

Randwick Local Planning Panel (Electronic) Meeting

Thursday 10 April 2025



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC) MEETING

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting
will be held online via Microsoft Teams on
Thursday, 10 April 2025 at 1pm

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D14/25

Subject: 218 Coogee Bay Road, Coogee (DA/1246/2024)

Executive Summary

Proposal: Use of the first floor as residential accommodation as well as alterations and additions to the subject site to facilitate a shop top housing development

Ward: East Ward

Applicant: Mr Harry Pham

Owner: Pepe Capital Management Pty Ltd


Cost of works: \$240,000

Reason for referral: The development involves partial demolition of a heritage item.

Recommendation

- A. That the RLPP is satisfied that the applicants written requests to vary the development standards relating to floor space ratio in Clause 4.4 of Randwick Local Environmental Plan 2012 have demonstrated that;
- i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
 - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standards.
- B. 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/1246/2024 for Use of the first floor as residential accommodation as well as alterations and additions to the subject site to facilitate a shop top housing development, at No. 218 Coogee Bay Road, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  DA/1246/2024 - Conditions of Consent

D14/25

D14/25



1. Executive summary

DA/1246/2024 is referred to the Randwick Local Planning Panel (RLPP) as it involves partial demolition of a heritage item.

This report will assess DA/1246/2024 (*the application*) for 218 Coogee Bay Road, Coogee (*the subject site*) against the relevant heads of consideration under S 4.15(1) of *Environmental Planning and Assessment Act 1979*.

The application seeks consent for the use of the first floor as residential accommodation as well as alterations and additions to the subject site to facilitate a shop top housing development. Section 4 of this report provides greater detail on the applications scope.

The proposal is recommended for approval subject to non-standard conditions for additional heritage measures, and confirmation that no signage is approved as part of the application.

Figures 1 to 5 below illustrate the scope of works.



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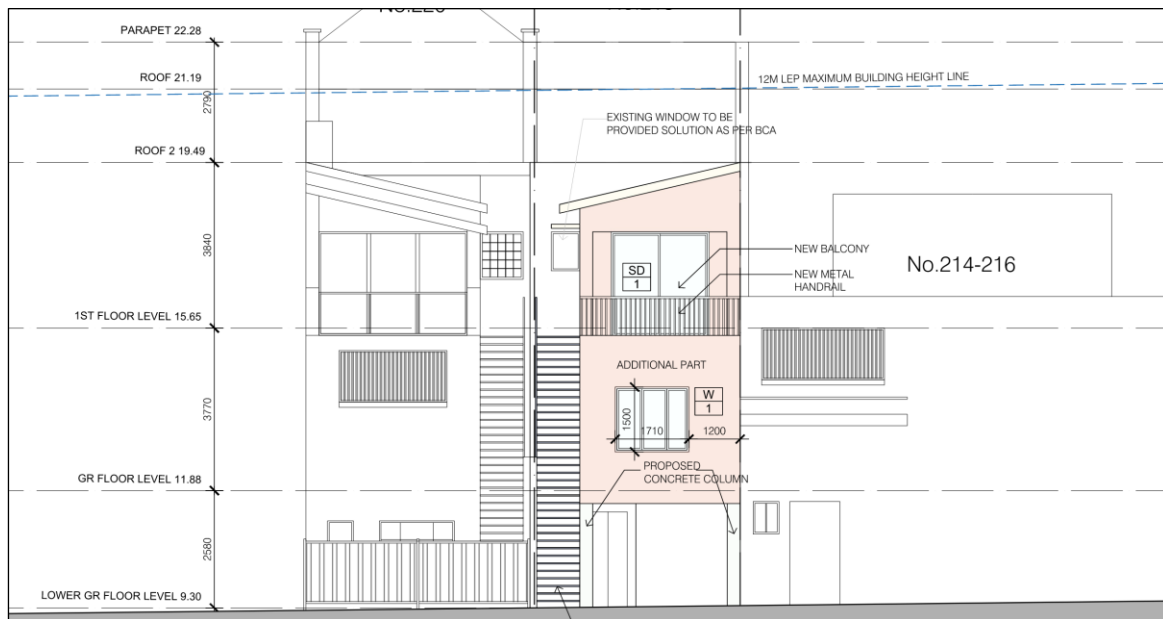


Figure 5 – Proposed north elevation (source: Vivi building design, dated 13/12/2024)

2. Site Description and Locality

The subject site is zoned E1 local centre and is addressed to 218 Coogee Bay Road, Coogee. It is legally identified as Lot 6 in Deposited Plan 39445. The site is regular in shape and measures an approximate 120.73sqm.

The subject site comprises part of the ‘*Douglas Buildings*’ and is readily identifiable through its lighter coloured exterior. The ground floor comprises an Andersen's Ice Cream. The first floor is presently vacant.

The surrounding area along Coogee Bay Road comprises predominantly commercial uses at the ground level, with many retaining their *shop top* two storey presentation. Residential uses are located outside and partially along Coogee Bay Road.



Figure 6 – Subject site from Coogee Bay Road (Andersen's) (source: site visit 24/02/2025)



Figure 7 – Subject site existing interior (source: site visit 24/02/2025)



Figure 8 – Subject Site rear from Alfreda Street (source: site visit 24/02/2025)

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Figure 9 – Subject site first floor looking to Alfreda Street (source: site visit 24/02/2025)



Figure 10 – Subject Site rear (source: site visit 24/02/2025)

3. Relevant history

DA/421/1991 was determined on 7/01/1992 and approved the use of the first floor for “*surgical procedures*” in an existing “*2 Storey Commercial Building*”.

DA/178/2023 was determined on 25/08/2023 and approved a “*change of use to take away food and drink premises (retail premises) including internal fitout and alterations to façade (Draft Heritage Item).*”

There were no changes to the use or fitout of the first floor through DA/178/2023.

Hours of operation from 10:00am to 11pm daily were approved under Condition 31.

4. Proposal

DA/1246/2024 seeks consent for the use of the first floor as residential accommodation as well as alterations and additions to the subject site to facilitate a shop top housing development. In detail the following is sought:

Subject Site Use

The use of the ground floor as a *take away food and drink premises*, approved through DA/178/2023 is not proposed to change.

