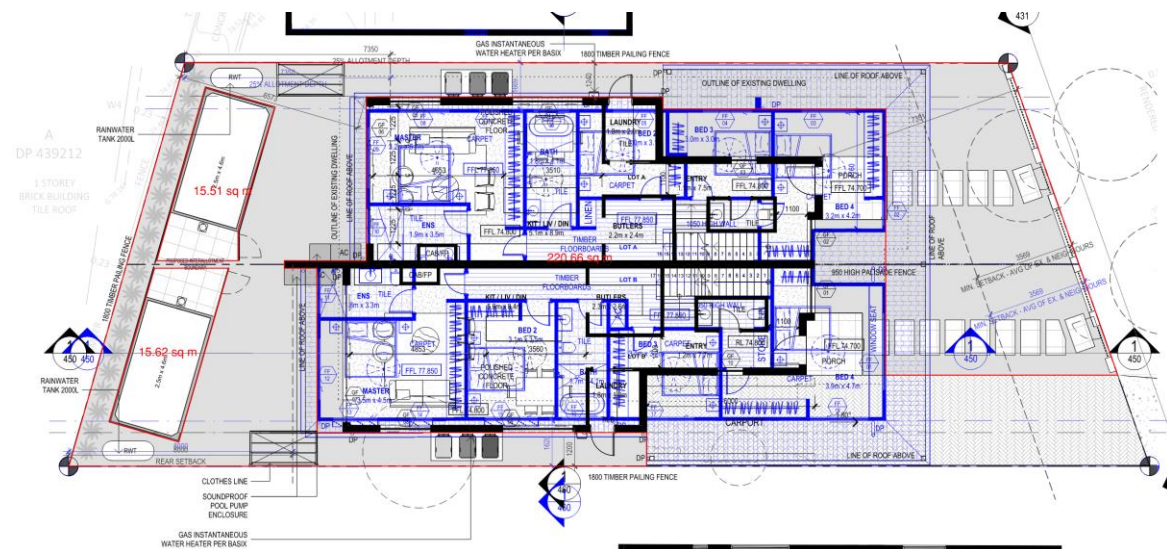


Figure 23: Deep soil permeable surfaces calculation (Source: Council)

Earthworks

The proposal does not comply with Part C1, Section 4.7 of RDCP. Excavation must be limited to 1m unless it is demonstrated that the gradient is too steep to construct a dwelling. The site is mostly flat, and as such, the extent of proposed excavation (to accommodate a large storage room) is unwarranted in the sensitive context of the site.

Solar Access

The proposed dwellings only contain one north facing window at ground floor level, letting light into the stairway only. It appears that the primary living rooms do not receive sufficient solar access in accordance with the control. A minimum of 3 hours of direct sunlight should be provided to living areas and POS.

Overshadowing

Overshadowing impacts on neighbouring properties, including Nos. 32 & 36 Frenchmans Road and No. 2 Caerleon Crescent, has not been adequately demonstrated.

Shadow diagrams must show the neighbouring properties, including the location of window openings, POS areas, and solar panels. The proposal must demonstrate compliance with the overshadowing requirements in the DCP.

Visual Privacy

The visual privacy impacts have not been demonstrated in an adequate manner. Plans must include the location and sill heights of windows on neighbouring properties (32 and 36 Frenchmans Road and 2 Caerleon Crescent).

of the existing streetscape and built form include the Caerleon Crescent Heritage Conservation Area.

2. The proposed demolition of a contributory building in the Caerleon Crescent Heritage Conservation Area is not supported under the objectives and controls under Clause 5.10 of the RLEP 2012 by Council's Heritage Officer.
3. The proposal is non-compliant with the parking requirements under Part B7 of the RDCP 2013, providing 2 spaces instead of the required 4. Council is not supportive of changes to the design to accommodate the required parking for the western dwelling due to the presence of a Sydney Red Gum Street Tree which must be retained in accordance with Part B4 of the RDCP 2013.
4. Council also does not support an additional crossover due to Heritage considerations under Part B2 of the RDCP in addition to the TfNSW concurrence requirement for new crossover to have vehicles entering and leaving in a forward direction on a classified road.
5. The proposed built form is inconsistent with the objectives and several controls under Part B2 (Heritage) of the RDCP 2023.
6. The design of the proposed dual occupancy does not comply with Section 4.2 of Part C1 of the RDCP 2023, because the proposal does not respect and enhance the architectural character of the streetscape.
7. The proposed excavation to a depth of approximately 3m below natural ground level for the basement level is excessive and does not comply with Section 4.7 (Earthworks) of Part C1 of the RDCP 2023.
8. The proposal does not comply with the front setback controls in Section 3.3.1 of Part C1 of the RDCP, given that the front setback is not consistent with the established development pattern of adjoining properties.
9. The proposal does not comply with the side setback controls in Section 3.3.2 of Part C1 of the RDCP, given that the extension of the ground floor roof to the side boundaries results in an inappropriate built form outcome.
10. The proposal does not comply with the deep soil permeable surfaces control in Section 2.5 of Part C1 of the RDCP, given that areas underneath the built form at the first floor cannot be counted as deep soil.
11. The proposed carport (eastern dwelling) and roofline of the western dwelling at the front of the property does not comply with the BCA for fire separation/safety. Construction of an enclosing fire-rated wall within 0.24m of the side boundaries is not supported by Council due to the potential amenity impacts on neighbouring properties and the streetscape.

Appendix 1: Referrals

1. External referral comments:

1.1. Transport for NSW

The proposal was referred to Transport for New South Wales under Section 138 of the *Roads Act 1993* and Section 2.119 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* because the development is situated on a classified road.

The referral is copied below. A verbal conversation with TfNSW confirmed that if a new crossing was proposed for the additional parking requirement, then TfNSW would require another referral. It is understood this would require the cars to enter and exit in a forward direction, requiring sufficient turning space or a turntable. This would result in considerable paved surfaces at the front of the dwelling.

**PROPOSED DUAL OCCUPANCY
34 FRENCHMANS ROAD, RANDWICK**

Dear Mr Brownlee,

Reference is made to Council's referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the *Roads Act 1993* and Section 2.119 of the *State Environment Planning Policy (Transport and Infrastructure) 2021*.

TfNSW has reviewed the submitted application and provides concurrence under section 138 of the *Roads Act 1993*, for the proposed works within the Frenchmans Road corridor (i.e. new driveway crossover, layback and stormwater outlets) subject to the following requirements being included in any development consent issued by Council:

1. Detailed design plans of the proposed gutter crossing and kerb and guttering are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon Frenchmans Road are to be submitted to TfNSW for approval, prior to the issue of a Construction Certificate and the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

3. A Road Occupancy Licence (ROL) shall be obtained from the Transport Management Centre for any works that may impact on traffic flows on Frenchmans Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

4. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.

For more information, please contact Narelle Gonzales, Development Assessment Officer on 0409 541 879 or by email at development.sydney@transport.nsw.gov.au.

2. Internal referral comments:

2.1. Heritage planner

- *It is understood that the existing building has internal and external alterations, however, the front façade has kept most of its original fabric/form (including roof) and presentation to the street. The building is considered to have contributory characteristics to the heritage conservation area and streetscape.*
- *At its current scheme the proposed design appears to have compromised visual/material connection to the streetscape at ground level with a top heavy/visually dominant upper-level departing from the characteristics of the HCA and the contributory building. Question/concerns raised whether any other design solutions have been considered to retain the front façade/two front main rooms and further consideration of incorporating the new form into the old/principal building.*
- *A more appropriate form/design is a return to its original building footprint, of particular the front elevation/setback, and retaining its contributory elements and street presentation. The new/proposed development/addition must be in a scale compatible in the height and bulk and setback within the HCA and consistent with RDCP 2023.*

- *Utilising the existing building footprint, is also beneficial as it provides opportunity to explore a larger ground level floor plan and reduction of the bulk and scale of the upper-level.*
- *Any new development must retain the open landscaped front setback and minimise introduction of any new hard surfaces. It is recommended to retain the permeable/ribbon driveway similar to the existing.*

2.2. Development Engineer

*The application is not supported on parking grounds. Under Part B7 of Council's DCP 2013 each of the proposed 4-bedroom residences is required to provide a minimum of 2 off-street carspaces. The submitted plans **do not** demonstrate compliance with this requirement with only one vehicle access and two carspaces being provided for the eastern most dwelling.*

No off-street parking has been provided for the western most dwelling resulting in a parking shortfall of 2 carspaces (50%) for the proposed development.

The parking shortfall is considered excessive and is not supported by Development Engineering. The shortfall has been acknowledged in Sec 4.4.1 of the SEE which highlights the sites proximity to local shops, services and bus route.

This is acknowledged however the locality is also experiencing very high parking pressures mainly due to the site's proximity to the Duke Of Gloucester Hotel which is less than 30m to the east of the subject site and also does not provide any off-street parking.

The assessing officer is therefore to determine if the planning, heritage, and landscape benefits of the proposal outweigh any deficiencies in parking.

2.3. Landscape Officer

There are two trees on Council's Frenchmans Road verge in front of this development site, being firstly, towards the western boundary, a mature, 8-9m tall Angophora cosata (Sydney Red Gum, Tree 1 in the Arborist Report), then a smaller, 4m tall Callistemon viminalis (Bottlebrush, T2), which is just to the west of the existing vehicle crossing.

Both are desirable endemic species that are automatically protected by the DCP due to their location on public property, are seen to provide a visual link with other established trees elsewhere in the streetscape, which as a group, provide a positive contribution to the characteristics of this Heritage Conservation Area.

The Arborist assesses the possibility of a second vehicle crossing being provided for the most western dwelling as part of this development, and as this would be in close proximity to T1, root mapping was performed, with the findings and photos presented in the Arborists Report.

However, Council's Heritage Officer and Town Planner have both confirmed a second access cannot be supported for heritage reasons, so will no longer form part of the application, and as an absence of any external civil works in this area means there will now be no direct threats to the tree, protection measures and a bond still need to be imposed in recognition of its presence in the streetscape and to avoid secondary impacts such as damage from trucks, machinery, deliveries and similar during works.

Due to an absence of overhead power lines on this side of the street, T1 has the potential to become a significant tree in the future streetscape and local landscape as it can attain a height of 15m+ without having to be lopped & pruned, so its retention is seen as a highly favourable outcome.

As the plans show the existing crossing being retained in its current position hard up against the eastern site boundary as part of this new proposal, this will maintain the same setback from T2, meaning it can also be retained, with the same protection measures described for T1 to also be imposed here.

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All other vegetation within this development site is a combination of both insignificant and/or invasive, undesirable weeds which are all exempt from the DCP, meaning they could already be removed at any time, without consent, irrespective of this application, and includes a Cotoneaster (T3) in the front setback, towards the northwest site corner, the self-seeded Date Palm (not assessed in Arborist Report) adjacent the northeast corner of the existing dwelling, as well as the Umbrella Tree (T4) and Celtis (T5) which are both halfway along the eastern side setback, with the relevant consent included in this report for the information of the applicant.

Lastly, there is a Syzygium luehmannii (Small Leafed Lilly Pilly, T6) beyond the southern boundary, wholly in the rear setback of the adjoining private property, 2 Caerleon Street, close to the common boundary, which is a native species that is protected by the DCP and was observed to perform a desirable screening function between both sites.

A combination of existing surfacing and structures across the width of the rear boundary of this development site, including from east to west, a free-standing garage in the southeast site corner, concrete hardstand then a smaller storage shed in the southwest site corner would have all acted as physical barriers to some degree to prevent or restrict root growth entering this part of the site.

The plans show two new pools being excavated across the rear boundary, at a setback of 1 metre from this common boundary, which will retain an area of deep soil contiguous with its trunk to which new planting/landscaping can then be provided, and as recommended in the Arborist Report, this is deemed feasible in this situation, so relevant protection conditions have been provided.

Landscape Comments

The submitted Landscape Plans show 3 native feature canopy trees plus a row of six Blueberry Ash (cultivar) with a mature height of 5m across the width of the rear boundary which complies with clause 2.6 of the C1 DCP for a site area of 486sqm, with the quantity of planting in the front setback to also be drastically increased when compared to the current situation, which also satisfied clause 2.5 of the C1 DCP.

Appendix 2: DCP Compliance Table**3.1 Section C1: Low Density Residential**

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3.	
2	Site planning	Site = 486.9m ²	
2.2	Lot frontage		
	Dual occupancies		
	Attached = 15m parent lot	The frontage is 15.24m.	Complies.
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Proposed = 225m ² which equates to 46%	Complies.
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Proposed = 189.53m ² which equates to 38.9%.	Doesn't comply.
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	The submitted landscape plans show 3 native feature canopy trees, plus a row of 6 Blueberry Ash.	Complies.
	Dual occupancies and semi-detached dwellings		
	Calculated on the overall site area and must be evenly distributed between the pair of dwellings.	The landscape plans demonstrate compliance.	Complies.
	The front setback must contain at least one (1) tree per dwelling.	Demonstrated.	Complies.
2.7	Private open space (POS)		
	Dual Occupancies POS		
	451 to 600 sqm = 5m x 5m 601 or above sqm = 6m x 6m	Dwelling A – 27.44m ² Dwelling B - 36.14m ²	Complies.
	iii) POS satisfy the following criteria: • 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,	Situated at ground level, adjacent to living room, rear of dwelling, flat, includes landscaping and paved areas. Does not maximise the	Doesn't comply.

D2/25

D2/25

DCP Clause	Controls	Proposal	Compliance																							
	paved surfaces and the like.	solar access, the dwelling could be sited further forwards and increase the solar access to the rear POS.																								
3	Building envelope																									
3.1	Floor space ratio LEP 2012 = 0.75:1	Proposed = 0.728:1	Complies.																							
3.2	Building height																									
	Building height LEP 2012 = 9.5m.	Proposed = 8.04m.	Complies.																							
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> - Topography - Site orientation - Lot configuration - Flooding - Lot dimensions - Impacts on visual amenity, solar access, privacy and views of adjoining properties. 	Basement level with 2 floors above. Floor to ceiling height of ground and first floor is 2.7m. Floor height is 3.05m, which is acceptable. Presents as two stories.	Complies.																							
3.3	Setbacks																									
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	The existing front setback is 4.57m. The neighbour to the east is 3.91m and the west is 4.83m. See the key issues section for further detail.	Doesn't comply.																							
3.3.2	Side setbacks <table border="1"> <thead> <tr> <th rowspan="2">Existing primary frontage width</th><th colspan="3">Minimum side setbacks</th></tr> <tr> <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>	Existing primary frontage width	Minimum side setbacks			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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	See the key issues section.	Doesn't comply.
Existing primary frontage width	Minimum side setbacks																									
	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																							
Less than 6m	Merit assessment																									
6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)																							
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$																							
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$																							
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or	The proposed rear setback is slightly larger than the existing dwelling.	Doesn't comply.																							

DCP Clause	Controls	Proposal	Compliance
	<p>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>The site is an irregularly shaped lot.</p> <p>There is not a predominant rear setback because the adjoining sites have a different lot configuration.</p> <p>The rear setback should be increased to provide better suited POS and to increase solar access to the POS .</p>	
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The first-floor eastern elevation is unarticulated for a length exceeding 12m, being approximately 17m.</p>	Doesn't comply.
4.2	New semi-detached and dual occupancy (attached) dwellings		
	<p>i) Architectural design must respect and enhance character of streetscape</p> <p>ii) Front facade designed to soften visual dominance of parking facilities:</p> <ul style="list-style-type: none"> • Balconies above garages • Windows/ doorways on front elevation so garage entries are not sole façade elements • Recess garage entries below cantilevered elements <p>iii) Predominant built form positioned towards shared boundary to reduce visual bulk</p> <p>iv) Main entrance recessed maximum 2m behind the front facade alignment</p> <p>v) Single car width garage to primary street</p> <p>vi) For corner allotment, each dwelling should independently address a street frontage</p> <p>vii) Maximise landscape planting and deep soil area</p> <p>viii) Incorporate PV rooftop solar and battery storage</p>	<p>The proposal doesn't respect the character of the streetscape.</p> <p>See the key issues section for more detail.</p> <p>The proposal has sufficient canopy trees but does not provide the required deep soil permeable surfaces.</p> <p>The proposal contains solar panels.</p> <p>The front entrance is setback 4m behind the roof of the ground floor.</p>	Doesn't comply.

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DCP Clause	Controls	Proposal	Compliance
	ix) Dwellings are encouraged to be 100% electric (no natural gas)		
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>The dormer windows at the front of the proposal dominate the façade, particularly the western dormer.</p> <p>Both dormers exceed the 1.5m in height are within 500mm from the side of the roof.</p> <p>The dormers are not consistent with each other.</p>	Doesn't comply.
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 	<p>The materials, finishes and colour scheme are inconsistent with the Heritage objectives.</p> <p>The proposal does not maintain or upgrade the visual quality of the HCA.</p> <p>The demolition of the dwelling will loose the original materials, finishes and colour schemes.</p>	Doesn't comply.
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>The proposed earthworks for the basement level exceeds 3m and is not supported by Council.</p> <p>See key issues section for further detail.</p>	Doesn't comply.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	<ul style="list-style-type: none"> i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct 	There are no north facing living room	Doesn't comply.

DCP Clause	Controls	Proposal	Compliance
	<p>sunlight between 8am and 4pm on 21 June</p> <p>ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</p>	<p>windows. The living room windows are not shown to receive 3 hours of direct sunlight on winter solstice.</p> <p>The POS will not receive 3 hours of direct sunlight on winter solstice.</p>	
	Solar access to neighbouring development:		
	<p>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.</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>32 and 36 Frenchmans Road are north facing. Therefore, the north facing living areas will continue to receive 3 hours of direct sunlight on 21 June.</p> <p>2 Caerleon Crescent is located to the south of the development site. The exact extent of overshadowing on this property has not been shown by the applicant. However, it is expected that the development will comply with the controls.</p>	Complies.
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</i></p>	<p>The living and dining rooms contain windows and doors opening to the POS.</p> <p>Concerns are raised about the quality and quantity of natural light to the ground floor kitchen, living and dining areas.</p> <p>The laundry, butlers pantry and ground floor toilet have no natural light.</p>	Doesn't comply.

D2/25

D2/25

DCP Clause	Controls	Proposal	Compliance
	acceptable		
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	<p>The ground floor visual privacy is appropriate, and windows do not directly align with neighbouring properties. Living and dining areas are orientated to the rear.</p> <p>The western facing first floor windows are not treated, however, the neighbouring property (32 Frenchmans Road) is single storey.</p> <p>The eastern facing windows have been appropriately treated at the rear. The alignment and impacts of bedroom 3 and 4 is unclear.</p> <p>The southern (rear) facing windows to the master bedroom are acceptable.</p>	Complies.
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	<p>The dwellings are mostly symmetrical and meets these controls.</p>	Complies.
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	<p>The entrances are on the front elevation.</p> <p>The numbering is appropriately located.</p> <p>Bedroom 4 overlooks the street.</p> <p>The front fence doesn't obscure views from the first floor, but will do from the ground floor.</p>	Complies.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings,	The development does not impact high value	N/A.