The application seeks a change of use of the first floor from *commercial premises* to a residential dwelling.

The resulting use of the subject site is *shop-top housing*.

Ground Floor Operation

The application proposes the following hours of operation for the ground floor *shop* component:

- 10:00am – 11:00pm Monday to Sunday. (DA/178/2023 previously approved the same hours under Condition 31).

Two to three staff are proposed to work at a given time at the ground floor commercial component. The operation as an *Andersen's* ice cream store would remain.

Building Works - Lower Ground Floor

- New lift from lower ground floor to ground and first floor;
- New staircase (ST2) above existing staircase (ST1) from lower ground floor first floor.

Building Works - Ground Floor

- Extension of the rear ground floor of the *shop* component to provide a new storage/kitchenette;
- Internal reconfiguration of the ground floor including removal of internal partition walls and stairs and construction of a new walk-in freezer;

Building Works - First Floor

- Extension of the rear first floor *residential* component provide a new living room and alfresco/balcony;
- Demolition of identified stairs and internal partition walls;
- Installation of a kitchen;
- Replacement of the existing street facing windows W2 and W3 with new windows of the same materiality;
- Construction of a new metal roof over part of the first floor extension (balcony excluded).

It should be noted that the lift company confirmed the selected lift would not require a lift overrun.

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy.

No submissions were received.

6. Relevant Environment Planning Instruments

6.1. SEPP (Housing) 2021

The proposal contains one dwelling and therefore the provisions of Chapter 4 of the Housing SEPP are not applicable in this instance.

6.2. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and the Sustainable Buildings SEPP. 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.

6.3. SEPP (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Clause 2.119 of the Transport and Infrastructure SEPP states that the consent authority must not grant development consent on land that has a frontage to a classified road unless it is satisfied with the following matters:

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject site has a frontage to Coogee Bay Road, which is a classified road. Council is satisfied that the existing addressing to Coogee Bay Road would not change.

6.4. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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

The subject site has previously been used for commercial purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions and change of use of the first floor to residential) is such that any applicable provisions and requirements of the SEPP have been satisfactorily addressed.

6.5. Randwick Local Environmental Plan 2012 (LEP)

On 18 August 2023, the Department of Planning and Environment (DPE) formally notified the LEP amendment (amendment No. 9) updating the *Randwick Local Environmental Plan 2012*, and the updated LEP commenced on 1 September 2023. As the subject application was lodged on or after 1 September 2023, 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 subject site is zoned E1 Local Centre under Randwick Local Environmental Plan 2012. Development for the purpose of *shop top housing* is permissible within that zone with consent.

3 Permitted with consent
Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Dwelling houses; Entertainment facilities; Function centres; Group homes; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Service stations; Shop top housing ; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4
4 Prohibited
Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

Figure 11 – E1 permitted and prohibited uses (source: RLEP 2012, version 15 December 2023)

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the ongoing viability of the centre whilst integrating residential development in a suitable manner that protects the amenity of the local residents.

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

Description	Standard	Proposed	Compliance (Yes/No/NA)
Cl. 4.1 Lot Size (Minimum)	N/A	120.73sqm (existing)	N/A
Cl. 4.3 Height of Building (Maximum)	12 Metres	12.98 Metres (existing ridge) 10.33 Metres (new roof height)	Yes - See below
Cl. 4.4 Floor Space Ratio (Maximum)	1.5 : 1 (181.1sqm max)	1.65 : 1 (198.9 sqm)	No – See 2.2.1 below

2.1.1 Clause 4.6: Exception to a Development Standard

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	1.5 : 1 (181.1sqm max)	1.65 : 1 (198.9 sqm)	17.8	9.8%

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

Clause 4.6 of RLEP 2012 relevantly states:

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

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

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

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

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

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

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

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

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

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

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

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

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of

a development standard. The assessment and consideration of the applicant's request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

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

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

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

Consistency with the Objectives of the FSR Development Standard in the LEP	
Objectives	Assessment
(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	The alterations of internal layout and additions to the rear of the property will not affect the desired future character of the locality.
(b) to ensure that buildings are well articulated and respond to environmental and energy needs,	The design of the building encompasses an appropriate distribution of FSR, no changes to the streetscape at Coogee Bay Road
(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,	The subject site is within a heritage conservation area. However, no adverse impacts on any heritage items or streetscape from the FSR variation of the building as the excess FSR would not be evident from the heritage item.
(d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.	The proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss of views, and a reduction in this FSR would not create additional benefit for adjoining properties or the locality.
<div> <div>Vivi Building Design</div> <div>5</div> <div>March 2025</div> </div>	
	<p><u>Overshadowing:</u> N/A</p> <p><u>View Loss:</u> N/A</p> <p><u>Privacy:</u> The additional floor space been considered of the design of privacy screen to minimize the impact to the privacy of neighbors</p>

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

It is acknowledged that the size and scale of the development is appropriate, with the addition GFA resulting from the Application being largely screened from the public domain and without unreasonable impact.

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

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

Assessment: Environmental planning grounds justifying the contravention of the FSR development standard include:

- A significant proportion of the excess FSR is concealed from the public domain from both Coogee Bay Road habitable windows of the neighbouring buildings either side. On this basis, the additional FSR is considered to be imperceptible and does not unreasonably add to the visual bulk of the built form as viewed from surrounding public and private vantage points.
- The built form is well within the permitted Height of Building and setback that is established by the 12- metre height limit in the LEP, as well as the setback provisions for Local centres in Part D6 of the Randwick DCP 2013. The built form is substantially within the envelope.
On this basis, the proposed of 1.64:1 is within the envelope/FSR standard and demonstrates that such FSR is not unreasonable and is appropriate for the site.

7

Vivi Building Design

March 2025

Clause 4.C (FSR)

218 Coogee Bay Road, Coogee

- As outlined above, the proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EPCA Act, 1979).

The proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the FSR variation in this instance.

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

Council agrees and considers that the Application's FSR breach is of minimal impact and so would have sufficient ground for support.