DCP Clause	Controls	Proposal	Compliance
	<p>streets and public open space areas.</p> <p>ii) Retaining existing views from the living areas are a priority over low use rooms</p> <p>iii) Retaining views for the public domain takes priority over views for the private properties</p> <p>iv) Fence design and plant selection must minimise obstruction of views</p> <p>v) Adopt a balanced approach to privacy protection and view sharing</p> <p>vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.</p>	view corridors.	
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	<p>i) Maximum 1 vehicular access</p> <p>ii) Locate off rear lanes, or secondary street frontages where available.</p> <p>iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling.</p> <p>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. </p> <p>v) Tandem parking may be considered</p> <p>vi) Avoid long driveways (impermeable surfaces)</p>	<p>One vehicular crossing, located to the side of the front facade of the eastern dwelling (similar location to existing).</p> <p>Landscaping is provided in the front yard.</p> <p>See Part B7 for assessment of parking appropriateness.</p>	Complies.
	Dual occupancies and new semi-detached dwellings		
	<p>i) Single width garage or carport, including hard stand space in front.</p> <p>ii) Double garages permitted on dual street frontages or corner lots if consistent with predominant pattern.</p> <p>iii) One vehicle access per dwelling <u>only permitted</u> where: <ul style="list-style-type: none"> • Minimum landscaping achieved; • At least one parallel on-street parking space is maintained; and • No net loss of street trees. </p>	<p>Single width carpark and hardstand for dwelling B.</p> <p>No parking proposed for dwelling A.</p> <p>Landscaping is not achieved.</p> <p>On street parking is maintained and no street trees lost.</p> <p>See Part B7 for assessment of parking appropriateness. Shortfall of parking rates.</p>	Complies.
6.2	Parking Facilities forward of front façade alignment		
	<p>i) The following may be considered:</p> <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 	<p>A single width carport and an uncovered single carspace is proposed for the eastern dwelling. Landscaping is</p>	Complies.

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DCP Clause	Controls	Proposal	Compliance
	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) - Compliments architectural character of dwelling ie roof pitch and finishes. 	incorporated at the site frontage. No garage is proposed.	
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing. 	The carport on the eastern side does not comply with the side setback controls in Section 3.3. There is an existing driveway in the same location. The carport should be located behind the front façade.	Doesn't comply.
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	Driveway is 3m wide at the crossover and 3.2m wide for the carport.	Complies.
6.6	Carport Configuration		
	i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open). ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling iii) 3m (single) 6m (double) maximum width. iv) 5.4m minimum length v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof. vi) No solid panel or roller shutter door. vii) Front gate allowed (minimum 30% open) viii) Gate does not open to public land	Carport is an open design. Width of single carport is 3.2m. Length is greater than 5.4m, being approximately 10m. There are no solid panels. The height of the pitched roof exceeds 3m.	Doesn't comply/
6.7	Hardstand Car Space Configuration		
	i) Permeable materials in between concrete wheel strips.	The driveway and hardstand is not	Doesn't comply.

DCP Clause	Controls	Proposal	Compliance
	ii) 2.4m x 5.4m minimum dimensions	permeable. The driveway meets the dimensions.	
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	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 fence is 1.587m tall. The site does face a main road. The fence must also comply with the heritage DCP. See the heritage DCP for further assessment.	Complies.
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	A 1.8m timber paling fence is proposed along the side and rear boundaries.	Complies.
7.5	Swimming pools and Spas		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites.	The swimming pools are located at the rear.	Complies.

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DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) 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. vi) 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. vii) Incorporate screening or planting for privacy as above, unless need to retain view corridors. viii) Position decking to minimise privacy impacts. ix) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings. 	<p>The swimming pools are in close proximity to 2 Caerleon Crescent and 32 Frenchmans Road.</p> <p>The pools are located slightly above the natural ground level.</p> <p>Landscaping provided along the rear boundary.</p> <p>The pool pump and filter are contained in an acoustic enclosure.</p>	
7.6	Air conditioning equipment		
	<ul style="list-style-type: none"> 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. 	<p>Located at rear, not visible from street. Located externally on party wall.</p>	Complies.
7.8	Clothes Drying Facilities		
	<ul style="list-style-type: none"> i) Located behind the front alignment and not be prominently visible from the street 	<p>Located at the rear and not visible.</p>	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>Assessed by engineering.</p> <p>A suitable condition was provided, however, the proposal is recommended for refusal.</p>	<p>Could be addressed by condition.</p>

3.1 Section B2: Heritage

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3.	
1.9	Demolition		
	<p>Demolition of a heritage item or contributory building in a HCA is generally not supported unless there are overriding reasons such as structural damage.</p>	<p>The engineering structural report provided with the application does not indicate any significant structural damage other than mould</p>	Doesn't comply.

DCP Clause	Controls	Proposal	Compliance
		<p>issues and minor cracking.</p> <p>The report provides recommendations for remedial works to rectify the minor cracks and mould growth issues. Neither of which are costly or warrant demolition of the building by the structural engineer.</p> <p>It is also noted that there are inconsistencies between the structural engineering report and the HIS regarding the structural integrity of the existing building.</p> <p>Council requires the submission of a report by a structural engineer with heritage experience to determine whether the building is, or is not, structurally capable of reasonable and economic use.</p>	
2.2	Design and Character		
	<p>i) Demonstrate how it respects the heritage conservation area</p> <p>ii) Common elements and features of the streetscape identified in streetscape analysis, incorporated into the design</p> <p>iii) consistent with surrounding development, ground floor levels and eaves lines</p> <p>iv) avoid large areas of brick or rendered walls</p> <p>Contributory buildings:</p> <p>v) Street elevations and visible side elevations must not be significantly changed. Additions must be located to the rear or to one side of the building to minimise impact on the streetscape</p> <p>vii) All new work and additions must respect the proportions of major elements of significant existing fabric including doors, windows, openings and verandas.</p>	<p>The proposal is inconsistent with the design and character objectives.</p> <p>It does not promote high quality design that complements the streetscape character and heritage significance of the contributory item or HCA.</p> <p>It adversely impacts on the setting, streetscape and views associated with the contributory and HCA.</p> <p>It doesn't respect the external appearance of the contributory building within the HCA, the original built</p>	Doesn't comply

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DCP Clause	Controls	Proposal	Compliance
		form, or the architectural style and character.	
2.3	Scale and Form		
	<p>i) In streetscapes where development is of a consistent single storey height, upper floor additions are appropriate only if not readily visible from the street. However, ground floor rear addition remains the preferred option.</p> <p>iii) Dormer windows and skylights must not be located to street elevations or where they will be prominent from a public place or dominate the original roof form. The design of dormer windows should generally be appropriate to the style of the building.</p> <p>Contributory Buildings</p> <p>iv) Additions must not visually dominate, compete with or conceal the original form and massing of the existing buildings.</p>	<p>The other contributory buildings on Frenchman's Road within the HCA are generally single storey, with some having a first floor addition setback behind the front apex.</p> <p>The proposal is inconsistent with the scale and form of the contributory buildings and characteristics of the HCA. The building scale and form dominates and competes with the existing significant heritage fabric.</p> <p>The scale and form of the development is inconsistent with the predominant scale and form of the HCA and of heritage items and contributory buildings within its context,</p> <p>The proposal is to demolish the existing building. This is not supported, therefore, the proposal does not comply with the controls.</p>	Doesn't comply.
2.4	Siting and Setbacks		
	<p>i) All development must conform to the predominant front setbacks in the streetscape.</p> <p>ii) development must respect side setbacks and rear alignments or setbacks of surrounding development.</p> <p>iii) Front and rear setbacks should be adequate to ensure the retention of the existing landscape character of the heritage item or conservation area and important landscape features</p> <p>iv) Any significant historical pattern of subdivision and lot sizes must be retained. Subdivision or site amalgamation involving heritage items or contributory buildings must not compromise the setting or curtilage of buildings on or adjoining the site.</p>	<p>The proposal does not conform to the predominant front setback, as noted in the key issues section.</p> <p>The ground floor roof and the first floor do not comply with the side setback controls, as noted in the key issues section.</p> <p>The proposal does not include subdivision.</p>	Doesn't comply.

DCP Clause	Controls	Proposal	Compliance
		<p>The proposal does not comply with the siting and setbacks objectives. The proposal does not maintain established setbacks to the street.</p> <p>The proposal does not maintain the existing curtilage and landscape setting for the contributory building.</p> <p>The proposal does not retain the integrity of the contributory building and its setting within the HCA.</p> <p>The placement of the new building does not respect the siting of the existing building.</p>	
2.5	Detailing		
	<ul style="list-style-type: none"> i) Only detailing which is known to have been original to your building is acceptable. ii) Retain and repair original doors, windows, original sunhoods, awnings, gable detailing and other decorative elements to principal elevations. Original leadlight and coloured glass panes should be retained. iii) Where original windows, doors and façade detailing have been removed and replaced with modern materials, consideration should be given to reconstructing original features. iv) Authentic reconstruction is encouraged. Decorative elements must not be introduced unless documentary or physical evidence indicates the decorative elements previously existed. Undertake thorough research before attempting to reconstruct lost detail and elements. v) Alterations and additions should incorporate new doors and windows which are compatible with the position, size, and proportions and detailing of original windows and doors. vi) Alterations and additions should adopt a level of detailing which complements the heritage fabric and should (in general) be less elaborate than the original. 	<p>The proposal is inconsistent with detailing objectives.</p> <p>The proposed demolition of the building results in loss of original detailing and original elements present on the existing building, such as windows, door, verandah and brickwork etc.</p> <p>The proposal does not have a level of detail which is appropriate to the architectural character and style of the contributory building or HCA setting.</p> <p>The proposal does not respect the pattern of door and window openings, placement, proportions and scale of existing fenestration.</p>	Doesn't comply.

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DCP Clause	Controls	Proposal	Compliance
2.6	Materials, Finishes and colour schemes		
	<ul style="list-style-type: none"> i) Materials for pathways and driveways must be consistent with the character of the heritage item or heritage conservation area. ii) Changes to materials (including roofs and walls) on elevations visible from a public place are not favoured. Original face brickwork must not be rendered, bagged or painted. The removal of external brickwork skin is not supported. iii) Matching materials must be used in repairing the fabric of external surfaces. In the case of new face brickwork, the colour and texture of the brick, the type of jointing and mortar colour should be carefully matched. iv) New or replacement roof materials must match existing materials. Alternative materials may be considered appropriate to the architectural style of the building and the streetscape context, and must be submitted for approval. v) Alterations and additions must use materials and colours similar to, or compatible with, the original material or colours. 	<p>The materials, finishes and colour scheme are inconsistent with the objectives.</p> <p>The proposal does not maintain or upgrade the visual quality of the HCA.</p> <p>The demolition of the dwelling will loose the original materials, finishes and colour schemes.</p>	Doesn't comply/
2.7	Roofs and Chimneys		
	<ul style="list-style-type: none"> i) Attic rooms are to be contained within roof forms and should not dominate the street and visible side elevations. ii) Roofs must not be repitched or have their eaves line raised to allow for the provision of attic rooms. iii) Chimneys must be retained. 	<p>The proposal does not retain/respect the characteristic roof forms of the HCA i.e. roof pitch, or chimneys.</p>	Doesn't comply.
2.8	Verandahs and balconies		
	<ul style="list-style-type: none"> i) Consider the provision of front verandahs and balconies at a compatible scale where these are a characteristic feature of the heritage conservation area. ii) Original front verandahs and balconies must be retained and conserved. iii) Infilling or enclosure of front verandahs and balconies is not supported 	<p>The proposal is inconsistent with the objectives of 2.8.</p> <p>The proposal does not retain the existing original varandah.</p> <p>The proposal detracts from and reduces the importance of original streetscape presentation to the HCA.</p>	Doesn't comply.
2.9	Garages, carports, carspaces and driveways		
	<ul style="list-style-type: none"> ii) Carparking structures are to be located to the side, or preferably to the rear of the building. Garages and carports must not be located forward of the building line. iii) Open hard stand carspaces may be provided forward of the building line, but must be located adjacent to a side boundary, and generally not be greater than 	<p>The proposal does not minimise the visual impact of carparking in the HCA.</p> <p>The carport has a large pitched roof.</p>	Doesn't comply.

DCP Clause	Controls	Proposal	Compliance
	<p>single car width.</p> <p>iv) Existing building fabric, including verandahs and balconies, must not be altered to allow for the provision of a carparking structure or an open stand carspace.</p> <p>v) Open hard stand carspaces must not dominate the setting of the building in terms of loss of planting, fencing or retaining walls.</p> <p>vi) Carparking structures are to be unobtrusive and must be of materials, form and details which harmonise with and do not obscure views of the building. They must not be made larger by the provision of a bulky pitched roof.</p> <p>viii) Large areas of concrete should be avoided and alternative materials such as pavers, gravel or permeable paving must be considered.</p>	Permeable paving should be considered.	
2.10	Fences		
	<p>i) New and replacement front fences must not obscure building facades. High solid front fences are not appropriate.</p> <p>ii) New fence heights and form must be appropriate to the character of the heritage item, or to the heritage conservation area.</p> <p>iii) Lych gates must not be provided unless there is evidence that they originally existed.</p> <p>iv) Side fencing forward of the building line must be simple with a level of detail and of materials and height compatible with the heritage item, contributory building or heritage conservation area.</p> <p>v) Side and rear boundary fences should be preferably of traditional timber construction or otherwise of masonry construction. Colorbond metal fences are not appropriate.</p> <p>vi) Retain, repair or reconstruct original fences and retaining walls where possible.</p> <p>vii) Where an original fence has been lost, new fencing should try to match the original style.</p>	<p>The proposal is inconsistent with the fences objectives.</p> <p>The proposal does not retain, repair or reconstruct the original fencing. The proposed fencing is out of character with the original buildings within the HCA.</p> <p>Side fencing forward of the building line must be of scale, detail, material and height compatible with the contributory building and the HCA.</p>	Doesn't comply.
2.11	Gardens, garden elements and swimming pools		
	<p>i) Significant trees and landscape elements such as pathways, garden beds and structures must be retained.</p> <p>ii) Large areas of hard paving are to be minimized.</p> <p>iii) Garden and ancillary structures must be appropriate to primary buildings in terms of scale, style and materials.</p> <p>iv) Swimming pools must be located at the rear of the property and where possible</p>	<p>The proposal does not retain or reinstate the landscaped settings and elements for the contributory building.</p> <p>The proposal does not improve the streetscape setting of the building within the</p>	Doesn't comply.

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DCP Clause	Controls	Proposal	Compliance
	should retain important trees and areas of soft landscaping. Swimming pools must not result in significant changes to ground levels on the site.	HCA. The original building has a lesser ground floor front setback. The proposed front setback is inconsistent.	
4.3	Caerleon Crescent – Heritage Conservation Area		
4.3.3	<p>Existing character values</p> <p>The following key values and characteristics of heritage conservation area should be retained for contributory buildings:</p> <p>These key values and characteristics, and the guidelines for change that follow, need to be considered in addition to the general guidelines and controls contained in the Randwick DCP.</p> <ul style="list-style-type: none"> • Scale and form (single storey, semi-detached cottages) • Siting and setbacks (minimal setbacks from street) • Roofs (consistent roofscape of traditional pitched roofs, hipped and gable forms) • Materials (face brickwork walls, terracotta tiled roofs) • Varandahs and Balconies (characteristic front varandahs) • Carparking (minimal side setbacks do not allow parking to the side and rear of the dwelling) • Fences (original early front fences) 	<p>The proposal is for two stories above a basement level.</p> <p>The front setback of the first floor is inconsistent with the adjoining properties and the existing dwelling.</p> <p>The roof form is inconsistent with neighbouring properties and the existing dwelling.</p> <p>The materials are face brick work and terracotta tiles, however, the overall materials, colours and finishes are said to be inappropriate by Council's heritage officer.</p> <p>The proposal removes the existing varandah.</p> <p>There is existing carparking and the site is sufficiently wide for this parking.</p> <p>The proposed fencing does not retain, repair or reconstruct the original fencing.</p>	Doesn't comply.

3.1 Section B7: Transport, Traffic, Parking and Access

*The application is not supported on parking grounds. Under Part B7 of Council's DCP 2013 each of the proposed 4-bedroom residences is required to provide a minimum of 2 off-street carspaces. The submitted plans **do not** demonstrate compliance with this requirement with only one vehicle access and two carspaces being provided for the eastern most dwelling. No off-street parking has been provided for the western most dwelling resulting in a parking shortfall of 2 carspaces (50%) for the proposed development.*

The parking shortfall is considered excessive and is not supported by Development Engineering. The shortfall has been acknowledged in Sec 4.4.1 of the SEE which highlights the sites proximity to local shops, services and bus route.

This is acknowledged however the locality is also experiencing very high parking pressures mainly due to the site's proximity to the Duke Of Gloucester Hotel which is less than 30m to the east of the subject site and also does not provide any off-street parking.

Responsible officer: Joseph Edmonds, Environmental Planning Officer

File Reference: DA/946/2024

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Development Application Report No. D3/25

Subject: 35 Douglas Street, Clovelly (DA/780/2024)


Executive Summary

Proposal:	Demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works.
Ward:	East Ward
Applicant:	Ms L Ette
Owner:	Ms L Ette
Cost of works:	\$2,522,348.79
Reason for referral:	10 or more unique submissions by way of objection were received.

Recommendation

- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/780/2024 for demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works, at No. 35 Douglas Street, Clovelly, subject to the development consent conditions attached to the assessment report

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/780/2024 - 35 Douglas Street, CLOVELLY NSW 2031 - DEV - Randwick City Council

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1. Executive summary

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

- 10 or more unique submissions by way of objection were received.

The proposal seeks development consent for demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works.

The key issues associated with the proposal relate to visual privacy and bulk considerations due in part to the substantial change in elevations and difference in ground levels between the subject site and adjoining properties addressing Varna Street (located at lower elevations) and the general orientation of the subject land and surrounding properties. Further key issues relate to the non-compliances with the side setback provisions, proposed excavation for the development and potential impacts on retaining wall structures, and a minor shortfall in deep soil permeable area.

The assessment of the proposal determines that the development is generally consistent with the provisions of Randwick Local Environmental Plan 2012, the objectives of the Randwick Development Control Plan 2013 and 2023 (RDCP) and would not result in significant adverse amenity impacts to adjoining properties in terms of privacy, overshadowing and visual bulk.

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

- The paved pool coping area, and area of spa pool, is to be reduced in width by 500mm to the northeast and northwest boundaries, and replaced with deep soil permeable surfaces provided at existing ground level.
- Privacy treatments to be applied to the First Floor bathroom window to southwest elevation

(WF06).

- Landscape screening along the northeast boundary of the site, adjacent to the swimming pool is to reach a minimum height of 1.8m.
- Replacement 1.8m fence to be provided to the entire northeast boundary of the site.
- Street trees to be retained to the high side of Douglas Street, and replacement species planted to the low side of the site frontage.

2. Site Description and Locality

The subject site consists of two (2) x Torrens title residential allotments, and is legally described as Lot 17 in DP 537 and Lot 4 in DP 304987, commonly known as 35 Douglas Street, Clovelly. The site is an irregular “L” shaped lot, with a total site area of 541.5m². The site has a variable width from 20.98m at the Douglas Street frontage, to 12.42m at the rear of the site, and a variable depth from 35.81m at the southwest boundary, to 15.2m at the northeast boundary. The topography of the site features a significant slope to the northeast, falling approximately 7m across the street frontage of the site and side boundaries.

Existing structures to the site include a single storey dwelling house with a significant undercroft area due to the dwelling being elevated towards the northeastern boundary.

The subject site is located within a low-density residential zone with a mix of one, two, and three-storey detached dwelling houses and dual occupancies. An existing retaining wall separates the lower and upper sides of Douglas Street, with a public footpath adjacent to the site boundary, which facilitates access between these two levels of the street. Existing pedestrian access to the site is located to the high side of the retaining wall, and vehicular access on the low side.

To the northwest and northeast, the subject site shares a common boundary with six properties fronting Varna Street (No.23-No.31A). The properties along Varna Street are located at lower elevations than the subject site. Retaining walls run the length of the northeast boundary of the site, to the properties along Varna Street.

To the west the site adjoins a single storey dwelling house at No. 33 Douglas Street. It is noted that consent was granted for the demolition of existing structures and construction of a part two-part three storey dwelling house for this neighbouring property (DA/437/2024).



Figure 1. Street presentation of subject site, viewed from Douglas Street.

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Figure 2. Rear garden of subject site.



Figure 3. Existing arrangement of the low side of the site, with driveway access to Douglas Street, and tree plantings along the boundary.



Figure 4. Neighbouring dwelling at 33 Douglas Street



Figure 5. Aerial view of immediate locality, showing Varna Street properties located at lower elevation to the subject site.

3. Relevant history

The land has been used for residential purposes for an extended period of time. A search of Council's records revealed the following relevant applications for the site.

PL/1/2021

A pre-lodgment meeting was held on 19/02/2021 for the demolition of existing structures and construction of a part two- part three storey dwelling house with basement parking, landscaping and associated works (variation to building height of RLEP 2012).

DA/562/2021

On 22 August 2022 Council granted approval for the demolition of existing structure and construction of a part two- part three storey dwelling house with basement parking, balconies, swimming pool at the rear addition of stairs within the road reserve, tree removal, landscaping and associated works.

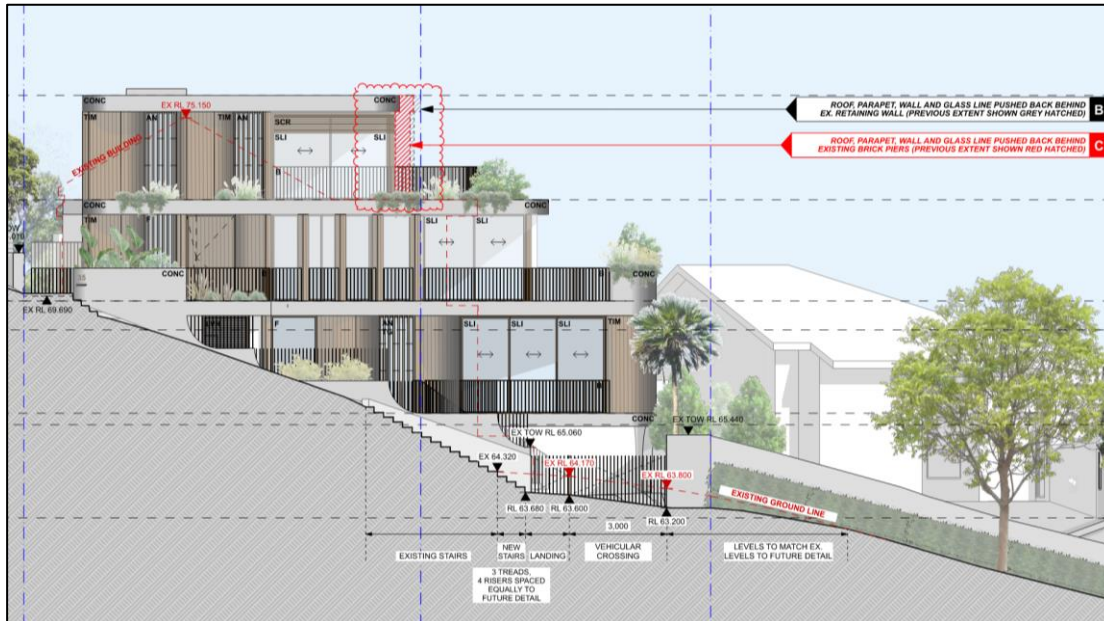


Figure 6. Extract of proposed street elevation of DA/562/2021 (Source: MHNDUnion)

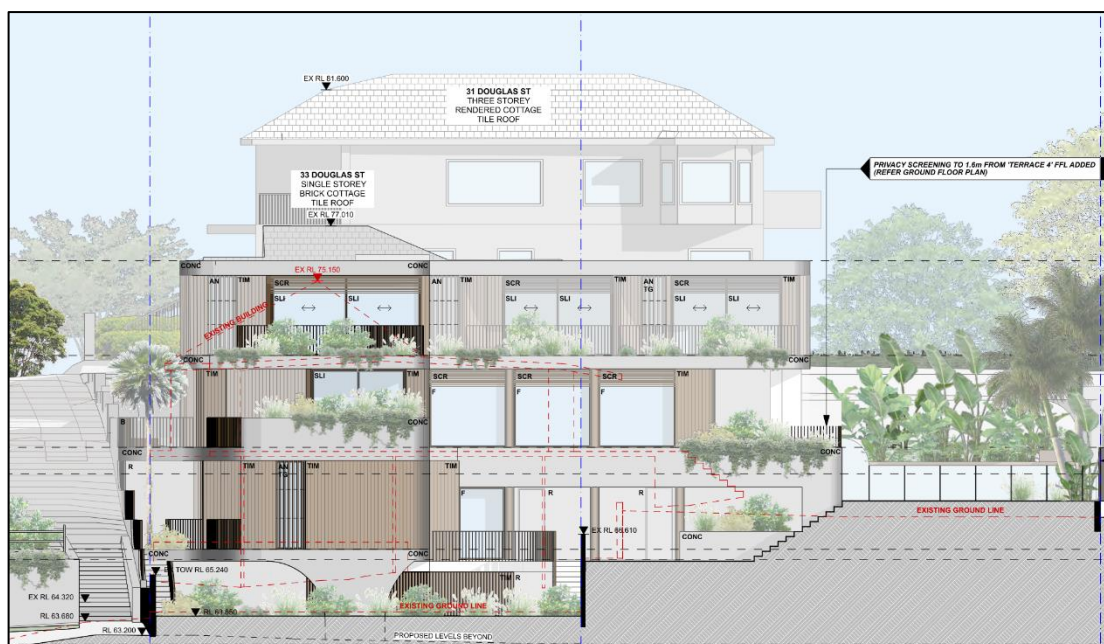


Figure 7. Extract of proposed northeast elevation of DA/562/2021 (Source: MHNDUnion).

Additional information request

On 4 October 2024 Council issued an initial additional information request, requiring the following information and amendments to the proposal:

- Amendments to size of ground level and first floor terraces, and recommendation to reorient towards Douglas Street.
- Privacy Sections to be provided for No.27-31A Varna Street.

- Additional landscape screening to be provided to soften the appearance of the development when viewed from properties at lower elevations.
- Amendments to earthworks within the rear yard, minimising filling of the site to retain the existing ground level along the boundaries.
- The required use of sub floor area to be nominated, or subfloor areas to be removed.
- Fencing to be provided at existing ground level along the northeast boundary.
- Increase to deep soil areas to demonstrate compliance.
- Articulation to be provided to the southwest elevation of the development.
- Further information to be provided to verify the existing ground level/ proposed maximum building height.
- Amendments to GFA to include lift shafts at each level.
- Further consideration of potential view loss from surrounding properties to be provided.
- Engineering comments in relation to vehicular driveway design and vehicular access to the proposed garage
- Engineering comments in relation to how the secondary pedestrian access from the lower ground rumpus room.

The additional information package was received on 25 October 2024. Further amended plans addressing ongoing engineering issues were submitted on 6 November 2024.

4. Proposal

The proposal seeks development consent for the demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works.

Specifically the scope of works comprise the following:

Demolition and removal of vegetation

Demolition of the existing dwelling house, and removal of 15 trees (12 x trees within the site, 3 street trees).

Construction of a four storey dwelling comprising the following:

- Garage level – double garage, washroom, storage area, servicing area (rainwater tank)
- Lower ground level – Rumpus room/ gym, balcony (with full height privacy screens to northeast elevation), plant equipment area (Air conditioning, pool equipment, lift equipment and utilities), and front terrace overlooking Douglas Street
- Ground Floor – Kitchen, dining room and study, living room with balcony to the northeast elevation, 1 x bedroom, bathroom and laundry.
- First Floor – 3 x bedrooms with built in robes, 2 x bathrooms. Balcony access provided off each bedroom
- Internal stair and lift connecting all floor levels.

External/ ancillary works

- Earthworks and construction of retaining walls within the front and rear setback to terrace garden levels
- Construction of inground swimming pool, with paved pool coping/ deck area
- Associated landscaping works including provision of 10 x canopy trees
- New 1.8m high boundary fencing along the northeast boundary within the rear garden.
- Reconstruction of driveway crossover to Douglas Street.

Figure 8 to 14 illustrates the proposed development:

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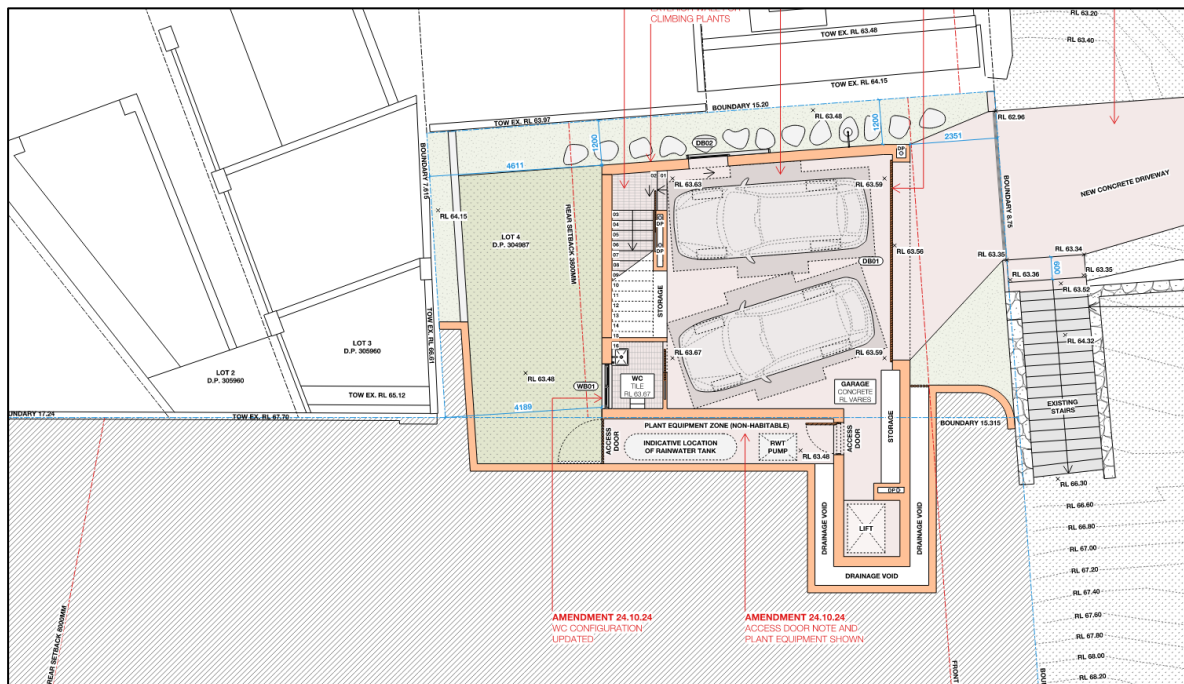


Figure 8. Extract of proposed garage level floor plan (Source: Baikie Corr Architecture and Interiors)

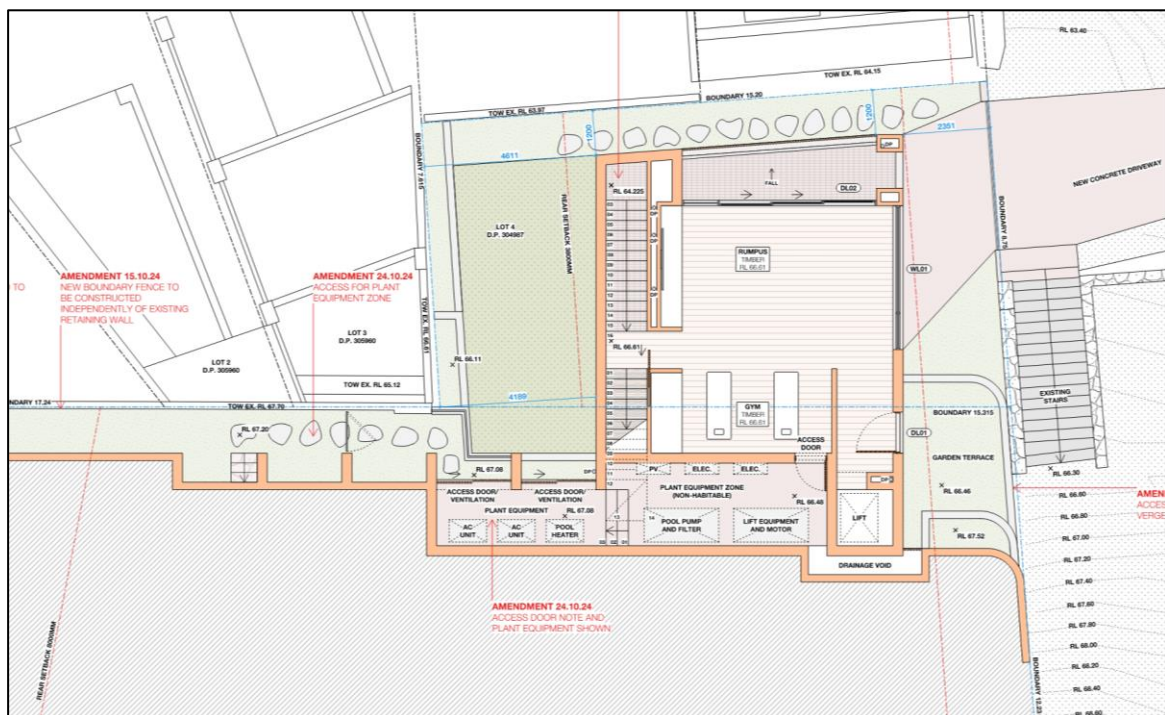


Figure 9. Extract of proposed lower ground level floor plan (Source: Baikie Corr Architecture and Interiors)

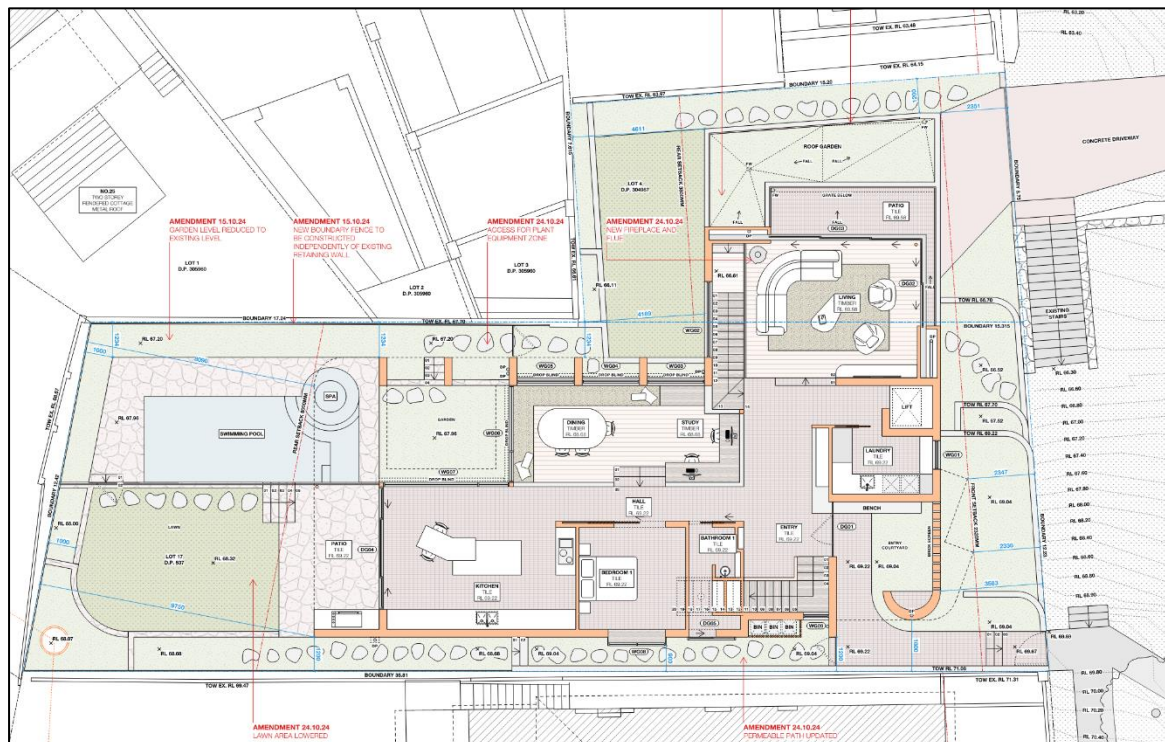


Figure 10. Extract of proposed ground level floor plan (Source: Baikie Corr Architecture and Interiors)

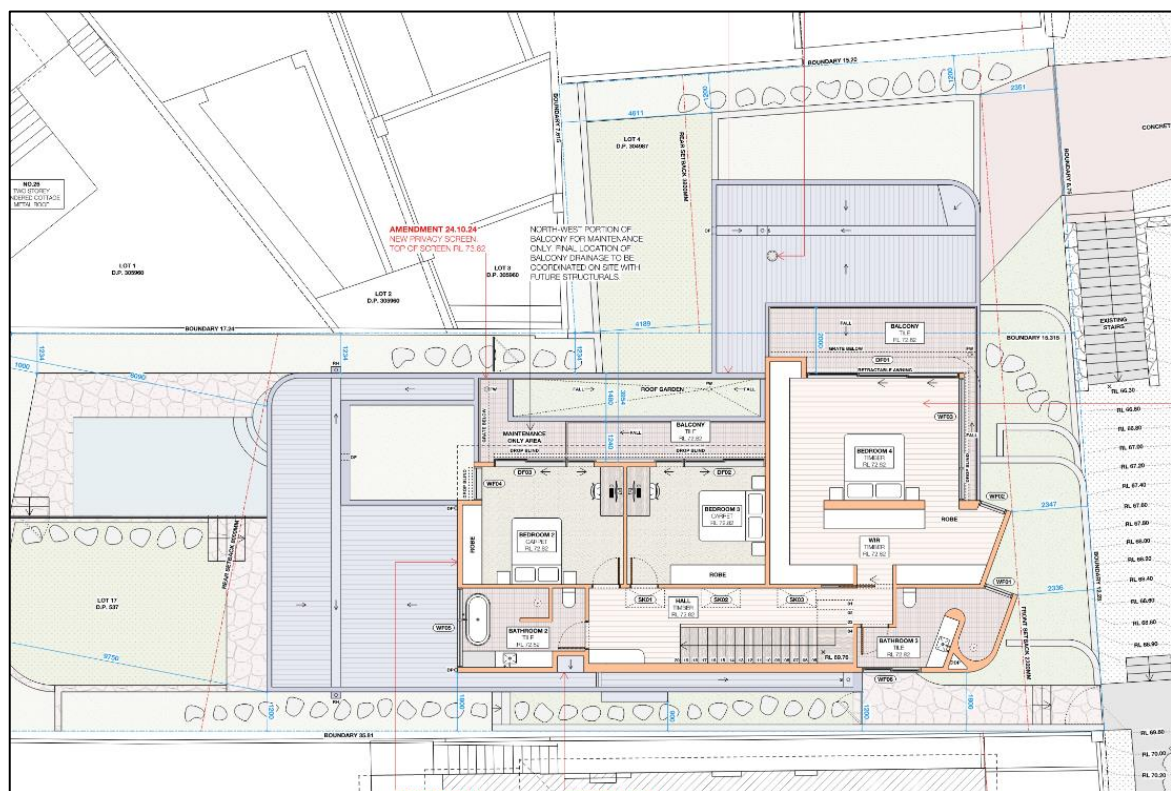


Figure 11. Extract of proposed ground level floor plan (Source: Baikie Corr Architecture and Interiors)