Height of Buildings

The existing building from its existing sub floor to parapet ridge measures 12.98 metres, being 980mm over the maximum height limit.

The rear addition is proposed to be built to a height of 10.33 metres, 1.67 metres below the height limit of 12 metres.

No works are proposed at 12 metres or above from existing ground level. Accordingly, a clause 4.6 variation request for height of buildings is not required.

6.5.1. Clause 5.10 - Heritage conservation

The subject site comprises an item of local heritage significance. The application was referred to Council's internal heritage planner for their review of the application and comment. Subject to conditions they confirmed support for the application (see **Appendix 1**).

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013 (RDCP 2013)

The provisions under RDCP 2013 are structured into two components: objectives and controls. The objectives provide the framework for assessment under each requirement and outline key outcomes that a development is expected to achieve. The controls contain both numerical standards and qualitative provisions. Any proposed variations from the controls may be considered only where the applicant successfully demonstrates that an alternative solution could result in a more desirable planning and urban design outcome.

The relevant provisions of RDCP 2013 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.
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 Appendix 2.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received during assessment.
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

Housing and Productivity Contribution

The Housing and Productivity Contribution (HPC) came into effect on 1 October 2023 by way of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*, under section 1.4 of the *Environmental Planning and Assessment (EP&A) Act 1979*. The HPC was introduced by the NSW Government and is a state infrastructure contribution which shall support housing and productivity in key growth areas in NSW. Contributions will help deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure, and regional open space.

The HPC applies to development for the purpose of residential development, commercial development and industrial development as defined in the updated Ministerial planning order dated 30 June 2024. In the Order, residential development is defined as follows:

Residential development means:

- (a) *subdivision of land (other than strata subdivision) on which development for the purposes of residential accommodation is permitted with development consent by an environmental planning instrument applying to the land (residential subdivision),*
- (b) *medium or high-density residential development,*
- (c) *development for the purposes of a manufactured home estate.*

Medium or high-density development means:

- (a) *Attached dwellings,*
- (b) *Build-to-rent housing,*
- (c) *Dual occupancy;*
- (d) *Multi-dwelling housing,*
- (e) *Residential flat building,*
- (f) *Semi-detached dwellings,*
- (g) *Seniors living (independent living units),*
- (h) *Shop top housing.*

As the proposed development involves shop-top housing with one new dwelling proposed, the HPC is applicable. It is noted that there is no net increase in the commercial GFA and therefore this does not require any additional contributions. A condition of consent requiring the payment of the relevant contribution has been imposed as a condition of consent.

9. Conclusion

That DA/1246/2024 for alterations to internal fit-out and rear additions to the existing shop and conversion and fit-out of the first floor to a residential unit within existing building to create shop top

housing (Heritage Item – “Douglass Buildings”) be consent (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the E1 local centre zone in that the proposed activity and built form will enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The design and planning outcome for the site will establish a positive precedent in the area.
- The development maintains the visual quality of the public domain and wider streetscape.
- The proposed development will make a positive contribution to the commercial centre.
- The Applicant has suitably justified variation to the FSR development standard.

D14/25

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site:

- The subject site forms part of a group heritage item, identified under Schedule 5 of the Randwick LEP 2012, and known as “Douglass Buildings”, Federation free style shops’ (Item no. 481).

Background:

- The subject site has had various major alterations and change of use since its erection (i.e. DA/162/1974, change of use to a surgery and office and internal alterations); most recently change of use and internal alteration DA/178/2023 including internal fitout and alterations to façade.

Comments:

- The proposal includes the removal of the aluminium windows and screens at the first-floor level fronting Coogee Bay Road. The windows will be replaced with timber double hung windows, in accordance with Pre-lodgement advice.
- The existing fireplace is to be retained and restored, in accordance with Pre-lodgement advice.
- It is noted that the rear wing will be retained, except for the rear wall to allow for the extension at the ground and first floor levels.
- It is noted that the lift overrun will be hidden in the roof cavity and not visible above the roof form.

General conditions:

- The new windows on the front façade at the first-floor level will be replaced with timber double hung windows, to reconstruct the original façade.
- The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the heritage item.
- The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.
- The original brick corners of the building are to be left intact, and the brick extension and the new work is to be separated from the old by an expansion joint.
- Where proposed, details of external elements of mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to Council for review.
- The introduction of new services must use existing service runs. Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted to Council for review.

Requirements to be carried out prior to CC:

- Provide details and specifications of the proposed signage, including size, font, colour, and location in an elevation and a photomontage for Council approval. The signage must not include illuminated or flashing components.
- Provide clarification on paint colours proposed for front façade. Consider co-ordination with the paint scheme of the heritage item.
- Prior to commencement of demolition or construction work, a construction management plan detailing the protection measures for significant fabric and features must be submitted to and approved by Council.
- Prior to commencement of demolition or construction work, a report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Council. The report must explain how the retained building elements, such as building facades, ceilings, walls, or other significant/original fabric of the building are to be retained, supported, and not undermined by the proposed development and give details of any intervention or retrofitting needed.
- A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items. An electronic digital copy of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council’s own records incorporating the following:
 - A PDF electronic copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs; and
 - Digital copies of the archival photographs in JPEG and TIFF formats.

1.2. Development Engineering

An application has been received for alterations and additions to an existing shop to create a shop top housing development.

This report is based on the following plans and documentation:

- Architectural Plans by VIVI Building Design P/L and dated 13.12.24;
- Statement of Environmental Effects dated December 2024
- Detail & Level Survey by East West Surveyors.

General Comments

The existing site has a Ice Cream Business (Andersen's Ice Cream) at street level with an office area above on the 1st Floor. There is also parking at the rear of the premises which is accessed from Alfreda Street.

The proposal is to refurbish and extend the ground floor level of the ice cream business as well as converting the and extending the first-floor level into a 1-bedroom unit with its pedestrian access from the rear of the site.

Parking Comments

The submitted survey plan shows that the width of the property at the rear as being 4.77m wide. The existing supporting structures for the carport roof further reduce the entry width of the car space area to approximately 4.40m's which Development Engineering would consider as a large single car space and suitable as a loading bay for which it is currently used for.

The placement of a pedestrian staircase at the rear of the site to service the proposed 1-bedroom unit reduces the vehicular entrance to approximately 3.20m wide however still allows for vehicular access.

The fact that the proposed 1-bedroom unit will have no vehicle off-street parking does not mean that Development Engineering does not support the proposed development (the area is well serviced by Public Transport in this area). Development Engineering does though recommend that motorcycle parking be allocated in the rear car space area under the proposed pedestrian stairs. This should be shown on the plans submitted for the Construction Certificate.

Drainage Comments

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter at either site frontage (Coogee Bay Rd and/or Alfreda St).

Landscape Comments

There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

1.3. Building Compliance

Alterations to internal fit-out and rear additions to the existing shop and conversion and fit-out of the first floor to a residential unit within existing building to create shop top housing (Heritage Item – "Douglass Buildings").
Comments:

The building comprises the following classification:

Building classification

Class 4, 6, 10A

Rise in storeys three (3)

Type of construction Type B

The 'BCA Indicative Compliance Report' that have been submitted with this application is considered to be satisfactory.

It is recommended that the said report recommendations outlined be adopted as a condition of development consent with details of the certification provided to the engaged Principal Certifier. As such, the Access and performance solution report will also need to be incorporated into the development consent and construction certificate application with a validation report provided to the Principal Certifier.

And, any proposed variations to the recommendations and requirements in the subject reports shall be submitted to and approved by the Director City Planning, prior to approval of the construction certificate.

1.4. Environmental Health

Proposed Development:

It is proposed the first floor will be converted to a single residence, and the ground floor to a food premise.

Comments:

An Acoustic report was prepared by Koikas acoustics dated 10 March 2025 reference: 6561R202502245hwLot6-18CoogeeBayRoadCoogee_DA.docx and supplied to Council.

In the Acoustic report it states that the matter should comply and that another Acoustic report should be conducted at the at the Construction Certificate stage for the plant equipment.

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Appendix 2: DCP Compliance Table

2.1 Section D6: Neighbourhood Centres – General Controls

DCP Clause	Control	Proposal	Compliance
2	Site planning		
2.3	Building heights		
	<ul style="list-style-type: none"> i) Where 9.5m height limit applies, development must not exceed 2 storeys (with exception of habitable roof space/partial floor). ii) Where 12m height limit applies, development must not exceed 3 storeys (with exception of habitable roof space/partial floor). iii) Minimum 3.3m floor to ceiling height at ground floor and 2.7 at upper floors. 	<ul style="list-style-type: none"> i) N/A, see ii) below. ii) No change to existing maximum building height. Two storey street presentation maintained. iii) 3.3 metre clearance achieved for ground floor. 3 metre minimum FTC height for first floor. 	Yes
2.4.1	Front setback		
	<ul style="list-style-type: none"> i) Development on primary road, up to 9.5m in height: nil setback. ii) Development on primary road, above 9.5m in height: 2m setback. iii) Corner allotments: minimum 1.5m x 1.5m splay corner at all levels. 	No change to front setback.	N/A
2.4.2.	Rear setback		
	<ul style="list-style-type: none"> i) Rear lane access: 1m minimum setback for car parking and ancillary buildings. ii) Maximum 6m height and 4.5m wall height for all ancillary buildings fronting laneways. iii) Ancillary buildings on laneways must have a mass and scale secondary to the primary dwelling on the allotment. iv) Any upper level (for ancillary buildings) must be contained within the roof form as an attic storey. v) Where there is no rear lane access and the site adjoins land in a residential zone, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the lesser. 	<ul style="list-style-type: none"> i) Ground and first floor to be built to rear boundary with undercroft area provided for parking/loading bay. Suitable driveway from Alfreda Street, measuring approximately 30 metres. ii) N/A no ancillary building. iii) N/A no ancillary building. iv) N/A no ancillary building. v) N/A 	Yes
2.4.3	Side setback		

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DCP Clause	Control	Proposal	Compliance
	i) Adjacent to business zone: nil setback. ii) Dwellings in business zone: refer Part C1 or C2 of DCP. iii) Adjacent to non-business zone: 3m for a minimum of 60% of lot depth.	i) Adjoins E1. Nil setback.	Yes
3	Building design		
3.1	Façades		
	i) Where a development has two street frontages, each façade treatment must respond to the buildings in those streets. ii) Include shopfronts on side street frontages of corner sites to enhance the commercial potential of the space and minimise blank walls to the streetfront. iii) Facades should display proportions and detailing which respect the prevailing building facades across the centre (i.e. designing fine grain shop fronts, where the existing subdivision is fine grain). iv) Distinguish residential entries from commercial/retail entries in the case of mixed use development. v) Design shopfronts, including entries and windows, to reinforce any prevalent character in the centre. vi) All street frontage windows at ground level are to have clear glazing. Large glazed shopfronts should be avoided, with window configurations broken into discrete sections to ensure visual interest. vii) All facade elements must be contained within the site boundaries. viii) Building services, such as drainage pipes shall be coordinated and integrated with overall facade and balcony design. ix) Balconies to the street facade are to be recessed behind the principal building facade. x) Balcony balustrades should comprise a light open/glazed material and should be compatible with the style of the building. xi) The development of colonnades is discouraged.	i) The application maintains the presentation of the subject site to Coogee Bay Road and provides a frontage toward Alfreda Street which is characteristic of that rear lane area. ii) Not a corner site. iii) Coogee Bay Road façade generally maintained. iv) Distinct rear stair access proposed. v) Shopfront retained. vi) No change to ground level facade toward Coogee Bay Road. Rear ground floor window proposed. vii) Achieved. viii) Service design appropriate. ix) Balcony recessed. x) Balustrades to comprise railing. xi) Not proposed.	Yes
3.2	Roof Forms		
	i) In centres where parapet forms are prevalent, development should include parapets that reflect the rhythm, scale and detailing of existing parapets. ii) Provide flat roofs where these prevail across the centre, unless the site conditions justify an alternative roof form (eg. Corner sites). iii) Design roof forms to generate a visually interesting skyline, while minimising	i) Coogee Bay Road parapet maintained. Rear roof character is appropriate. ii) No predominant rear roof character. iii) Frontage to Coogee	Yes