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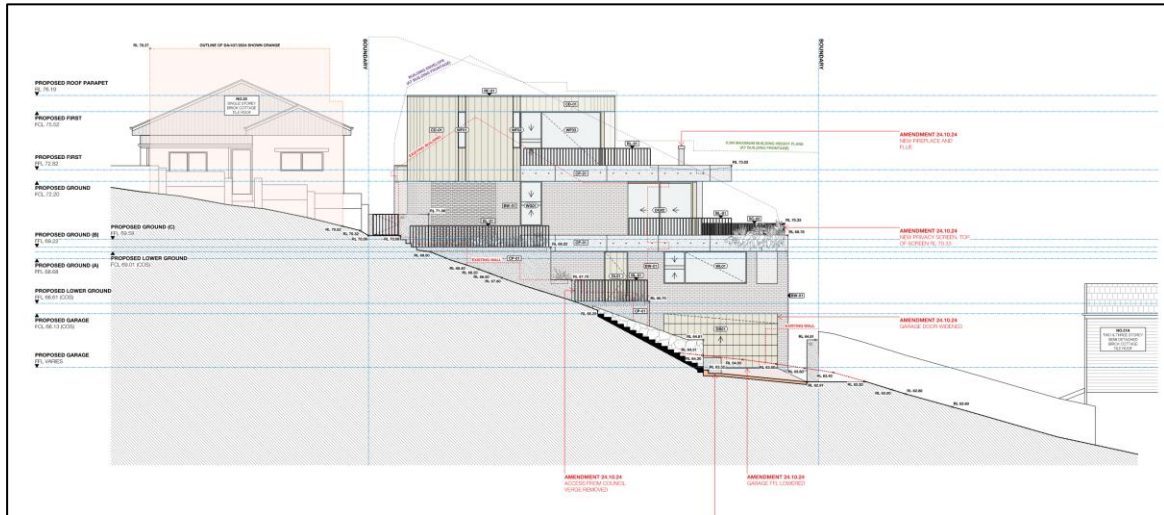


Figure 12. Extract of proposed street elevation (Source: Baikie Corr Architecture and Interiors)

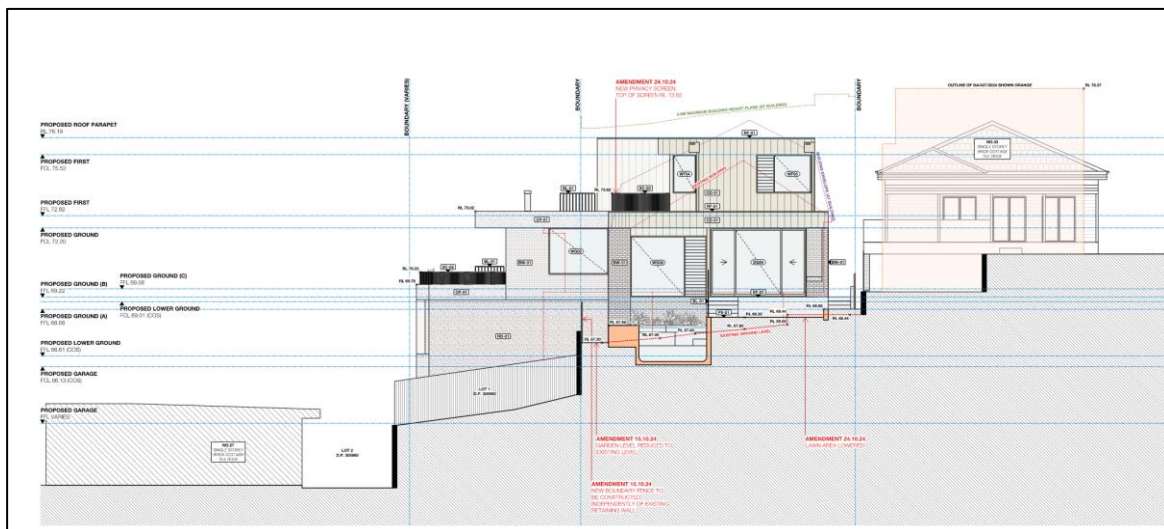


Figure 13. Extract of proposed northwest elevation (rear) (Source: Baikie Corr Architecture and Interiors)

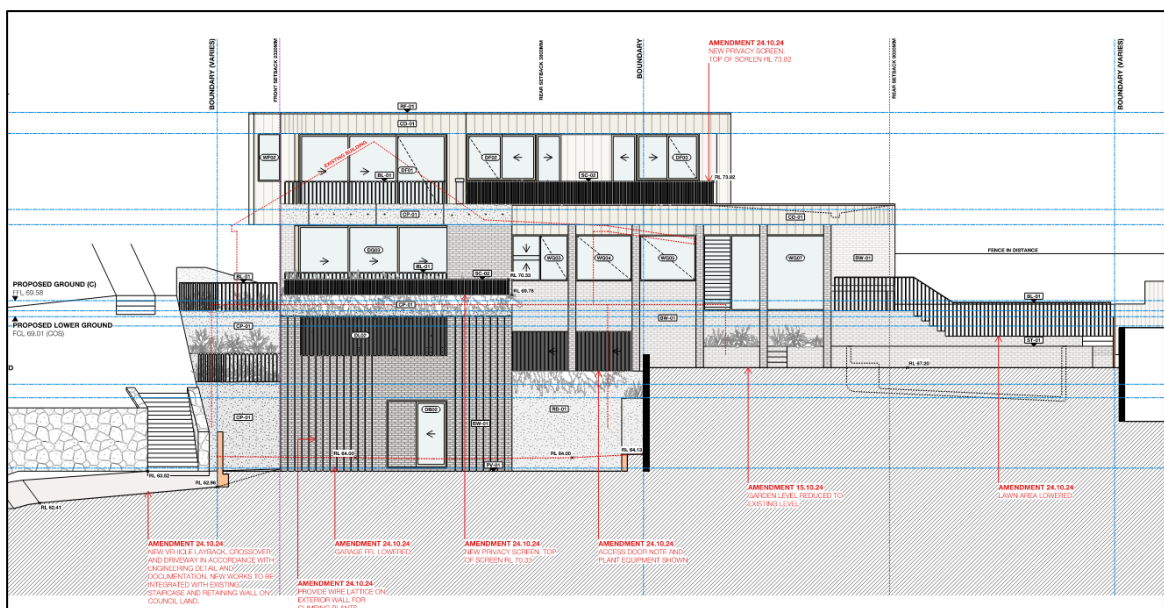


Figure 14. Extract of proposed northeast elevation plan (Source: Baikie Corr Architecture and Interiors)

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 initial notification process:

- 27 Varna Street, Clovelly (prepared by consultant)
- 29 Varna Street, Clovelly
- 31 Varna Street Clovelly
- 31A Varna Street, Clovelly
- 26 Douglas Street, Clovelly

5.1. Renotification

The proposed development was renotified between 6th November to 13th November 2024. The following submissions were received as a result of the notification process:

- 27 Varna Street, Clovelly
- 29 Varna Street, Clovelly
- 31 Varna Street, Clovelly (2 x submissions)
- 26 Douglas Street, Clovelly

The table below details issues raised in both the notification and renotification of the proposal to ensure that all issues raised in relation to the development have been appropriately considered in the assessment of the application.

31 Varna Street (3 x submissions across notification and renotification)

Issue	Comment
<u>Visual privacy</u> The proposed decks to each level look directly into the property and private open space The overlooking caused by the proposal is significantly worse than the previous DA of 2021 (DA/562/2021).	Privacy Sections submitted with the development show a reasonable level of privacy is retained to 31 Varna Street
31 Varna Street should not be used as a view corridor	Noted. The Privacy Sections submitted with Architectural Plans nominate that outlooks from the ground and first floor balconies will generally cast outlooks over the roof structures of Varna Street properties, with minimal overlooking to the POS and windows, due to the change in elevation between the sites.

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Issue	Comment
<p><u>Tree removal</u></p> <p>The high mature trees planted along the common boundary should be retained to provide privacy between the dwellings.</p>	<p>The proposed footprint of the garage makes the retention of existing trees along the common boundary with 31 Varna Street unfeasible. Council's Landscape Development Officer has reviewed the proposal and considers that the trees are in conflict with the works and insignificant in species and structure. While it is acknowledged that the existing trees provide screening between the subject site and 31 Varna Street, landscaping alone should not be relied upon as a permanent privacy treatment. Two (2) replacement trees are proposed along the common boundary to 31 and 31A Varna Street.</p>
<p><u>Fencing</u></p> <p>No details on fencing has been provided</p>	<p>Conditions of consent have been recommended to ensure boundary fencing achieves 1.8m in height along the boundary between the subject site and 31 and 31A Varna Street.</p>
<p><u>Stormwater and excavation</u></p> <p>Concerns about noise runoff and future stormwater issues relating to excavation</p>	<p>Conditions of consent have been recommended to manage any impacts from the earthworks, including structural stability of neighbouring structures and management of stormwater and sediment run off.</p>
Renotification	
<p>Note. The same comments in relation to excavation, stormwater management, tree removal and fencing were raised in renotification, and have been addressed above.</p>	
<p><u>Visual and acoustic privacy</u></p> <p>Acoustic and visual privacy impacts from the lower ground rumpus remain unchanged from the original proposal</p> <p>The amendments improve overlooking to 31 Varna Street (and other houses) from living room and bedroom decks, however construction detail of the privacy screens is not shown on the plans</p> <p>Concrete planters 1200mm high from finished floor level would be a solution that along the 31a and 31 Varna boundary would give reassurance of prevention of overlooking.</p>	<p>The balcony to the lower ground rumpus area features privacy screens to the full height of the elevation along the northeast boundary, reducing visual and acoustic privacy impacts. Conditions of consent will nominate the requirements of privacy screens (achieving a minimum of 70% opacity) to minimise visual and acoustic privacy impacts.</p> <p>Details on the privacy screen requirements are provided in the recommended conditions of consent.</p> <p>Council is satisfied that the Privacy Sections submitted with the amended proposal demonstrate reasonable levels of privacy are retained to 31 and 31A Varna Street. Refer to Key Issues section for detailed assessment.</p>

Issue	Comment
<p><u>Side Setbacks</u></p> <p>The proposed design does not achieve minimum side setbacks, creating visual and acoustic privacy impacts.</p>	<p>The proposed setback arrangement is considered to provide an appropriate response to constraints of the site. Council acknowledges that there are minor non-compliances to the side setback arrangement, which are largely confined to roof structures and privacy screens, and therefore do not impact on visual privacy to adjoining sites. The visual bulk associated with minor non-compliances close to the boundary is considered acceptable noting the steep topography of the site and that built structures at higher elevations are immediately behind.</p> <p>Refer to Key Issues section of this assessment report.</p>
<p>Rear setback control, 8m, should apply to side setbacks to 31 and 31A Varna Street, consistent with the existing dwelling at the site.</p>	<p>The northeast boundary is classified as a side setback, and therefore a minimum 1.2m side setback is required from existing ground level to a 4.5m building height above existing ground level.</p> <p>Council considers it to be unreasonable to require new development to provide a minimum 8m setback from a side boundary, reducing the development potential of the site and creating vacant space which would not meet the requirements for private open space as it is located within the front setback.</p> <p>Due to the irregular shape of the site, the development nominates two rear setbacks, varying from 8m at the longest length (southwest) of the site, to 3.85m at the shortest length of the site (northeast). The development complies with both nominated rear setbacks, reducing the visual bulk of the development as viewed from 31 Varna Street.</p>
<p>Views should be maximised over Douglas street rather than the Varna Street properties.</p>	<p>Water views which the dwelling may take advantage of are located and oriented southeast of the dwelling, primarily accessed over Douglas Street rather than the Varna Street properties. Investigations find that views over and beyond the Varna Street properties are primarily district outlooks associated with the canopy vegetation of Varna Park.</p>

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Issue	Comment
<u>Tree removal</u> The design should allow for the retention of tree, including street trees, which provide canopy and prevent overlooking.	<p>Council's Landscape Development Officer has reviewed the proposal and raises no objection to the removal of trees within the site, and the street tree in conflict with the driveway.</p> <p>Council's Landscape Development Officer has advised that despite the two street trees on the high side of Douglas Street being approved for removal under DA/562/2021, these trees are no longer in conflict with proposed works. Conditions are included to ensure they are retained.</p> <p>The street tree removed to accommodate the driveway will be replaced with a watergum achieving a mature height of 8m.</p> <p>New trees are proposed to be planted within the front setback of the site, and an additional canopy tree within the eastern corner of the site adjacent to 31A and No.29 Varna Street. The proposed plantings provide more suitable species for the local environment.</p>

31A Varna Street, Clovelly

Issue	Comment
<u>Visual privacy</u> Balconies and windows potentially overlooking the backyards of Varna Street properties	<p>The development has been amended to provide privacy screens to the balconies located along the northeast elevation of the proposal.</p> <p>Privacy Sections provided in the amended development show reasonable privacy retained to rear facing windows and POS of the development.</p>
<u>Tree removal</u> No objection to the removal of trees	Noted.
<u>Visual Bulk</u> Council should consider visual bulk and height restrictions associated with Varna Street properties located at lower elevations	<p>The development complies with the building height control under the RLEP 2012, and staggers the built form to respond to the topography of the site, reducing excessive visual bulk closer to neighbouring properties.</p> <p>The amended proposal provides climbing plants to the walls of the garage and lower ground level, to help soften the appearance of the development from properties at lower elevations.</p>
Renotification: No further comments received	

29 Varna Street, Clovelly (2 x submissions)

Issue	Comment
<p><u>Visual privacy</u></p> <p>Provide privacy screening to prevent overlooking into property.</p> <p>Further landscape screening should be provided along the common border to prevent direct viewing into the swimming pool.</p>	<p>A low rise privacy screen at the edge of the roof garden has been provided to the balconies off Bedroom 2 and Bedroom 3. Privacy Screens show a reasonable level of visual privacy is achieved.</p> <p>The dining room windows provide a sill height of 1.6m, prevent direct sightlines to neighbouring properties.</p> <p>The 1.8m boundary fence has been provided to replace the existing mesh wire fence along the boundary, which will improve the existing site arrangement in terms of overlooking.</p>
Renotification	
<p><u>Visual privacy and bulk</u></p> <p>Privacy screening to balcony appreciated.</p> <p>Request Council to consider any further screening to the development prior to determination</p>	<p>Noted.</p> <p>Landscape screening has been provided along the northwest boundary to 29 Varna Street, which will achieve a mature height of 4m above the proposed retaining wall structures, reducing the visual bulk of the lower ground and ground levels of the development. Canopy tree plantings also provided at the common boundary of the property on the low side of the site.</p> <p>Refer to Key Issues Section for detailed assessment of visual privacy</p>

27 Varna Street, Clovelly (prepared by consultant Philip Bull)

Issue	Comment
<p><u>Construction noise</u></p> <p>Associated with excavation near site boundaries. Conditions of consent should restrict hours of noisy works, give notice to neighbours.</p>	<p>Conditions of consent will detail hours which construction work is permitted, including hours for noisy works.</p> <p>Standard conditions will require a construction noise management plan to be prepared prior to the issue of a construction certificate.</p>
<p><u>Visual Privacy</u></p> <p>Existing levels along the common boundary should be retained as existing (RL 67.30). New fencing should be constructed at existing ground level, independently of the retaining wall.</p>	<p>The development has been amended to level the existing ground level at the boundary to RL67.20.</p> <p>Boundary Fencing is shown to be constructed independently of retaining walls structures along the boundary to 27 Varna Street</p>

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Issue	Comment
<p><u>Earthworks</u></p> <p>Potential impact of excavation on the retaining walls between the subject site and Varna Street properties. Movement of sandy soils around the retaining wall will likely displace the retaining wall and damage associated structures.</p> <p>Dilapidation and structural adequacy of the wall for the proposed wall should be undertaken prior to construction works</p>	<p>Conditions of consent have been included to require dilapidation and structural adequacy reports of the existing retaining wall to be prepared by a structural engineer prior to the issue of a construction certificate. Dilapidation reports will consider adjoining structures, including retaining walls and swimming pools, which could potentially be affected by the proposed earthworks.</p> <p>A Geotechnical Report accompanies the development application. Conditions are included to ensure recommendations of the report are adhered to in the design and construction phase of the development.</p>

27 Varna Street, Clovelly (prepared by owner)

Issue	Comment
<p><u>Earthworks and neighbouring structures</u></p> <p>The structural integrity of the retaining wall is required to be confirmed. Impacts to the retaining wall will result in damage to the existing swimming pool at 27 Varna Street</p>	<p>Conditions of consent have been included to require dilapidation and structural adequacy reports of the existing retaining wall to be prepared by a structural engineer prior to the issue of a construction certificate.</p> <p>A Geotechnical Report accompanies the development application which makes specific reference to adjoining retaining walls structures in developing recommendations to manage the design and construction process. Conditions are included to ensure recommendations of the report are adhered to in the design and construction phase of the development.</p>

26 Douglas Street, Clovelly (2 x submissions)

Issue	Comment
<p><u>Tree removal</u></p> <p>Any street trees removed should be replaced with mature trees to ensure sufficient canopy and screening to the public domain.</p>	<p>Conditions of consent will require the two street trees on the high side of Douglas Street to be retained as a part of the development. The existing street tree adjacent to the driveway crossover is in conflict with the works and required to be removed. Conditions will require a more suitable species to replace the existing tree, however Council does not deem it necessary to require the tree to be mature in height and spread at the time of planting.</p>

Issue	Comment
<u>Parking during construction</u> A no parking zone should be designated for the driveway of 35 Douglas Street	<p>Conditions of consent have been included requiring the preparation of a construction site management plan, which would detail traffic management details, as well as public safety and site management to ensure pedestrian safety and traffic flow during the site work.</p> <p>Parking on driveway crossovers (public land) is not permitted. Council can investigate illegal parking separately.</p>
Renotification:	
<u>Tree removal</u> The removal of trees is being used to gain views to the sea, and do not appear to interfere with driveway. The trees should be pruned not removed.	Council's Landscape Development Officer reviewed the proposal and notes that the tree in question is an exotic species which is exempt under RDCP 2013, meaning that anyone could remove the tree without Consent. Council is supportive of the removal of this tree, and will condition that a watergum achieving a mature height of 8m be planted to replace the loss of canopy.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and SEPP (Sustainable Buildings) 2022. The submitted BASIX Certificate includes a BASIX materials index which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

6.2. SEPP (Biodiversity and Conservation) 2021

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

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

The proposed development involves the removal of vegetation. Council's Landscape Development Officer reviewed the proposal and confirmed support for the proposed removal and landscaping treatments within the site, subject to the imposition of conditions (refer to Referrals section below). Council's Landscape Development Officer has advised that the two existing street trees located on the high side of Douglas Street are not impacted by the proposed development and therefore are required to be retained by way of conditions. The removal of the street tree to accommodate the driveway crossover is supported, and a condition is imposed to require the tree to be replaced with a more suitable species. As such, the proposal satisfies the relevant objectives and provisions under Chapter 2.

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6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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

The subject site has only previously been used for residential accommodation and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving construction of a new dwelling) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, the provisions of RLEP 2012 (Amendment No. 9) are applicable to the proposed development, and the proposal shall be assessed against the updated RLEP 2012. The site is zoned Residential R2 Low Density 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	0.624:1 (337.9m ² /541.5m ²)	Yes
Cl 4.3: Building height (max)	9.5m	9.3m	Yes

6.4.1. Clause 6.2 - Earthworks

The objective of clause 6.2 of RLEP 2012 is to ensure that earthworks, for which development consent is required, will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items, or features of the surrounding land.

The proposal involves excavation works up to a depth of 4.1m to accommodate the garage level (including lift and service areas) of the building envelope. Within the rear yard, excavation to a depth of 1.6m is proposed to accommodate the swimming pool, along with terracing of the rear yard to provide usable private open space.

Neighbouring submissions have raised concern that significant earthworks at the site may impact upon the structural integrity of the existing retaining walls located along the boundary between the subject site and 27-31A Varna, located at a lower elevation than the subject site.

A Geotechnical Report prepared by AscentGeo, date 13th June 2024, accompanies the development application, and determines that the proposed development is suitable for site, subject to recommendations contained within the report being adhered to during the design and construction of the development. Conditions of consent are included to ensure recommendations of the geotechnical report prepared by AscentGeo, dated 13th June 2024, are adhered to throughout the design and construction phase of the development.

Council's Development Engineer reviewed the proposal, and raise no objection subject to conditions relating to stormwater management and construction operations throughout the development.

Accordingly, Council is satisfied that the development satisfies clause 6.2(3) in that:

- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability, and adjoining structures at neighbouring properties and public land
- The proposed excavation area responds to the topography of the site
- The site has been used for residential purposes for an extended period of time and is unlikely to contain contaminated soil;
- Subject to conditions, the proposed excavation will not result in any adverse impact on the amenity of adjoining properties.
- Conditions of consent are imposed to manage the removal of demolition and excavation waste.
- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area nor is listed as a heritage item; and
- The scale and siting of the proposal minimises impact on waterways, water catchments, and environmentally sensitive areas.

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 Section below

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant 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

Visual Privacy

Part C1 Section 5.3 of RDCP 2023 seeks to ensure that development minimises overlooking or cross-viewing of neighbouring dwellings to maintain reasonable levels of privacy.

During the notification of the development, submissions from neighbouring properties adjoining the site along Varna Street, and opposite the site at 26 Douglas Street, raised concern about potential overlooking from the development.

Privacy Sections have been included within the Architectural Plans which show the anticipated outlooks over the Varna Street properties from each level of the development. The Privacy Sections show that the development retains a reasonable level of privacy to neighbouring dwellings. An assessment of potential visual privacy impacts from each level of the dwelling is provided below:

Garage level

The siting of windows does not raise concern in relation to visual privacy, with the only window provided being to a bathroom, located below the height of the boundary retaining wall to No.29 Varna Street.

No change to the existing boundary fence adjoining 31 and 31A Varna Street is proposed. Conditions will require a 1.8m fence to be provided to the northeast boundary.

Lower Ground level

The balcony accessed off the rumpus area features full height privacy screens to the northeast elevation, above a 1m high masonry wall. Concern has been raised regarding the potential

overlooking from the balcony to neighbouring properties. Recommended conditions of consent nominate the required composition of the privacy screening to prevent overlooking to adjoining properties (openings of not greater than 30mm, or slanted louvres). Subject to conditions the balcony screening is considered to be appropriate.

The lower ground rumpus room and associated balcony provides outlooks across Douglas Street. The distance across the road reserve between 35 Douglas Street and 26 Douglas Street is considered to be a typical arrangement for a low density residential locality and therefore satisfactory. There are no other windows or entrances overlooking side boundaries to the lower ground level.

Ground level

The balcony terrace accessed off the living area is oriented to the northeastern side boundary of the site. In an attempt to limit the requirement of Council's standard 1.6m high privacy screens, the Architecture plans have nominated low privacy screens at a further distance (750mm height), to the edge of the roof top gardens. Privacy Sections submitted with the Architectural Plans show that sightlines from the living room terrace do not overlook the rear gardens of No.31 and No.31A Varna Street, and do not directly look into rear facing windows or balconies. Council considers that the size of the terrace is generally modest in size, with a depth of 1.65m, limiting potential use of the terrace as an entertaining area. The separation between the rear facing windows of the first floor envelope of 31 and 31A Varna Street (located directly opposite) is in excess of 16m, equivalent to two (2) minimum rear setbacks of 8m, achieving adequate separation between properties to limit direct overlooking. Accordingly, the living room terrace is considered to provide an acceptable arrangement to avoid overlooking to neighbouring properties, in the circumstances of the case.

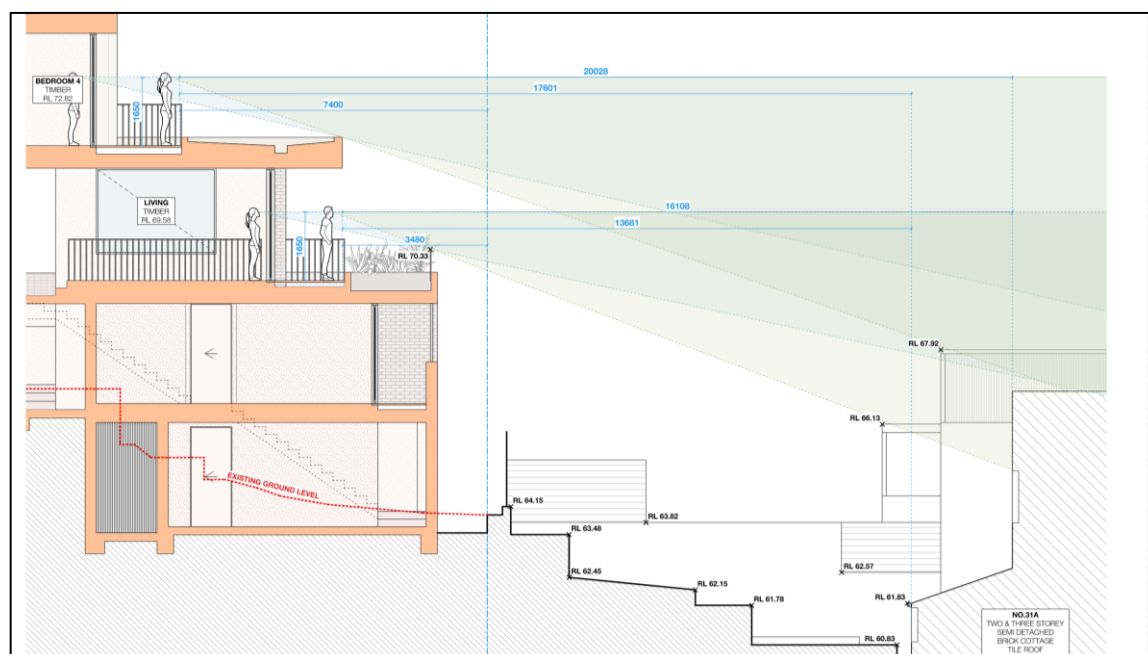


Figure 15. Privacy section to 31A and 31 Varna Street (Source: Baikie Corr Architecture).

The ground level windows to the dining room (WG03, WG04, WG05) have a sill height of 1.6m from the finished floor level, and therefore do not result in overlooking to No.27 and No.29 Varna Street.

The only window opening to a habitable room along the southwestern elevation is to Bedroom 1. Due to No.33 Douglas Street being located higher than the subject site, and a 1.8m boundary fence being proposed along the southwest boundary, the window opening does not raise concern in relation to visual privacy.

First Floor level

To the first floor, Bedrooms 2,3 and 4 all provide windows and balconies, which address the northeast boundary over the rear boundaries of the Varna Street properties.

Privacy Sections submitted with the Architectural plans show that outlooks from the bedrooms balconies generally fall over the roof structures of the neighbouring properties due to the change in elevations, siting of the development, and the privacy treatments proposed. Similar to ground level privacy treatments, the Architectural plans nominate low privacy screens to the edge of the roof top gardens of bedroom 2 and 3 (1m in height). Some minor overlooking to the uppermost portion of rear facing windows of 31 Varna Street is shown in the privacy section (Figure 16). Outlooks from the terrace to Bedroom 4 are cast over the roof structures of adjoining dwellings.

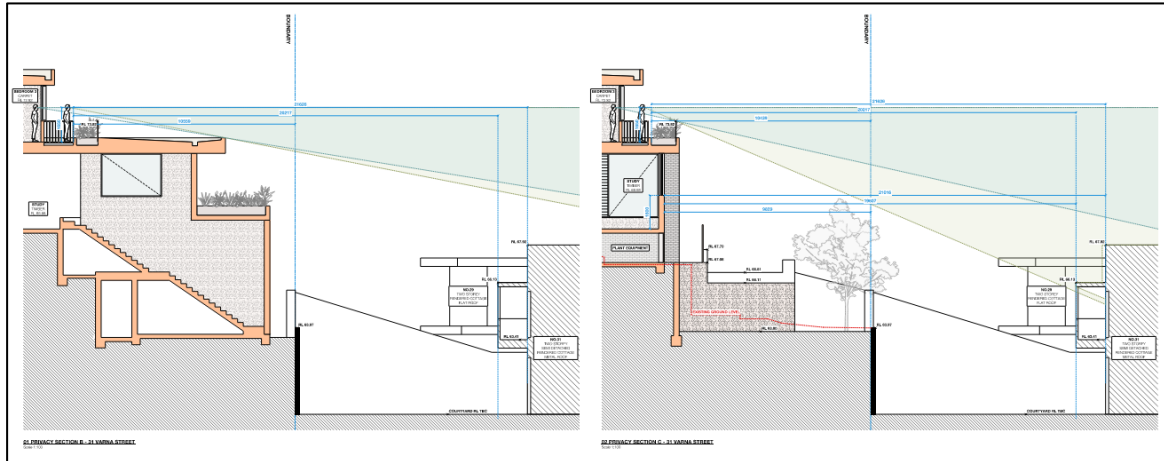


Figure 16. Privacy Sections from first floor level (Source: Baikie Corr Architecture).

Council notes that Privacy Sections only provide an anticipated outlook to neighbouring properties from a singular point, and from an assumed eye level height of 1.65m. From a more general consideration of the proposed balcony arrangement, it is noted that the balconies to Bedrooms 2 and 3 feature a depth of approximately 1.15m, limiting the use for entertaining purposes, and general use for extended periods of time. The northwestern portion of the balcony is nominated as non-trafficable, being reserved for maintenance/ drainage servicing, further limiting the use of the area.

The distance between the edge of the balconies and the building lines of adjoining properties generally vary between 18m to in excess of 20m, comparable to the distance between the minimum of two adjoining rear setback requirements under Council's DCP. At this distance, and with the inclusion with the proposed privacy treatments, and considering these balconies are off bedrooms (low activity spaces), any potential views between properties form a small portion of a general outlook, rather than direct overlooking/cross viewing between properties. Council is therefore satisfied that the first floor balconies retain a reasonable level of privacy to neighbouring dwellings.

Privacy Sections from the bedroom windows to the northeast elevation show sightlines are cast of the roof tops of adjoining dwellings.

Along the southwest elevation adjoining 33 Douglas Street, the only window opening is to Bathroom 1 towards the front of the dwelling (WF06). Conditions of consent will require the window to be treated with fixed obstructured or sandblasted glazing to a height of 1.6m from the finished floor level.

Rear garden

The proposed development involves terracing the rear yard to improve functionality, with an entertaining terrace and lawned area on the high side, and a swimming pool located to the low side of the rear garden.

As noted further under the Deep Soil Discussion in this report, non-standard conditions are recommended to require the paved pool coping to be reduced in width by 500mm to the northeast and southwest elevations, to accommodate more deep soil planting across the site. The recommended amendments will reduce the pool coping to a width of approximately 850mm, limiting the use of the area. Recommended conditions have been included to ensure screen planting along the northeast boundary, adjacent to the pool, achieves a minimum height of 1.8m to provide a suitable buffer area.

Site visits have observed that the existing boundary fencing along the northeast elevation comprises of meshwire fencing, less than 1.8m in height, which does not provide adequate screening to neighbouring properties. A new 1.8m boundary fence is proposed along the northeast elevation to improve the existing privacy arrangement to the Varna Street properties. The existing ground level at the boundary is proposed to be retained as existing, and landscaping provided along the boundary, where not in conflict with pedestrian access, limiting further privacy impacts.

The entertaining and lawned area on the highside of the rear garden are considered to be sufficiently setback from the northeast boundary to maintain a reasonable level of visual and acoustic privacy.

In light of the above assessment, Council is satisfied that the proposed development, subject to conditions, satisfies the relevant objectives of Part C1 Section 5.3 of RDCP 2023 to maintain a reasonable level of privacy between dwellings and prevent direct overlooking and crossviewing.

Side Setbacks

Part C1, Section 3.3.2 of RDCP 2013 establishes the following minimum side setbacks:

- Building height up to 4.5m: minimum 1.2m setback.
- Building height up to 7m: minimum 1.8m (approx.) setback.
- Building height up to 9.5m: minimum 6.8m (approx.) setback.

Figure 17 and 18 shows the side setback arrangement of the proposed development, as viewed from the front and rear elevations. Red shading denotes areas of the building envelope which do not comply with the side setback provisions.

This architectural section drawing illustrates a building's internal structure and layout. The drawing is bounded by a 'BOUNDARY' line on the left and right. Key features include:

- Structural Elements:** Walls are shown with brickwork patterns. Floors and ceilings are indicated by horizontal lines. A 'BUILDING ENVELOPE (AT BUILDING FRONTAGE)' is marked with a dashed line.
- Rooms and Spaces:** Various rooms are labeled with codes such as CD-01, WF01, WF02, CP-01, BW-01, DL-01, RC-01, RC-02, and DB-01. Arrows indicate the flow of movement between these spaces.
- Elevation Markers:** Numerous spot heights are provided in meters above sea level (RL), including RL 71.08, RL 70.08, RL 70.05, RL 69.00, RL 68.40, RL 68.20, RL 68.00, RL 67.80, RL 67.70, RL 66.70, RL 66.20, RL 64.81, RL 64.31, RL 64.20, RL 64.00, RL 63.52, RL 63.40, RL 63.30, RL 62.97, RL 63.20, RL 70.32, RL 70.08, RL 69.00, RL 68.22, RL 73.02, RL 70.33, and RL 69.78.
- Other Features:** A '9.5M MAXIMUM BUILDING HEIGHT PLANE (AT BUILDING FRONTAGE)' is indicated by a horizontal line. A 'BOUNDARY' line is also shown on the right side of the drawing.

As viewed from the street, the southwest elevation demonstrates full compliance with the side setback provisions. Due to the fall of the site towards the rear, the development presents a minor non-compliance to the southwest boundary when viewed from the rear, which is considered negligible as it is limited to a minor area of the roof form which has no appreciable impact on neighbouring dwellings. The projection of the ground floor window to Bedroom 1 achieves a 900mm setback, encroaching into the side setback area, however, is limited to the area of the window, elevated above the ground level, and is considered to result in a negligible impact on 33 Douglas Street, located at a higher elevation.

To the northeast elevation, the development complies with side setbacks to a height of 4.5m, after which non-compliances are identified to the upper levels of the lower ground, ground and first floor envelopes. The non-compliances to the lower ground and ground level are predominantly restricted to roof structures of the level above, and are largely associated with required privacy treatments for the development. The roof structure over the balcony of the ground level living room acts as a privacy treatment for the level above, restricting views to adjoining properties from Bedroom 4. The eaves structure is considered acceptable as it does not result in unreasonable overshadowing, excessive visual bulk, and improves privacy arrangements at the site.

As viewed from the rear, the non-compliances to the side setback of Bedroom 2 and 3 are again predominantly restricted to the roof structure, and do not raise concern in relation to visual or acoustic privacy, or unreasonable overshadowing to neighbouring sites.

As discussed above, low level privacy screens have been provided at the edge of roof gardens to the living room terrace and the Bedrooms 2 and 3. The screens, while improving privacy, encroach into the side setback area. The non-compliance is considered acceptable as the screens present a considerably minor encroachment, which is materially different to the masonry walling below, providing visual articulation to reduce the bulk of the development.

While there is a significant encroachment to the first floor envelope to bedroom 1, due to the steep topography of the site across the street frontage, requiring strict compliance with side setback provisions at this level is considered unreasonable, as it would significantly restrict the built form which could be achieved at the site. The setback to Bedroom 4 is at a minimum 8.9m from the northeast boundary, providing reasonable separation to adjoining sites to achieve reasonable privacy and solar access, as is demonstrated within this report.

In light of the above merit assessment, the proposed development is considered to be consistent for the relevant objectives of Part C1 Section 3.3 of RDCP 2023 for the following reasons:

- The non-compliance is directly resultant of the sloping topography of the site, as evidenced by the compliant setbacks to the 'high' side of the development site.
- The extent of non-compliance is considered to be minor in relation to the overall built form of the development.
- The form and massing of the development complements and enhances the streetscape character and maintains the predominant three (3) storey street frontage along the northern side of Douglas Street.
- Adequate separation is provided between neighbouring buildings for visual and acoustic privacy and solar access, as has been discussed in this report.
- Adequate areas are provided for private open space and deep soil planting are provided, subject to recommended conditions.
- Reasonable levels of view sharing are maintained between the subject development, neighbouring dwellings, and the public domain, as is discussed in this report.
- Insistence on strict compliance with the side setback controls would significantly reduce the achievable development potential of the site in accordance with the applicable statutory planning framework and result in an irregular shaped built form.

Front setback

Part C1 Section 3.3.1 requires the front setback of development to be consistent with the average setbacks of the adjoining dwellings.

The existing dwelling-house is setback 1.58m-2.05m to the front boundary at Douglas Street. The development proposes a variable front setback to the ground levels (basement to ground floor) of 2.351m to 3.583m. A variable front setback to the first floor of 2.336m to 2.8m is provided.

The development only adjoins one dwelling with a primary front setback to Douglas Street (33 Douglas Street). The adjoining dwelling to the northeast is 31A Varna Street, which provides a secondary street setback to Douglas Street. Setbacks to Douglas Street of adjoining dwellings are as follows:

- 33 Douglas Street: Existing: 3.8m, Approved (DA/437/2024): 3.17m
- 31A Varna Street: 1m (secondary frontage)

The average setback of the existing adjoining properties to Douglas Street, including 31A Varna Street, is 2.4m. The setback would decrease when considering the approved development at 33 Douglas Street (DA/437/2024). As adjoining properties with a secondary frontage are not typically relied upon in determining the suitability of the front setback, consideration of the development against the objectives of Part C1 Section 3 is provided.