DCP Clause	Control	Proposal	Compliance
	<p>apparent bulk and potential for overshadowing. The style and pitch of new roofs should relate sympathetically to neighbouring buildings.</p> <p>iv) Relate roof forms to the size and scale of the building, the building elevation and the three dimensional building form.</p> <p>v) Structures such as ventilation shafts, lift over-runs and service plants, should be wholly contained within roof structures and not project above the roof line.</p>	<p>Bay Road maintained.</p> <p>iv) Roof form appropriate.</p> <p>v) Achieved.</p>	
3.4	Colours, materials, and finishes		
	<p>i) Utilise high quality and durable materials and finishes which require minimal maintenance.</p> <p>ii) Combine different materials and finishes to assist building articulation and modulation.</p> <p>iii) The following materials are considered incompatible: large wall tiles; rough textured render and/or bagged finish; curtain walls; and highly reflective or mirror glass.</p> <p>iv) Avoid large expanses of any single material to facades.</p> <p>v) Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.</p>	<p>Rear materials are appropriate and in character with the adjoining rear buildings.</p> <p>Front materials maintained.</p>	Yes
3.5	Lighting		
	<p>i) The external lighting of buildings must integrate external light features with the architecture of the building.</p> <p>ii) Under awning lighting should be provided in accordance with the relevant Australian Standard.</p> <p>iii) Where residential development is located above or adjoins the development, provide location and design details demonstrating that light is directed away from residences.</p> <p>iv) Avoid floodlights or excessive lighting of buildings.</p>	<p>External lighting maintained.</p> <p>iii) Residential portion located above commercial. Adequate light separation achieved.</p> <p>iv) Not proposed.</p>	Yes
3.6	Signage		
	<p>i) The location, size and design of signage must integrate with the architectural detail of the building and act as a unifying element to the neighbourhood centre.</p> <p>ii) Signage must not: obscure important architectural features; dominate the architecture of buildings; protrude from, or stand proud of, the awnings; project above any part of the building to which it is attached; cover a large portion of the building façade.</p> <p>iii) Avoid fin signs, signage on canvas blinds, signage on roller shutters and projecting wall signs and large elevated solid panel business and building name signs including those fixed on parapets or roofs.</p> <p>iv) Ensure that signs provide clear identification of premises for residents, visitors and</p>	<p>West facing signage proposed through SEE conditioned through amended drawings to the satisfaction of Council's Manager Development Assessment and Heritage Planner.</p>	Conditioned

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DCP Clause	Control	Proposal	Compliance
	<p>customers.</p> <p>v) All premises must display a street number. The height of these numbers should be legible but not a dominating feature, and no less than 300mm presented in a clear readable font.</p> <p>vi) Signage must relate to the business being carried out on the property.</p> <p>vii) Early building names (on parapets, pediments, etc) should be preserved wherever possible.</p> <p>viii) Any signage structure or sign must have regard to the impact on residential occupants in terms of illumination and visual impact.</p>		
4	Public domain		
4.1	Active frontages		
	<p>i) Maximise street level activity and minimise opaque or blank walls at ground level.</p> <p>ii) Minimise vehicular entrances not associated with active uses or building entries.</p> <p>iii) Security grilles or shutters may be fitted only within the shop itself behind glazing and must offer a minimum of 70% transparency.</p> <p>iv) Doors shall not encroach over the footpath when open. The use of fully operable glass walls or windows to open cafés and restaurants to the street is encouraged, where suitable for the prevailing character of existing buildings in the centre.</p> <p>v) ATMs and takeaway service counters should be recessed within a building wall to avoid negative impact on footpaths being used as service/queuing space. These areas are to be designed to avoid a hidden alcove/niche</p>	No change to Coogee Bay Road frontage.	Yes
4.2	Pedestrian friendly access and spaces		
	<p>i) Development should aim to increase the area of public spaces and pedestrian links that are available in the business centres.</p> <p>ii) In designing such areas, consideration should be given to solar access and protection from wind and rain.</p> <p>iii) Pedestrian and vehicle accessways are to be separated and clearly distinguishable.</p> <p>iv) Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths.</p> <p>v) Consider artworks and design which integrates private development with the public domain. Eg. Window treatments, paving, sculptures and decorative elements.</p>	No change to Coogee Bay Road frontage.	Yes
4.3	Vehicular access		
	<p>i) Where new development has access available off rear laneways or side streets, vehicular access must be provided from the</p>	Maintained.	Yes

DCP Clause	Control	Proposal	Compliance
	laneway or side streets. ii) Design driveways to minimise visual impact on the street and maximise pedestrian safety. Setback any rear lane garage doors 1 metre from the laneway alignment. iii) Avoid locating accessways to driveways adjacent to the doors or windows of habitable rooms.		
4.4	Loading areas		
	i) Provide for loading facilities on site wherever feasible or demonstrate that suitable alternative arrangements to minimise impact on other premises and people within the centre. ii) Service/delivery areas are to be located to minimise conflict between pedestrians/cyclists and vehicles and to minimise impact on residential amenity of neighbouring properties. iii) Where new development has access available off rear laneways or side streets, loading areas shall be located off these areas.	Maintained	Yes
5	Amenity		
5.1	Solar Access		
	i) Commercial and mixed use development are not to reduce sunlight to adjacent dwellings below a minimum of 3 hours of sunlight on a portion of the windows of the habitable rooms between 8am and 4pm on 21 June. ii) Where adjacent dwellings and their open space already receive less than the standard hours of sun, new development should seek to maintain this solar access where practicable.	Minor additional shadows. Acceptable.	Yes
5.2	Acoustic and visual privacy		
	i) Developments are to be designed to minimise noise transmission by: <ul style="list-style-type: none"> Locating busy noisy areas next to each other and quieter areas next to each other; Locating bedrooms away from busy roads and other noise sources; Using storage or circulation areas within a dwelling to buffer noise from adjacent apartments, mechanical services or corridors/lobbies. Avoid locating wet areas, such as toilets, laundries and kitchens, adjacent to bedrooms of adjoining dwellings. ii) Locate exhaust vents away from windows and open space of dwellings. iii) For development fronting arterial roads, provide noise mitigation measures to ensure an acceptable level of living amenity for the	Acoustic Report provided. See Environmental Health comments.	Yes