The proposed front setback is considered to remain consistent with the objectives of section 3.3 of RDCP and therefore satisfactory for the following reasons:

- The new dwelling-house has been sited to respond with the sloping topography of the site and generally responds to the front setbacks of the existing and approved dwelling-houses.
- The proposed front setback provides an appropriate transition between the front setbacks of the adjoining properties at 33 Douglas Street and 31A Varna Street.
- The existing dwelling-house is setback 1.58m-2.05m, and therefore the proposed development is improved compared to the existing front setback arrangement to the site.
- The front setback is varied between the different levels of the dwelling-house, providing sufficient articulation to the front façade to provide visual interest to the site.
- The proposal allows for adequate deep soil landscaping within the front setback.
- Distributing the bulk of the dwelling towards the street frontage helps minimise the visual bulk impacts to the seven properties which adjoin the side and rear boundaries of the site.
- The siting of the front setback enables reasonable view sharing to be retained from surrounding properties, as has been discussed in this report.
- The proposed front setback is consistent with the alignment of the dwelling approved at the site under DA/562/2021, which may still be acted upon.
- The proposal upholds the relevant objectives of the setback controls and no significant adverse amenity or visual impacts to the neighbouring properties occur as a result of the front setback, with regards to overshadowing, solar access, views and privacy.

Deep Soil

Part C1 Section 2.6 nominates the required deep soil permeable surfaces for a site, to ensure that development provides sufficient area to accommodate canopy trees and stormwater drainage.

For the subject site, with an area of 541.5m², 40% of the site area (216.5m²) is required to accommodate deep soil permeable area.

While the architectural plans nominate sufficient deep soil across the site, Council determines a minor discrepancy, calculating 211 m² of deep soil, equating to 38.9% of the site area.

To offset the discrepancy, conditions of consent are recommended to require the extent of the paving surrounding the pool (including spa pool area) to be reduced by 500mm to the northeast and northwest boundary, and replaced with deep soil plantings (Figure 19). The amendment will provide approximately 6.5m² of additional deep soil area, bringing the development into compliance (217.5m² total/ 40% site area). This amendment also reduces the proximity of the elevated pool coping to the side and rear boundaries, and limits the width to minimise use of the area, reducing potential visual and acoustic privacy impacts.

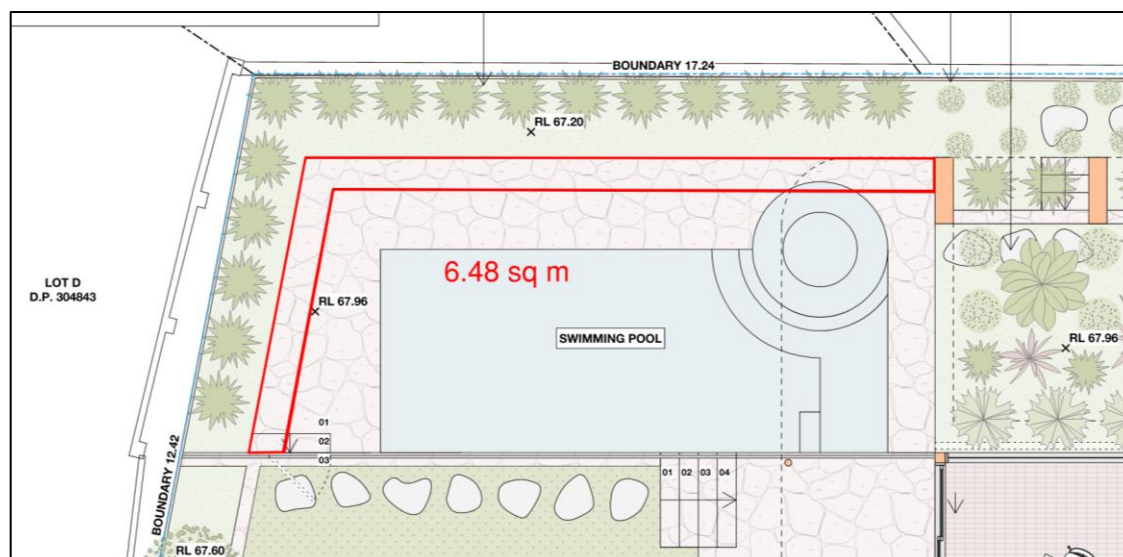


Figure 19. Landscape Plan detailing recommended increase to deep soil area.

The development provides sufficient canopy tree planting, quality landscaping, and an adequate stormwater drainage arrangement. Accordingly, subject to the recommended conditions of consent the proposal will apply with the relevant controls, and achieve the objectives of Part C1 Section 2.6 of the RDCP 2023.

Building Height – Three Storey Presentation

Pursuant to Part C1, Section 3.2 of RDCP 2013, development should retain a two-storey height to the street frontage, and any habitable space located above the first-floor level should be integrated into the building roof form and roofline.

An alternative design that varies from the two (2) storey height and street frontage in the R2 zone may be acceptable having regard to the following considerations: site topography; site orientation; allotment configuration; flooding requirements; allotment dimensions; and potential impacts on the visual amenity, solar access, privacy, and views of the adjoining properties.

The development proposes a dwelling house set over four storeys, with each level stepped across the Douglas Street frontage. While the design of the building generally limits the height of the development to two levels at each section of the street frontage, when viewed in its entity from the low side of Douglas Street, the development presents as three to four storey structure. When viewed from the high side of Douglas Street, the development presents as two storey above the street level.

From a review of the surrounding streetscape, it is observed that a three storey presentation is not out of character with the existing, and recently approved development (Figures 20-22 below), which have also been designed to respond to the topography of the land to present as three storey structures on the low side of the site:

- No 33 Douglas street (adjoining site to the southwest), has recently been approved for a part two-part three storey dwelling house with secondary dwelling (DA/437/2024)
- No. 31 Douglas Street accommodates a part two-part three storey dwelling house.
- No.27, 29 and 29A Douglas Street accommodates dwellings comprising double garages on the boundary at street level, with two storey dwellings elevated above.

D3/25



Figure 20. Approved development at 33 Douglas Street, Clovelly - DA/437/2024 (Source: Brian Van Der Plaats Studio).



Figure 21. Existing three storey development at 31 Douglas Street, Clovelly



Figure 22. Existing three storey development at 27-29A Douglas Street (Source: Google Maps).

The proposed built form arrangement of the development is considered to satisfy the relevant objectives of Part C1 Section 3.2 of RDCP 2023 for the following reasons:

- The massing of the development is appropriately stepped across the site to respond to the existing topography of the site
- The development complies with the maximum 9.5m development standard pursuant to clause 4.3 of RLEP 2012.
- Neighbouring properties on the northern side of Douglas Street are occupied by three (3) storey dwellings with at-grade or semi-basement car parking. In this regard, the proposed built form is consistent with the prevailing scale and character of the surrounding locality.
- The built form arrangement reduces the visual bulk when viewed from the street through generally limiting three storey presentations to the lower side of the site, as has been achieved for surrounding development on the northern side of Douglas Street.
- As demonstrated in this report, the additional storeys do not give rise to significant adverse impacts to neighbouring properties with regard to visual privacy, solar access, and views.
- The general built form arrangement is consistent with DA/562/2021, approved for the construction of a part two- part four storey dwelling on the subject site.

In light of the above, the development is considered to satisfy the relevant objectives of Part C1 Section 3.2 of RDCP 2023 and is supportable in the circumstances of the case.

View Sharing

View sharing is to be considered where there is potential for view loss impacts to ensure the equitable distribution of views between new development, neighbouring properties, and the public domain. Part C1 Section 5.6 of RDCP contains provisions in relation to view sharing.

No submissions were received during the notification period in relation to view loss. Despite this, Council must consider the impact that the proposed development will have on existing views from surrounding properties. Council has observed that ocean views are currently available from the subject site to the southeast over Douglas Street (Figure 22). District outlooks of the surrounding

locality are available from the rear of the property due to its elevated position above the dwellings lining Varna Street.



Figure 23. Existing views from the property, showing ocean outlook on the horizon to the east, over Douglas Street.

A review of available information has indicated that currently the existing single storey dwelling at 33 Douglas Street is not afforded water views across Douglas Street, with sightlines being blocked by existing development at 35 Douglas Street. The Survey Plan nominates windows to the side elevation to have a sill height of RL 72.45. The roof structure to 35 Douglas Street extends from RL72.37 at the base, to RL75.15 at the ridge, obstructing views from windows located on side elevations.

Any district outlooks to the rear would likely be retained from the rear garden of 33 Douglas Street due to the significant elevation above the rear garden of 35 Douglas Street.

Council has recently approved a development application for the construction of a part two- part three storey dwelling at 33 Douglas Street (DA/437/2024). Council is satisfied that the subject development would enable reasonable view sharing to be achieved to the dwelling approved at 33 Douglas Street, noting the following:

- Development consent issued for DA/437/2024 contains conditions requiring all first floor windows along the eastern elevation (common boundary between 33 and 35 Douglas Street), to provide privacy treatments to a height of 1.6m. In this regard, it is considered that the development approved under DA/437/2024 is not afforded any views over the side boundaries of the subject site.
- The approved east-facing balcony at the first floor level (Figure 24), has an approved floor level of RL 75.17. Noting that the proposed maximum height of the subject development is RL 76.19 (1.02m higher), water views would remain available over the subject site and Douglas Street to the southeast.

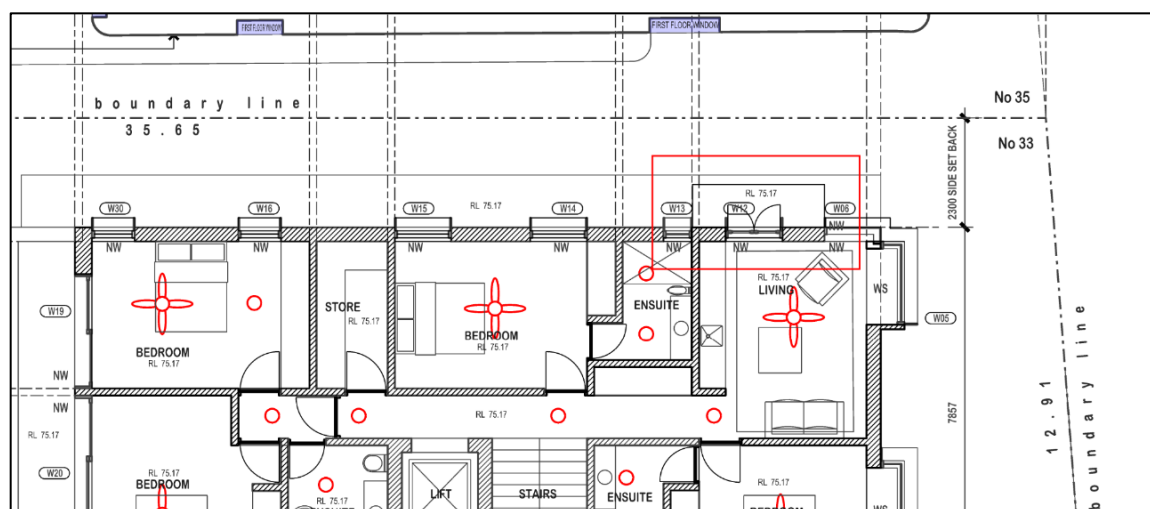


Figure 24. Extract of approved first floor plan for 33 Douglas Street, DA/437/2024, side balcony shown with red outline (Source: Brian Van Der Plaats Studio).

Due to the topography of the surrounding streetscape, it is considered that the height of the proposed development would not unreasonably impact upon any views obtained from other properties along Douglas Street.

Earthworks

The provisions of Part C1 Section 4.7 of RDCP 2023 aim to minimise change to the natural ground levels, streetscape, and natural environment.

Control i) requires any excavation and backfilling within the building footprint to be limited to a maximum 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification.

The proposal involves excavation works up to a depth of 4.1m to accommodate the garage level of the building envelope, with the lowest point being the lift void and servicing areas. Within the rear yard, excavation to a depth of 1.6m is proposed to accommodate the swimming pool, along with terracing of the rear yard (changes to existing elevation less than 1m in height) to provide usable private open space. The existing ground level is to be retained along the northeast boundary adjoining the Varna Street properties, reducing potential visual privacy impacts associated with level changes.

The subject site is significantly sloped and as such, excavation to accommodate the requirements of the basement garage being parking, storage, lift and stair access is not considered excessive. The proposal is considered to provide a suitable outcome for the dwelling footprint and rear garden, which utilises the existing undercroft area beneath the existing dwelling-house to deliver a split level design, and terracing to improve the amenity of the rear yard for passive recreational activities.

D3/25

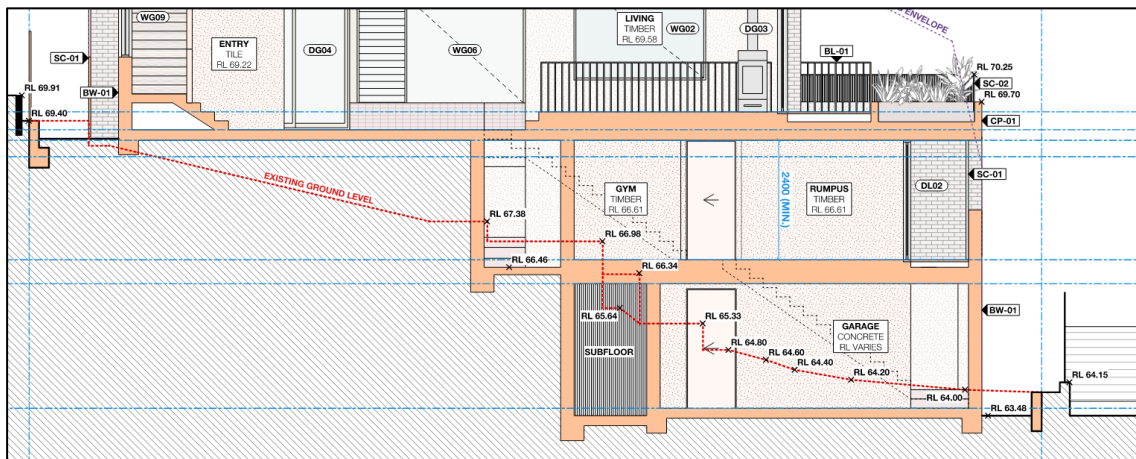


Figure 25. Section plans showing levels of excavation to accommodate the dwelling footprint (Source: Baikie Corr Architecture).

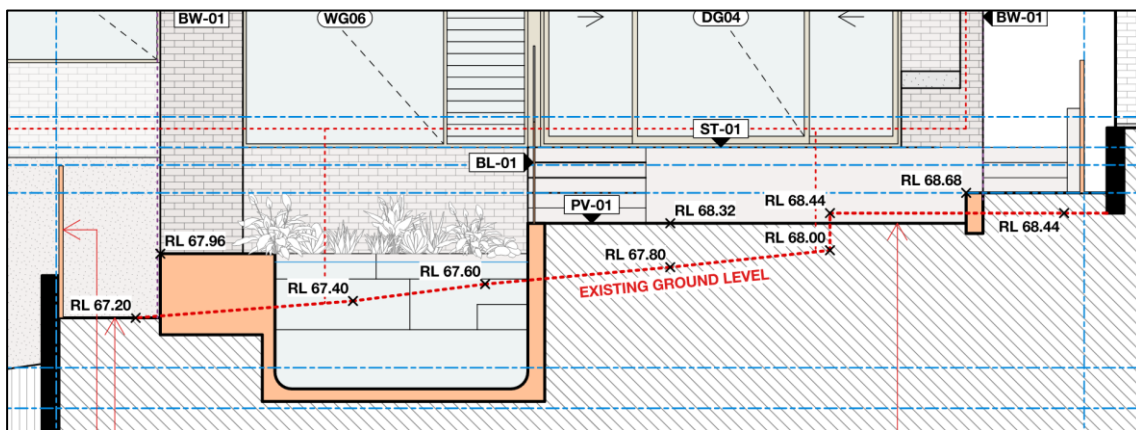


Figure 26. Rear elevation plan, showing excavation and fill within the rear garden to accommodate swimming pool and garden terracing for usable space (Source: Baikie Corr Architecture).

Further controls under Section 4.7 (ii and iv) require retaining walls to be located 900mm from site boundaries, and to be stepped in response to the natural landform to avoid creating monolithic structures, particularly where visible from the neighbouring dwellings and the public domain.

The existing retaining walls along the street boundary are proposed to be removed and reconstructed to a maximum height of 2.2m, stepping along the frontage of the site (refer Figure 25). The existing site arrangement accommodates full height walls to conceal the dwelling undercroft area adjacent to the front walls (landing height RL 69.43). The proposed retaining walls achieve a maximum height of RL 69.22, which provides a comparable outcome in relation to visual bulk and presentation to the street. Landscaped area and open balustrade front fencing is proposed directly above to soften the visual prominence of the retaining walls.

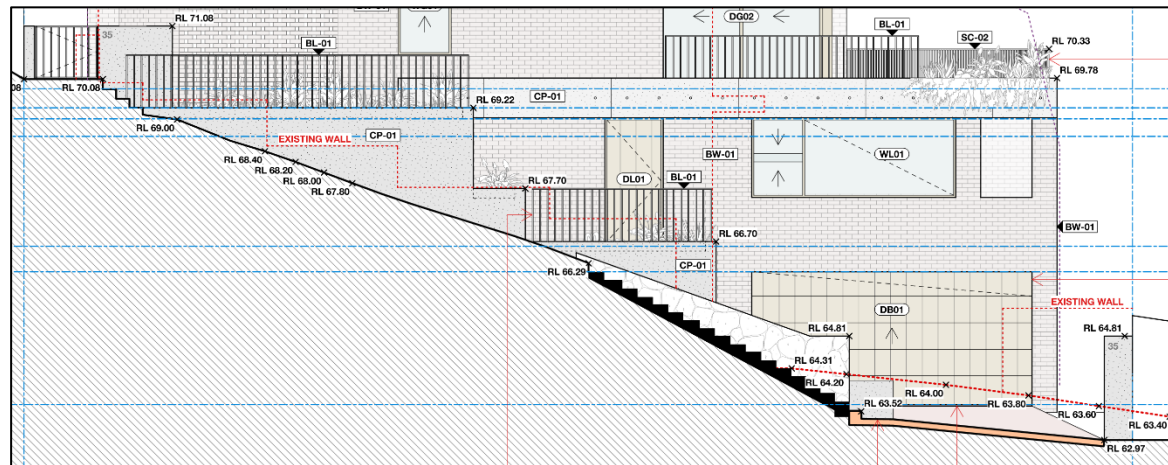


Figure 27. Street elevation, showing new retaining wall structures on the boundary, to replace existing walls, dashed red (Source: Baikie Corr Architecture).

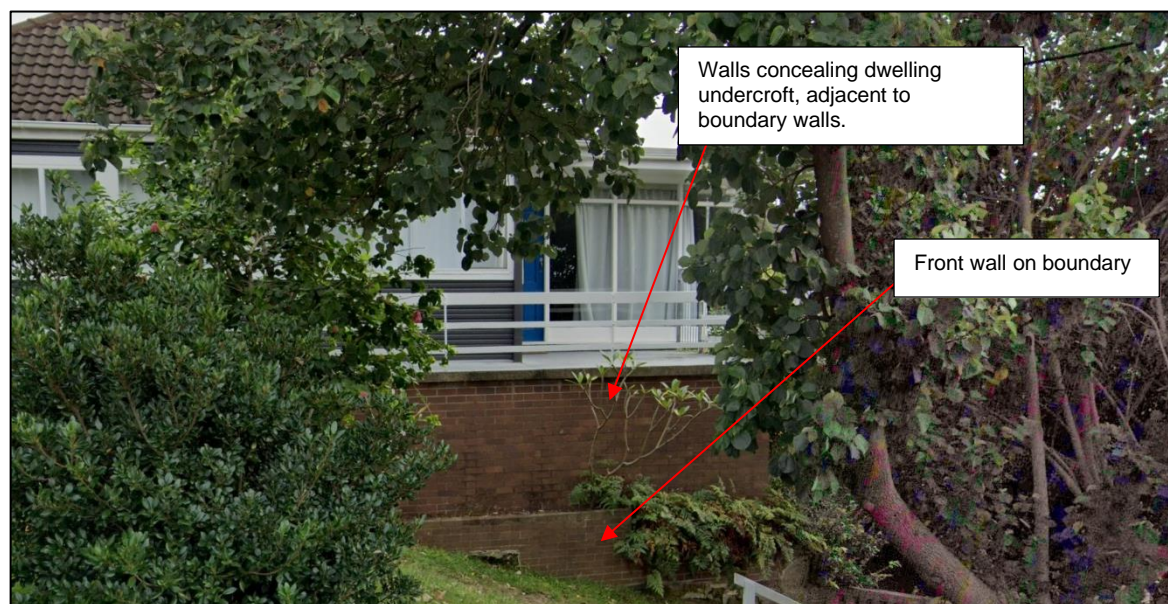


Figure 28. Street presentation of the existing dwelling, showing dwelling supporting walls located adjacent to the existing retaining walls (Source: Google maps).

Neighbour submissions from properties adjoining the site along Varna Street have raised concern about the potential of earthworks activities to impact up on neighbouring dwellings, including the structural adequacy of retaining walls along the common boundary between the subject site and 25-31 Varna Street.

A Geotechnical Report prepared by AscentGeo, date 13th June 2024, accompanies the development application, and determines that the proposed development is suitable for site, subject to recommendations contained within the report being adhered to during the design and construction of the development. Conditions of consent have been included to require the recommendations of the geotechnical report prepared by AscentGeo, dated 13th June 2024, to be adhered to throughout the development during the design and construction phases of the development.

In terms of geotechnical and hydrogeological related issues, Council's Engineer has confirmed the proposal is satisfactory in this regard. Subject to the recommended conditions requiring the following, it is considered that potential adverse environmental impacts related to the proposed excavation will be minimised as much as is practically possible:

- Structural adequacy to be confirmed for existing supporting structures including retaining walls which line the boundary of the site;

- Sediment and erosion control plan to manage run off during the construction phase of the development;
- Adequate dust mitigation via a Construction management Plan;
- The appropriate disposal of excavated material via Waste Management Plan;
- Limiting the times and duration of machine excavation;
- The structural support of neighbouring buildings, retaining wall structures and public land during excavation;
- Dilapidation reports of adjoining properties, the existing retaining wall, and structures within the neighbouring properties, including swimming pools, are prepared by a suitably qualified engineer; and
- Adhering to the recommendations of the Geotechnical report, prepared by AscentGeo, dated 13th June 2024.

Accordingly, the level of excavation required by the proposal is acceptable with regards to the likely amenity impacts to adjoining properties, subject to conditions.

9. Conclusion

That the application for demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013 and 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.
- To improve the proposed development in relation to the objectives and controls of the RDCP 2023, the following non-standard conditions are recommended:
 - Reduction in size of pool area to the northeast and northwest boundaries by 500mm, to be replaced with deep soil plantings;
 - Privacy treatments to window (WF06).;
 - Landscape screening to be provided to the site boundary adjoining the swimming pool, achieving a minimum height of 1.8m;
 - 1.8m high boundary fencing to be provided across the entire northeast boundary
 - Street trees located on the high side of Douglas Street to be retained, and replacement canopy tree to be planted on the low side of Douglas Street;
 -

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer and Landscape Development Officer

An application has been received for demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works.

This report is based on the following plans and documentation:

- Architectural Plans by Baikie Corr and dated 04/11/2024,
- Statement of Environmental Effects by Northern Beaches Planning and dated July 2024,
- Detail & Level Survey Plans by SurvPlan and dated 27/11/2023,
- Geotechnical Assessment by AscentGeo and dated 13/06/2024,
- Stormwater Plans by Harrison and Morris Consultancy and dated 08/08/2024.
- Driveway Plan and Longsections by Waddington Consulting and dated October 2024.
- Arborist Letter by Koala Arbour dated 21/06/24.

General Comments

There are no objections to the proposal subject to the comments and conditions provided in this report.

Parking Comments

Under Part B7 of Council's DCP 2013 the proposed 4-bedroom residence is required to provide a minimum of 2 off-street car spaces. 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.

Drainage Comments

The Planning Officer is advised that the submitted drainage plans should not be approved in conjunction with the DA, rather, the Development Engineer has included a number of conditions in this memo that relate to drainage design requirements. The applicant is required to submit detailed drainage plans to the Principal Certifier for approval prior to the issuing of a construction certificate.

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 Douglas Street.

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.

Tree Management & Landscape Comments

There are a variety of specimens over the upper, western half of the sloping Douglas Street verge, comprising from west to east, a 5-6m tall *Acmena smithii* (Lilly Pilly, not identified or assessed in

the Arborist Letter) that is to the west of the existing pram ramp, path and handrail that provides access between the street and pedestrian gate/entry, which is actually in front of the neighbouring site at no.33; then to the east of the path, and also closer to the kerb is a small, 2m tall shrub that is located centrally across the width of the subject dwelling, a Hibiscus just to its north, then lastly, closest to the end of the street/guardrail, a mature Hibiscus tiliaceus (Cottonwood, also not identified or assessed in the Arborist Letter), which has been previously cleared away from the domestic service wires, with all being automatically protected by the DCP due to their location on public property.

There is an existing sandstone block retaining wall which separates the lower and upper sides of Douglas Street, with a public footpath and two sets of stairs and handrails also against the front/southern site boundary which facilitates access between these two levels of the street.

While the plans note the two small shrubs and Cottonwood on this verge as being removed, which is consistent with previous comments provided for both PL/1/2021 and DA/562/2021, this advice was based on the assumption of external civil works and re-grading needing to be performed over this area as part of re-constructing the public footpath and stairs in order to align with new site entries, levelling/landings and similar.

However, following discussions with Council's Development Engineer, the costs for these external works were found to be substantial, and as they do not affect the success of the application in anyway, it is understood that this scope has been eliminated by simply retaining the existing stairs, steps and handrails in their current positions, and on this basis, there is no need to pursue removal of these public trees to facilitate any works in this application.

It is also noted that avoiding these unnecessary tree removals will further reduce any additional costs on the applicant, with conditions in this report detailing how they are to be retained and protected, which is easily achievable given there is no direct conflict, with a refundable deposit also imposed as insurance over Council's assets.

Down on the lower, eastern half of the public verge, just to the east of the existing pram ramp and informal vehicle access which provides off-street parking to the rear yard of this site is an Oleander (T13 in the Arborist Letter) which was definitely not planted by Council as it is a low value, undesirable exotic species which contains poisonous sap, so for these reasons is listed as 'exempt' in the DCP, meaning it can be removed from private property at any time, even irrespective of any building works, without needing to obtain any form of consent from Council.

The Proposed Plan – Garage Level (sheet no: A210) shows that while the new vehicle crossing will be a standard 3m in width, it will need to be repositioned further to the east in order to avoid the existing pit that is adjacent its western edge/public sandstone wall, with the verge in this area also needing to be re-graded (lowered) to provide suitable alignment levels, all of which place these works in direct conflict with this unauthorised planting.

For these reasons, conditions require its removal by Council (consistent with the Arborist Letter), wholly at the applicants cost, which will then allow a more desirable native species to be provided in its place, which is a more favourable outcome for both Council and the local environment, and should not pose a future line of sight concern in this particular situation given an absence of any through-traffic due to the presence of the public sandstone wall, with relevant conditions to this effect included in the report.

Still on this lower part of the verge, despite its existing lean to the east, the juvenile Gum that is to the east of T13 described above will not be affected given its distance from the new external works, so protection conditions are not deemed necessary.

Now progressing within the development site, immediately to the north of those described above, in the lowest, most eastern area/Lot which adjoins 31 & 31A Varna Street, in the southeast site corner, is firstly, a 7m x 5m Ficus benjamina (Weeping Fig, T11), which despite presenting an established canopy which may assist with screening and privacy in the immediate area, is regarded as a problematic species due to their aggressive and invasive root systems which are well known for causing costly structural damage, especially in confined situations, and as works associated with the new crossing, internal hardstand and garage will need to be performed in this same area, this

tree will require removal, with the relevant consent provided for this in the report.

The same described above then also applies to the smaller hedge that extends to its north, along the eastern boundary, being a row of five, 5-6m tall Viburnum tinus (Viburnum, T5-10), a 5m tall Tibouchina (Lasiandra, T4) in the northeast site corner, then another 5m tall Ficus benjamina (Weeping Fig, T12) along the opposite, eastern wall of the future garage, and as none of these are significant in any way to warrant re-designs, consent has been granted for their removal.

Now in the upper, western portion of the site, approval is also given for removal of the clipped/hedged Murraya (T3) towards the northeast site corner to allow for the pool and associated works in this same area as shown, as well as the Frangipani (T1) & self-seeded Date Palm (T2) in the existing terraced/tiered garden, adjacent the northwest corner of the existing dwelling and rear access stairs as the new Ground Floor footprint will occupy this same area.

Whilst the removal of all vegetation from a site to accommodate new development is not an outcome envisaged by the DCP, there is clear justification in this case given a combination of their poor condition and insignificance, with the steep slope/topography also being a site constraint as it prevents the driveway and garage being provided in any alternative position that is more practical, as well as the need for terracing to improve accessibility and usability of the various areas of private open spaces.

As the Landscape Plan submitted with this application complies with the requirements of 2.5 – 2.6 of the C1 DCP relating to Landscaping/species selection and Canopy Trees, conditions in this report require its implementation as part of any approval.

Assessing officer comment: The above advice from Council's Development Engineer s and Landscape Development Officer is considered and concurred with. Recommended conditions have been included in the development consent.


Appendix 2: DCP Compliance Table

2.1 Section B5: Preservation of Trees and Vegetation

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

2.2 Part C1: Low Density Residential (2023)

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 541.5m ²	
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 = 42.77% (231.6m ² /541.5m ²)	Yes
2.5	Deep soil permeable surfaces		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Proposed = 38.96% (211m ² /541.5 m ²) Conditions will require a minor reduction to the swimming pool area through increasing the side setback along the northeast boundary by 500mm. Deep soil within the front setback = 68.3% (41m ² /60 m ²)	Conditioned to comply – refer to Key Issues Section
2.6	Landscaping and tree canopy cover		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Proposed = 10 Canopy trees proposed, distributed between the front rear, and side setbacks. At least 60% native species provided. Landscaping within the front setback = 68.3% (41 m ² /60 m ²).	Yes
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = area in excess of 7m x 7m	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 =	Proposed = 0.624:1	Yes

DCP Clause	Controls	Proposal	Compliance
		(337.9m ² /541.5m ²)	
3.2	Building height		
	Building height LEP 2012 =	Proposed = 9.3m	
	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. 	<p>The proposal presents as a part two-part four storey structure as viewed from Douglas Street. Upper levels are not contained within a roof form.</p> <p>The proposal is stepped to respond to the topography of the site, and is consistent with other development along the northern side of Douglas Street.</p> <p>The proposal achieves minimum ceiling heights of 2.7m and minimum floor heights of 3.1m.</p>	Considered acceptable – refer to Key Issues 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.	<p>Minimum = 2.4m Existing = 1.6m Proposed = 2.336 – 3.31.</p> <p>Refer to Key Issues Section for assessment against the objectives</p>	Considered acceptable – refer to Key Issues Section
3.3.2	Side setbacks		
		<p><u>Proposed</u></p> <p>Garage level = 1.2m</p> <p>Lower ground level = 1.2m</p> <p>Ground level = variable 1.234m to 4.685m to northeast boundary, 1.2m to southwest boundary</p> <p>First Floor = variable 3.954m to 8.775m to northeast boundary, 1.8m to southwest boundary</p>	Refer to Key Issues Section

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DCP Clause	Controls	Proposal	Compliance
3.3.3	<p>Rear setbacks</p> <ul style="list-style-type: none"> i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p><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><u>Minimum</u> 3.8m to garage and lower ground</p> <p>8m to ground floor and first floor</p> <p><u>Proposed</u> Garage and lower ground: 4.189m</p> <p>Ground floor: 8m to terrace roof structure 10.95m to building envelope</p> <p>First Floor: 14m</p>	Yes
4	Building design		
4.1	General		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	<p>The proposed development provides suitable articulation to all elevations.</p> <p>Despite the lack of physical recesses to the southwest elevation at the ground floor, suitable articulation is achieved through the use of window projections and external finishes, as well as vertical articulation between the ground and first floor levels.</p>	Considered acceptable
4.4	Roof terraces and balconies		
	<ul style="list-style-type: none"> i) Locate on stepped buildings only (not on uppermost or main roof) ii) Where provided, roof terraces must: <ul style="list-style-type: none"> • Prevent overlooking • Size minimised • Secondary POS – no kitchens, BBQs or the like • Maintain view sharing, minimise 	<p>Balconies/terraces respond to the stepped envelope of the development.</p> <p>The siting and design of the balcony terraces prevents overlooking, as shown through</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>structures and roof top elements</p> <ul style="list-style-type: none"> Be uncovered and comply with maximum height <p>iii) Locate above garages on sloping sites (where garage is on low side)</p> <p><i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i></p>	<p>Privacy Sections.</p> <p>Terraces are modest in size to limit the function as entertaining spaces.</p> <p>The terraces to the living area and bedrooms are secondary POS, with no kitchens, BBQs or the like</p> <p>The balcony to Bedroom 4 is uncovered to reduce visual bulk.</p>	
4.5	Roof design and features		
	<p><i>Dormers</i></p> <p>i) Dormer windows do not dominate</p> <p>ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>iii) Multiple dormers consistent</p> <p>iv) Suitable for existing</p> <p><i>Clerestory windows and skylights</i></p> <p>v) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>vi) Contained within roof form and not visible from street and surrounding properties.</p>	<p>Skylights provided to the roof of the dwelling to improve solar access to internalised areas.</p> <p>The proposal would not be inconsistent with these provisions.</p>	Yes
4.6	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes.</p> <p>ii) Finishing is durable and non-reflective and uses lighter colours.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</p> <p>vi) Recycle and re-use sandstone</p>	<p>The proposed colours and materials are consistent with the requirements and compatible with surrounding development within the locality.</p>	Yes
4.7	Earthworks		
	<p>i) Excavation and backfilling limited to 1m, unless gradient too steep</p> <p>ii) Minimum 900mm side and rear setback</p> <p>iii) Subterranean spaces must not be habitable</p> <p>iv) Step retaining walls.</p> <p>v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</p> <p>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</p>	<p>Refer to Key Issues Section for detailed assessment of earthworks proposed to accommodate the dwelling, levelling of the rear yard, and retaining wall structures across the site.</p> <p>Council's Development Engineer has reviewed the proposal and</p>	Refer to Key Issues Section

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DCP Clause	Controls	Proposal	Compliance
	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.	raised no objection subject to conditions	
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.	Shadow diagrams submitted with the development show that living areas and the private open space will receive sufficient solar access throughout the day, exceeding the 3 hour requirement.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: <ul style="list-style-type: none"> Degree of meeting the FSR, height, setbacks and site coverage controls. Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. Topography of the subject and adjoining allotments. Location and level of the windows in question. Shadows cast by existing buildings on the neighbouring allotments. 	The shadow diagrams submitted with the proposal demonstrate that sufficient solar access is retained to the north facing windows and private open space of neighbouring properties along Douglas Street, and fronting Varna Street. Overshadowing to northeast and northwest facing windows of 33 Douglas Street is shown to occur in the early morning hours, with solar access to the northern aspects achieved from 10am onwards. Adjoining properties along Varna Street are generally located north of the subject site, limiting overshadowing impacts from the proposal.	Yes
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as:	Natural lighting and ventilation provided to habitable areas of the dwelling. Skylights provided to	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls <p>ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries</p> <p>iii) Living rooms contain windows and doors opening to outdoor areas</p> <p><i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	internalised hallway of the first floor of the development. Satisfactory BASIX certificate provided.	
5.3	Visual Privacy		
	Windows		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>Windows, combined with privacy screening, are appropriately sighted to minimise unreasonable overlooking to neighbouring sites from internal areas of the proposed development.</p> <p>Refer to key issues for detailed assessment.</p>	Refer to Key Issues Section
	Balcony		
	<p>iii) Upper floor balconies to street or rear yard of the site (wrap around balcony to have a narrow width at side)</p> <p>iv) Minimise overlooking of POS via privacy screens (fixed, minimum of 1600mm high and achieve minimum of 70% opaqueness (glass, timber or metal slats and louvers)</p> <p>v) Supplementary privacy devices: Screen planting and planter boxes (Not sole privacy protection measure)</p> <p>vi) For sloping sites, step down any ground floor terraces and avoid large areas of elevated outdoor recreation space.</p>	<p>The proposal provides balconies to side elevations to lower ground, ground, and first floor levels of the development.</p> <p>Privacy Sections have been submitted with the proposal to demonstrate the potential overlooking to the adjoining neighbours located at lower elevations.</p> <p>The Privacy Sections show that outlooks from the balconies are either screened to prevent overlooking, or have been design with roof gardens and low, and further away, privacy screens to ensure that outlooks are directed over the</p>	Refer to Key Issues Section

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DCP Clause	Controls	Proposal	Compliance
		private open space and habitable windows of neighbouring properties.	
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	The proposal is not considered to result in any significant acoustic privacy impacts beyond that associated with the existing dwelling-house at the subject site.	Yes
5.5	Safety and Security		
	i) Dwelling main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	<p>The entrance to the dwelling is located on the front elevation, however, is screened by a wraparound entrance porch. Despite this, the limited opening from the street provides a clear direction to the front of the property from Douglas Street.</p> <p>Sufficient windows to habitable rooms address the street at the lower ground, ground, and first floor levels of the development.</p> <p>Street numbering provided at the pedestrian entrance on the high side of Douglas Street</p> <p>Front fencing does not obstruct sightlines to the property.</p>	Yes
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must 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	The proposed development is considered to maintain reasonable view sharing to the public and private domain. The proposed development is unlikely to unreasonably impact on any views obtained from the recently approved dwelling	Yes – refer to Key Issues Section

DCP Clause	Controls	Proposal	Compliance
	impacts in the DA.	house at 33 Douglas Street Clovelly, as privacy screening/translucent glazing to a height of 1.6m has been conditioned to all first floor windows along the side elevation. Changes in elevation enable views to be retained from the front balcony at 33 Douglas Street (DA/437/2024).	
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)	1 Vehicular access proposed. Double garage acceptable due to width of the site, greater than 12m, which minimises visual prominence of parking facilities. Garage integrated into dwelling design. The garage is located close to the street frontage, reducing impermeable area associated with long driveways.	Yes
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - Nil side setback on adjoining property; - Streetscape compatibility; - Safe for drivers and pedestrians; - Amalgamated driveway crossing.	1.2m side setback to garage. Front setback = 2.351m to 2.81m, providing an appropriate transition between the adjoining sites.	Considered acceptable
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	Proposed driveway = 4m at site boundary. Council's Development Engineers have reviewed the proposal and have confirmed that the driveway width alignment is suitable due to perpendicular	Considered acceptable