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DCP Clause	Control	Proposal	Compliance
	<p> dwellings is maintained.</p> <p>iv) Operating hours must be submitted with the DA. Should the development require deliveries and/or operation of machinery outside of standard hours (7.30am to 5pm, Monday to Friday), an acoustic report must accompany the DA. The acoustic report must be prepared by a suitably qualified acoustic consultant.</p>		
6	Shop top housing		
	<p>i) Entries to residential apartments are to be separated from commercial entries to provide security and an identifiable address for each of the different users.</p> <p>ii) Each dwelling must be provided with private open space directly accessible from its living area, in the form of either a balcony at least 2m deep or a terrace or private courtyard at least 10 square metres in area.</p> <p>iii) Private open spaces should be: located adjacent to and accessible from the main living areas of the dwelling; located so as to maximise solar access; located to ensure privacy and away from noisy locations, where possible; and screened by vegetation or a wall to ensure privacy.</p> <p>iv) If an elevator is provided for residential use, it must not be used for retail loading or waste removal.</p> <p>v) Separate the waste storage facilities for commercial and residential components of a development.</p> <p>vi) Site services and facilities (such as letterboxes and drying yards) should be designed to enable safe and convenient access by residents; in an aesthetically sensitive way; to have regard to the amenity of adjoining developments and streetscape; to require minimal maintenance; and to be visually integrated with the development.</p>	<p>i) Separate staircase provided to residential component.</p> <p>ii) Rear POS balcony/alfresco proposed.</p> <p>Combined 3.3 metre balcony/alfresco proposed. 11.5sqm POS.</p> <p>iii) POS is appropriately located. Privacy screen condition to the eastern elevation where it faces an adjoining balcony.</p> <p>iv) To be conditioned.</p> <p>v) Separate residential and commercial bins proposed at rear.</p> <p>vi) Services appropriately located.</p>	Yes

2.2 Part D13: Late Night Trading

The application proposes to continue the hours operation approved under DA/178/2023.

The ground floor commercial use is not proposed to change.

Proposed hours from 10am to 11pm Monday to Sunday are acceptable on this basis.

2.3 Part B2: Heritage

Council is satisfied that the proposed development meets the heritage requirements in accordance with Part B2 of RDCP 2013. Refer to detailed assessment by Council's Heritage Planner at Referrals section of this report.

2.5 Part B6: Recycling and Waste Management

DA/178/2023 approved the ground floor commercial use as an *Andersens ice cream*, with the application proposing to continue that use. A condition of consent has been imposed for operational waste management provisions to be provided for the commercial use, to the satisfaction of Council.

Significant construction waste not expected and would be suitably addressed via conditions of consent.

2.6 Part B7: Transport, Traffic, Parking and Access

A loading bay is provided at the rear of the site for the commercial portion of the subject site (existing).

Development Engineer raised no objection to the proposed parking provisions subject to a motorcycle parking space being provided at the rear.

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Appendix 3: Clause 4.6 Variation

Clause 4.C (FSR)

218 Coogee Bay Road, Coogee

CLAUSE 4.6 VARIATION REQUEST TO FLOOR SPACE RATIO DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.4 OF RANDWICK LEP 2012

218 COOGEE BAY ROAD, COOGEE

Alterations & Additions to the existing Ice cream shop. Change of use from commercial to shop top housing

PREPARED BY

VIVI BUILDING DESIGN PTY LTD

MARCH 2025

*Clause 4.C (FSR)**218 Coogee Bay Road, Coogee*

**CLAUSE 4.6 VARIATION REQUEST TO FLOOR SPACE RATIO DEVELOPMENT STANDARD
PURSUANT TO CLAUSE 4.4 OF RANDWICK LEP 2012**

This Clause 4.6 variation request has been prepared to accompany the Development Application for the alterations & addition to the existing Ice cream shop plus change of use from commercial to shop top housing at 218 Coogee Bay Road, Coogee.

The site is zoned E1 Local Centre under the provisions of Randwick LEP 2012. Shop top housing are permitted under the E1 zoning.

The proposal seeks to the alterations & additions of the shop at ground floor, change of use to the first floor to be residential unit.

The proposal results in a non-compliance with Clause 4.4 of the Randwick LEP 2012 which relates to floor space ratio. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the Randwick LEP 2012:

Clause 4.C Exceptions to development standards

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

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

- (4) *The consent authority must keep a record of its assessment carried out under subclause (3).*
- (5) *(Repealed)*
- (C) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RUC Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*Clause 4.C (FSR)**218 Coogee Bay Road, Coogee*

- (b) the subdivision will result in at least one lot that is less than 50% of the minimum area specified for such a lot by a development standard.
- (7) *(Repealed)*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (caa) clause 5.5,
 - (ca) clause C.1C(3)(b)

This Clause 4.6 variation has been prepared in accordance with the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023.

This Clause 4.6 variation request outlines the nature of the exceedance to the FSR development standard and provides an assessment of the relevant matters in Clause 4.6 of the Randwick LEP 2012.

This Clause 4.6 variation request demonstrates that compliance with the development standard relating to FSR is unreasonable or unnecessary in the circumstances and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying Clause 4.6(3) of the Randwick LEP 2012. This Clause 4.6 variation request also demonstrates that the proposed development will be consistent with the objectives of the FSR of buildings development standard and the zoning of the site.

Development Standard to be Varied.

The proposal seeks a variation to the development standard contained within Clause 4.4 of the Randwick LEP 2012 - a maximum FSR of 1.5:1.

Pursuant to Clause 4.4 of the RLEP2012, the site is subject to a maximum FSR of 1.5:1.

Site area is 120.73m², therefore the GFA control is 181 m²

The area calculation in architectural drawings (DA06) show the proposed GFA 180.9, which not include the subfloor area.

After DA assessment from Council, part of the subfloor area need to be included to the GFA calculation ~ 18m² as demonstrated in diagrams below

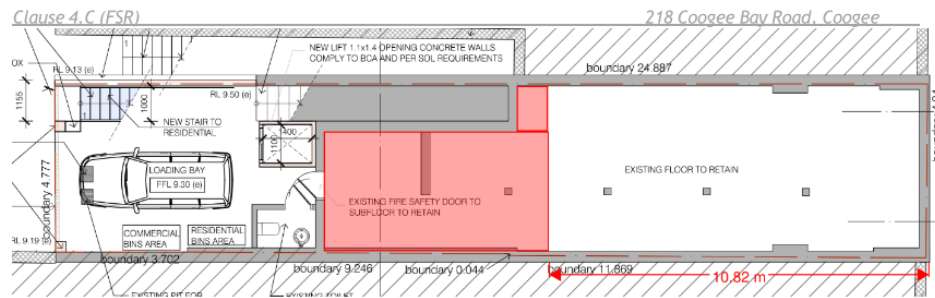


Figure 1: Addition to GFA calculation (18m2)

So, the GFA proposed is 198.9m², and the FSR proposed is 1.64: 1 (~ 9.8% over the control)

Justification for Contravention of the Development Standard

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

4.C(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances

5-Part test

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-Part Test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The 5-Part Test is summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if the:

1. **objectives of the development standard are achieved notwithstanding the non-compliance**
2. *underlying objective or purpose is not relevant to the development*
3. *underlying objective or purpose would be defeated or thwarted if compliance was required*
4. *development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard*

*Clause 4.C (FSR)**218 Coogee Bay Road, Coogee*

5. *zoning of the land on which the development is proposed was unreasonable or inappropriate.*

An applicant only needs to satisfy at least one part of the 5-Part Test, not all 5 parts.

Assessment: Despite the non-compliance with the FSR control, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the Objectives of the FSR Development Standard in the LEP	
Objectives	Assessment
<i>(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,</i>	The alterations of internal layout and additions to the rear of the property will not affect the desired future character of the locality.
<i>(b) to ensure that buildings are well articulated and respond to environmental and energy needs,</i>	The design of the building encompasses an appropriate distribution of FSR, no changes to the streetscape at Coogee Bay Road
<i>(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</i>	The subject site is within a heritage conservation area. However, no adverse impacts on any heritage items or streetscape from the FSR variation of the building as the excess FSR would not be evident from the heritage item.
<i>(d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.</i>	The proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss of views, and a reduction in this FSR would not create additional benefit for adjoining properties or the locality.

Clause 4.C (FSR)

218 Coogee Bay Road, Coogee

	<p><u>Overshadowing</u>: N/A</p> <p><u>View Loss</u>: N/A</p> <p><u>Privacy</u>: The additional floor space been considered of the design of privacy screen to minimize the impact to the privacy of neighbors</p>
Consistency with the Objectives of the E1 Local Centre Zone	
Objectives	Assessment
<ul style="list-style-type: none"> To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. To encourage investment in local commercial development that generates employment opportunities and economic growth. To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. 	<p>The site is zoned E1 Local Centre under the provisions of Randwick LEP 2012.</p> <p>The proposed FSR variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the E1 Local Centre zone.</p> <p>The proposal is consistent with the objectives of the E1 zone as follows:</p> <ul style="list-style-type: none"> Despite the FSR variation, the proposal contribute to the local centre and encourage investment in local commercial development. The proposed development includes a better shop front design and layout that will serve the needs of people who live in, work in and visit the area. The shop fronting Coogee Bay Road will generate employment opportunities and economic growth in a location accessible by active transport.

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<ul style="list-style-type: none"> • To maximise public transport patronage and encourage walking and cycling. • To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community. • To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones. • To facilitate a safe public domain. • To support a diverse, safe and inclusive day and night-time economy. 	<ul style="list-style-type: none"> • The proposed building displays architectural and urban design quality and contributes to the desired character of the locality. <p>Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the FSR variation.</p>
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Compliance with the development standard is unreasonable and unnecessary as the proposed FSR and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

4.C(3)(b) there are sufficient environmental planning grounds to justify contravening the development standard

Assessment: Environmental planning grounds justifying the contravention of the FSR development standard include:

- A significant proportion of the excess FSR is concealed from the public domain from both Coogee Bay Road habitable windows of the neighbouring buildings either side. On this basis, the additional FSR is considered to be imperceptible and does not unreasonably add to the visual bulk of the built form as viewed from surrounding public and private vantage points.
- The built form is well within the permitted Height of Building and setback that is established by the 12- metre height limit in the LEP, as well as the setback provisions for Local centres in Part D6 of the Randwick DCP 2013. The built form is substantially within the envelope.
On this basis, the proposed of 1.64:1 is within the envelope/FSR standard and demonstrates that such FSR is not unreasonable and is appropriate for the site.

*Clause 4.6 (FSR)**218 Coogee Bay Road, Coogee*

- As outlined above, the proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.
- The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EPCA Act, 1979).

The proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site. On the above basis, it is considered that there are sufficient environmental grounds to permit the FSR variation in this instance.

Conclusion

This Clause 4.6 variation request is considered to adequately address the relevant matters under Clause 4.6 and demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances (Clause 4.6(3)(a)) and that there are sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)).

The proposed development will be in the public interest because it is consistent with the objectives of the floor space ratio development standard under the Randwick LEP 2012.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 218 Coogee Bay Road, Coogee and is requested to be looked upon favourably by the consent authority.