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DCP Clause	Controls	Proposal	Compliance
		access to the site being constrained by the existing retaining wall which cuts through Douglas Street.	
6.5	Garage Configuration		
	<ul style="list-style-type: none"> i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): <ul style="list-style-type: none"> - Single garage – 3m - Double garage – 6m iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1) 	<p>Varied garage width 5.5m to 6.5m, due to required angle of driveway and garage alignment to meet engineering requirements.</p> <p>Minimum length of 5.4m achieved (approximately 6m length)</p> <p>Garage doors are recessed 450mm behind boundary walls to provide suitable articulation.</p> <p>2.2m clearance achieved for the garage.</p> <p>Council's Development Engineer has reviewed the proposal and raises no objection subject to conditions.</p>	Considered acceptable
7	Fencing and Ancillary Development		
7.1	General – Fencing		
	<ul style="list-style-type: none"> 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 	<p>The proposed fencing arrangement to the street provides a mix of retaining walls and suitable balustrades above.</p> <p>Boundary fencing will be conditioned to provide appropriate materiality</p>	Yes – subject to conditions
7.2	Front Fencing		
	<ul style="list-style-type: none"> i) 1200mm max. (solid portion not exceeding 600mm), except for piers. <ul style="list-style-type: none"> - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: <ul style="list-style-type: none"> - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the 	<p>The front fencing arrangement has been designed to respond the topography of the land, and includes the construction of retaining walls and open balustrades provided above to a height of 1m.</p>	Considered acceptable

DCP Clause	Controls	Proposal	Compliance
	<p>alignment of the primary street façade (tapered down to fence height at front alignment).</p> <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>	<p>Retaining walls extend to a maximum height of 2.2m, with a further 1m balustrade provided above. While the retaining wall structures are 1.5m higher than the existing retaining walls along the boundary, the wall conceals void areas of the proposed dwelling footprint.</p> <p>Landscaped area directly behind retaining walls helps soften the appearance of the structures to the street.</p> <p>The existing dwelling to the site provides a full height wall to elevate the dwelling, directly behind existing retaining walls, which provide comparable visual bulk as the proposed arrangement.</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>	<p>1.8m boundary fencing is nominated to the northeast and southwest boundaries of the site.</p> <p>Conditions will require 1.8m high boundary fencing to also be provided to the northeast boundary adjoining 31 and 31A Varna Street.</p> <p>No change to existing boundary fencing/retaining wall structures to the northwest boundaries is proposed.</p>	Conditions applied
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</p>	<p>A swimming pool is located in the rear garden of the site.</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>adjoining dwellings.</p> <ul style="list-style-type: none"> i) Pool and coping level related to site topography (max 1m over lower side of site). ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties. iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones. iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors. v) Position decking to minimise privacy impacts. vi) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings. 	<p>The swimming pool is designed to respond to the topography of the land, and at the lower side is sited 760mm above the existing ground level, complying with the 1m maximum requirements. Pool boundary fencing (1.2m high) would not exceed a 2.2m height above existing ground level.</p> <p>A condition of consent is recommended to reduce the width of the pool coping 500mm to the neighbouring site boundaries, to help mitigate visual and acoustic privacy impacts and improve deep soil outcomes.</p> <p>Landscape screening is conditioned to run the length of the swimming pool boundary.</p> <p>Pool equipment is proposed to be located within the subfloor area of the lower ground level of the dwelling.</p>	
7.6	Air conditioning equipment		
	<ul style="list-style-type: none"> 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. 	<p>Air conditioning units are located within the subfloor area of the lower ground level, minimising visibility and noise impacts to neighbouring sites and the public domain.</p>	Yes
7.8	Clothes Drying Facilities		
	<ul style="list-style-type: none"> i) Located behind the front alignment and not be prominently visible from the street 	<p>Clothes drying facilities have not been nominated on the plans. Conditions of consent will require clothes drying to be nominated behind the front alignment of the property, not visible from the street</p>	Conditions applied

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	Vehicle Parking Rates		
	<div>1. Space per dwelling house with up to 2 bedrooms</div> <div>2. Spaces per dwelling house with 3 or more bedrooms</div> <div>Note: Tandem parking for 2 vehicles is allowed.</div>	2 parking spaces provided	Yes

Responsible officer: Elizabeth James, Environmental Planning Officer

File Reference: DA/780/2024

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/780/2024
Property:	35 Douglas Street, CLOVELLY NSW 2031
Proposal:	Demolition of existing structures to enable the construction of a new residential dwelling, swimming pool and associated landscape works.
Recommendation:	Approval

DEVELOPMENT CONSENT CONDITIONS

GENERAL CONDITIONS

Condition

1. **Approved plans and documentation**

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
A100 Demolition Plan – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A200 Site Plan – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A210 Garage level – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A211 Lower Ground Level – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A212 – Ground level – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A213 – First Level – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A214 – Roof Plan – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A220 – Landscape Plan – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A300 – Southeast Elevation – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A301 – Northwest elevation – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A302 – northeast elevation – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A303 – southwest elevation – Revision 7	Baikie Architecture Corr	4 November 2024	6 November 2024
A400 – Proposed	Baikie Corr	4 November 2024	6 November

Condition					
section – AA – Revision 7	Architecture			2024	
A401 Proposed Section – BA – Revision 7	Baikie Corr Architecture	4 November 2024	6 November 2024		
BASIX Certificate No.	Dated	Received by Council			
1757832S_02	8 August 2024	26 August 2024			

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

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

2. **Amendment of Plans & Documentation**

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

- a. Privacy screens to the ground level living room balcony, and First Floor balcony to Bedroom 2 and Bedroom 3 must be constructed in accordance with either of the following:
 - Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- b. 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:
 - First Floor bathroom window to southwest elevation (WF06)
- c. The paved pool coping area, and area of spa pool, is to be reduced in width by 500mm to the northeast and northwest boundaries, and replaced with deep soil permeable surfaces provided at existing ground level.
- d. Landscape screening along the northeast boundary of the site, adjacent to the swimming pool is to reach a minimum height of 1.8m.
- e. 1.8m high boundary fencing (from existing ground level) is required to be provided across the entire northeast boundary
- f. Clothes drying facilities are to be nominated on the Architectural plans, located behind the building line to minimise visibility from the street.

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

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

Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

Condition	
3.	<p>Surrender DA/562/2021</p> <p>The owner/s of the subject site is required to surrender development consent DA/562/2021 and approved plans prior to the issue of a Construction Certificate, as per Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Condition Reason: To ensure that a single consent is active at the site at any one time.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
4.	<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>
5.	<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>
6.	<p>Section 7.12 Development Contributions</p> <p>Development Contributions are required in accordance with the applicable Randwick City Council Development Contributions Plan, based on the development cost of \$2,522,348.79 the following applicable monetary levy must be paid to Council: \$25,223.50.</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>

Condition

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

Condition Reason: To ensure relevant contributions are paid.

7. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

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

8. **Security Deposits**

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

- \$4000.00 - Damage / Civil Works Security Deposit

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

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

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

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

9. **Sydney Water**

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

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

The Tap in™ service provides 24/7 access to a range of services, including:

- Building plan approvals

Condition	
	<ul style="list-style-type: none"> • 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>
10.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
11.	<p>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>
12.	<p>Excavation Earthworks and Support of Adjoining Land</p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
13.	<p>Excavation, Earthworks and Support of Adjoining Land</p> <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, structures, and retaining walls</p>

	Condition
	<p>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, building, or structure (including retaining walls) 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 or supporting structure located on the adjoining land; and as otherwise may be required by the Certifier for the development. <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
14.	<p>Geotechnical Report</p> <p>Any pre-construction recommendations and requirements (i.e. recommendations and requirements prior to undertaking any building work) as per the submitted Geotechnical Report prepared by AscentGeo Geotechnical Consulting, dated 13 June 2024, must be implemented and monitored, with documentation submitted to the Principal Certifier demonstrating that this condition has been satisfied. This documentation must be submitted as part of the Construction Certificate.</p> <p>Condition Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process.</p>
15.	<p>Design Alignment Levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <p>Driveway</p> <ul style="list-style-type: none"> RL62.96m AHD at the eastern driveway edge. RL63.35m AHD at the western driveway edge. <p>Pedestrian Access</p> <ul style="list-style-type: none"> Match the back of the existing footpath level. <p>The design alignment levels at the property boundary as issued by Council and their relationship to the kerb must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6888.</p> <p>Condition Reason: To ensure all roadway works are designed and constructed in accordance with Council requirements.</p>
16.	<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 \$1260 calculated at</p>

	Condition
	<p>\$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>
17.	<p>Driveway Design</p> <p>The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.</p> <p>The height of the building must not be increased to satisfy the required driveway gradients.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
18.	<p>Stormwater Drainage</p> <p><u>The submitted Concept Stormwater Plans are not approved as a part of this development consent.</u> 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.</p> <p>The drainage plans must demonstrate compliance with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing and Drainage - Stormwater Drainage) and the relevant conditions of this development approval.</p> <p>Condition Reason: To control and manage stormwater run-off.</p>
19.	<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	
f)	Should a charged system be required to drain any portion of the site, the charged system must be designed such that;
	i. There are suitable clear-outs/inspection points at pipe bends and junctions.
	ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
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.

Details and requirements for the design and construction of sediment/silt arrestor pits and infiltration areas may be obtained from the applicants consulting engineer or from Council's Development Engineer on 9093 6888.

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

20. **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.
- A sign adjacent to this pit stating that:
"This sediment/silt arrestor pit shall be regularly inspected and cleaned."

Note: Sketch details of a standard sediment/silt arrestor pit can be obtained from Council's Drainage Engineer.

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

21. **Stormwater drainage**

The infiltration area is required to be constructed generally in accordance with the

Condition

following requirements:

- Provision of a minimum 300mm of soil cover (600mm where the pit is located under a garden/landscaped area).
- Located a minimum of 3.0m 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 2.1m from the adjacent side or rear boundaries.
- Having a minimum base infiltration area of 5.0m² 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 50mm below the outlet from the silt arrestor pit to the kerb and gutter.

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

22. **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 Construction Certificate, to the satisfaction of the appointed Certifier for the development.

Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.

23. **Swimming Pool Safety**

Swimming pools are to be designed, installed and operated in accordance with the following general requirements:

- Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation.
- Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance.
- Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.
- Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises.

Condition Reason: To minimise the impact of the pool on adjoining properties and

Condition	
	to ensure the safety of the pool/spa area.
24.	<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 Proposed Plan - Landscape by Baikie Corr Architecture + Interiors, sheet no A220, rev 07 dated 04/11/24, with both this written statement and plan 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>
25.	<p>Street Tree Protection Measures</p> <p>To ensure retention of the small shrub on the upper, western half of the Douglas Street verge in front of the existing dwelling, then just to its north, a <i>Hibiscus</i> adjacent the public footpath, as well as the larger, mature <i>Hibiscus tiliaceus</i> (Cottonwood) that is just to their east, closest to the existing sandstone block retaining wall/guard rail 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 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 there will be no new external civil works over this upper, western half of the public verge, with the existing footpath, stairs, landings, handrails and similar to all be retained in-situ. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property can only be located over the lower, eastern half of the Douglas Street verge, to the extent depicted on the Garage Site Drainage Plan by H & M Consultancy, rev 01, sheet 05, dated 08/08/24, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement. This group of three trees are to be physically protected (as one group if appropriate) by the installation of 1.8 metre high steel mesh/chainwire fencing panels, which shall be located to their west across the verge, then along the edge of the public footpath to their north, in line with the sandstone block retaining wall/guardrail to their east, then returning along the kerb to their south in order to completely enclose them 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". If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.

D3/25

Condition	
g.	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 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.
h.	Within the TPZ/s there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
i.	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.
j.	A refundable deposit in the form of cash, credit card, cheque for an amount of \$1,000.00 must be paid into 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 at any time 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.

26. **Street Tree Management**

The applicant must submit a payment of **\$667.25** (GST inclusive) to cover the following costs:

- a. For Council to remove, stump-grind and dispose of the *Oleander* (T13 in the Arborist Letter) from the lower, eastern half of the Douglas Street verge in front of this site, prior to the commencement of any works in order to accommodate the relocated vehicle crossing and associated re-grading of existing ground levels in this same area as shown;
- b. For Council to supply, plant and maintain 1 x 25 litre street tree, *Tristanopsis laurina* (Watergum) back on this lower section of the verge described in point 'a' above, equally between the eastern edge of the new vehicle crossing and the remaining street tree that is further to the east upon the completion of all works.

This fee must be paid into **Tree Amenity Income** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development**.

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

Condition

After advising of the receipt number, any further enquiries regarding scheduling/timing or completion of these tree works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6964.

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

BEFORE BUILDING WORK COMMENCES

Condition

27. **Building Certification & Associated Requirements**

The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:

- a) a *Construction Certificate* must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

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

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

28. **Home Building Act 1989**

In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and sections 69 & 71 of the *Environmental Planning and Assessment Regulation 2021*, in relation to residential building work, the requirements of the *Home Building Act 1989* must be complied with.

Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.

Condition Reason: Prescribed condition under section 69 & 71 of the *Environmental Planning and Assessment Regulation 2021*.

Condition	
29.	<p>Dilapidation Reports</p> <p>A dilapidation report (incorporating photographs of relevant buildings and structures, including retaining walls) 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>
30.	<p>Construction Site Management Plan</p> <p>A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles • tree protective measures • dust control measures • details of sediment and erosion control measures • site access location and construction • methods of disposal of demolition materials • location and size of waste containers/bulk bins • provisions for temporary stormwater drainage • construction noise and vibration management • construction traffic management details • provisions for temporary sanitary facilities <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 the surrounding environment, during site works and construction.</p>
31.	<p>Sediment and Erosion Control Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
32.	<p>Construction Noise & Vibration Management Plan</p>

Condition	
	<p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
33.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works.</p> <p>Documentary evidence from the relevant public utility authorities confirming that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Energy Australia, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
34.	<p>Demolition and Construction Waste</p> <p>A <i>Demolition and Construction Waste Management Plan</i> (WMP) must be developed and implemented for the development, to the satisfaction of Council.</p> <p>The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.</p> <p>Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's website at https://www.randwick.nsw.gov.au/_data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf or contact Council Development Engineer on 9093-6888.</p> <p>Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.</p> <p>Condition Reason: To ensure appropriate management, including disposal and re-use, of waste throughout the demolition and construction phases of development</p>

DURING BUILDING WORK

Condition	
35.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier

Condition
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.

36. **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.

37. **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.

Condition
<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>

38. **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

	Condition
	<p>carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
39.	<p>Excavations and Support of Adjoining Land</p> <p>The adjoining land and buildings, structures, and retaining walls 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>
40.	<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>
41.	<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>
42.	<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>
43.	<p>Geotechnical Report</p> <p>A contractor with specialist excavation experience must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation procedure.</p> <p>Geotechnical aspects of the development work, namely appropriate excavation method and vibration control, support and retention of excavated faces, and hydrogeological considerations must be undertaken in accordance with the recommendations and requirements of the submitted Geotechnical Report prepared by AscentGeo Geotechnical Consulting, dated 13 June 2024, and all subsequent geotechnical inspections carried out during the excavation and construction phase.</p> <p>Condition Reason: To ensure the development and works are undertaken in accordance with relevant technical reports.</p>
44.	<p>Tree Management</p> <p>Approval is granted for removal of the following trees from within this development site subject to full implementation of the approved Landscape Plans described earlier in this report:</p> <ol style="list-style-type: none"> Within the lowest, most eastern terrace area (rear setback) which adjoins 31 & 31A Varna Street, in the southeast site corner, a <i>Ficus benjamina</i> (Weeping Fig, T11 in the Arborist Letter) as it is regarded as a problematic species due to their aggressive and invasive root system which are well known for causing costly structural damage, especially in confined situations, with works associated with the new crossing, internal hardstand and garage also to be performed in this same area, in direct conflict; The smaller hedge that extends further to the north of 'a' described above, along the eastern boundary, being a row of six <i>Viburnum tinus</i> (Viburnum, T5-10), a 5m tall <i>Tibouchina</i> (Lasiandra, T4) in the northeast site corner, then another 5m tall <i>Ficus benjamina</i> (Weeping Fig, T12) along the opposite, eastern wall of the future garage, all to accommodate the new garage/Lower Ground Floor level footprint as shown; Now in the upper, western portion of the site, the clipped/hedged <i>Murraya</i> (T3) towards the northeast site corner to allow for the pool and associated works in this same area as shown, as well as the <i>Frangipani</i> (T1) & self-seeded <i>Date Palm</i> (T2) in the existing terraced/tiered garden, adjacent the northwest corner of the existing dwelling and rear access stairs as the new Ground Floor footprint will occupy this same area. <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

45. **Occupation Certificate Requirements**
An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- Condition Reason: Statutory requirement. To ensure the site is authorised for occupation.
46. **BASIX Requirements**
In accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.
- Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.
- Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.
47. **Council's Infrastructure, Vehicular Crossings and Street Verge**
All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- 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.
- 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.
48. **Council's Infrastructure, Vehicular Crossings, street verge**
The owner/developer must meet the full cost for a Council approved contractor to:
- a) Reconstruct 3.0m wide concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site with a splay that widens to 3.99m at the site boundary, to Council's specifications and requirements.

Condition	
b)	Construct a concrete gutter bridge along the full width of the proposed layback.
c)	Uncover and make good the 4 additional existing stair steps that are covered by soil.
d)	Construct an additional concrete step and 0.6m wide landing between the existing stairs and the western driveway edge 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.

49. **Council's Infrastructure, Vehicular Crossings, Street Verge**

The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc. which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

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

50. **Street and/or Sub-Address Numbering**

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

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

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

Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.

51. **Swimming Pool Safety**

Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, 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).

Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.

52. **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 *Swimming Pools Regulation 2018*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.

53. **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 *Swimming Pools Act 1992*.

Condition	
	<p>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 Proposed Plan - Landscape by Baikie Corr Architecture + Interiors, sheet no A220, rev 07 dated 04/11/24.</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>Landscape Certification</p> <p>The nature-strip upon Council's footway shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>

OCCUPATION AND ONGOING USE

Condition	
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>

Condition	
	Subfloor areas to the garage and lower ground level of the development are not to be used for habitable purposes.
	Condition Reason: To ensure the development is used for its intended purpose.
59.	External Lighting External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance. Condition Reason: To protect the amenity of the surrounding area and residents.
60.	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. Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.
61.	Plant & Equipment Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i> . Condition Reason: To protect the amenity of the surrounding area and residents.
62.	Use of parking spaces 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. 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.

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
63.	Demolition Work A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements: <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

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

Condition
<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>

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

ON COMPLETION OF DEMOLITION WORK

Condition
<p>65. Post-demolition Dilapidation Report</p> <p>A post-demolition Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent on completion of demolition works.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none">(a) after comparing the pre-demolition dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and(b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.

The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-demolition dilapidation report must be provided to Council, and the Principal Certifier (if appointed). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.

Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison following completion of the works