Responsible officer: Dean Lidis, Environmental Planning Officer

File Reference: DA/1246/2024

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Development Consent Conditions



Folder /DA No:	DA/1246/2024
Property:	218 Coogee Bay Road, COOGEE NSW 2034
Proposal:	Use of the first floor as residential accommodation as well as alterations and additions to the subject site to facilitate a shop top housing development
Recommendation:	Approval

GENERAL CONDITIONS

Condition

1.
- Approved plans and documentation**

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

Plan	Drawn by	Dated	Received by Council
Site & Roof Plan DA02 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Lower Ground Floor Plan DA 03 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Ground Floor Plan DA04 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
First Floor Plan DA05 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
South Elevation DA07 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
North Elevation DA08 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
West Elevation DA09 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Section A DA10 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Section B DA11 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Section C DA12 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Window SCH DA13 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Schedule of External Finishes DA 15 Issue A	Vivi Building Design Pty Ltd	13/12/2024	19/12/2024
Eltec HLB (Lift specification)	Next Level Elevators	-	19/12/2024

BASIX Certificate No.	Dated	Received by Council
A1771735	5 November 2024	19 December 2024

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	Condition
	<p>In the event of any inconsistency between the approved plans and supplementary documentation, the approved drawings will prevail.</p> <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
2.	<p>Heritage Conservation</p> <p>a) The new windows on the front façade at the first-floor level will be replaced with timber double hung windows, to reconstruct the original façade.</p> <p>b) The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the heritage item.</p> <p>c) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.</p> <p>d) The original brick corners of the building are to be left intact, and the brick extension and the new work is to be separated from the old by an expansion joint.</p> <p>e) Where proposed, details of external elements of mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to Council for review.</p> <p>f) The introduction of new services must use existing service runs. Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted to Council for review.</p> <p>Condition Reason: To ensure heritage significance is retained.</p>
3.	<p>Signage</p> <p>No signage is approved under this development consent.</p> <p>Condition Reason: To ensure an appropriate assessment of west facing signage.</p>
4.	<p>Privacy Screening</p> <p>The approved plans and documents must be amended in accordance with the following requirements:</p> <p>a. A privacy screen having a height of 1.8m (measured from floor level RL15.65) shall be provided to the eastern elevation adjoining the rear balcony.</p> <p>Privacy screen/s must be constructed with either:</p> <ul style="list-style-type: none">• 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. <p>Condition Reason: To ensure privacy</p>
5.	<p>Lift Height</p> <p>The lift overrun (if any) must not exceed the height of the roof of the approved development.</p> <p>Condition Reason: To maintain amenity of the adjoining neighbours.</p>

BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
6.	<p>Consent Requirements</p> <p>The requirements and amendments detailed in the 'General Conditions' must be</p>

	Condition
	<p>complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
7.	<p>External Colours, Materials & Finishes</p> <p>The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
8.	<p>Section 7.12 Development Contributions</p> <p>In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$240,000 the following applicable monetary levy must be paid to Council: \$2,400.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
9.	<p>Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section</p> <p><i>At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p>
10.	<p>Housing and Productivity Contribution</p> <p>Before the issue of the first Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.</p>

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Condition	
Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	10,623.63
Transport project component	-
Total housing and productivity contribution	10,623.63

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Condition Reason: To require contributions towards the provision of regional infrastructure, and to ensure the housing and productivity contribution is paid.

11. **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 waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.
- The **Tap in™** service provides 24/7 access to a range of services, including:
- Building plan approvals
 - Connection and disconnection approvals
 - Diagrams
 - Trade waste approvals
 - Pressure information
 - Water meter installations
 - Pressure boosting and pump approvals
 - Change to an existing service or asset, e.g. relocating or moving an asset.
- Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/tapin>
- The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.
- Condition Reason: To ensure the development satisfies Sydney Water requirements.
12. **Trade Waste Materials**
Liquid trade waste materials are to be drained to the sewer (via a suitable grease trap) and details of compliance are to be submitted to the Certifying Authority.
- Condition Reason: To ensure the development satisfies Sydney Water requirements.
13. **Building Code of Australia**

	Condition
	<p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>The works are to be carried out in compliance with the 'BCA Indicative Compliance Report', prepared by Building Innovations Australia, dated 20 November 2024 (Project Reference No. PRO-09429-V2W4). Details of compliance is to be provided to the Principal Certifier's satisfaction.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
14.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
15.	<p>BASIX Requirements</p> <p>In accordance with section 4.17(11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 75 of the <i>Environmental Planning and Assessment Regulation 2021</i>, 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>
16.	<p>Stormwater Drainage</p> <p>Surface water from building work and structures must satisfy the following requirements (as applicable), to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p> <ol style="list-style-type: none"> Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2); The surface water/stormwater is to be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit; Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance; External paths and ground surfaces are to be constructed at appropriate

Condition	
	levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
	Condition Reason: To ensure stormwater is appropriately managed.
17.	<p>Provide Motorcycle Parking</p> <p>Prior to the issuing of a Construction Certificate the submitted plans are to be amended to show motorcycle parking located, underneath the proposed staircase to the first-floor unit, in the lower ground level / loading bay area. The Principal Certifier is to ensure compliance with this requirement.</p> <p>Condition Reason: To provide off-street parking for the subject site.</p>
18.	<p>Fire Safety</p> <p>In accordance with the provisions of section 64 of the Environmental Planning and Assessment Regulation 2021, the existing levels of fire and safety within the premises are to be upgraded to achieve an adequate level of safety and the following requirements are to be satisfied:</p> <p>A report prepared by a suitably qualified Registered Building Certifier or Building Code of Australia Consultant must be submitted to and approved by Council's Manager Health, Building & Regulatory Services (or delegate), in accordance with section 4.17(2) of the Environmental Planning and Assessment Act 1979.</p> <p>The report must include an assessment of the existing building and the relevant provisions of the National Construction Code - Building Code of Australia. The report must also include details of the measures and works considered appropriate to achieve an adequate level of fire and safety for the building and the occupants, for consideration by Council.</p> <p>The upgrading works contained in the report (as approved by Council) are to be included in the construction certificate and be implemented prior to issuing an occupation certificate for the new building or part and written confirmation is to be provided to Council accordingly</p> <p>Condition Reason: To ensure building is suitable for occupancy and use.</p>
19.	<p>Heritage Conservation</p> <p>Prior to the issue of a construction certificate, the following matters must be addressed and provided Council's Heritage Planner to their satisfaction.</p> <ol style="list-style-type: none"> Provide clarification on paint colours proposed for front façade. Consider co-ordination with the paint scheme of the heritage item. Prior to commencement of demolition or construction work, a construction management plan detailing the protection measures for significant fabric and features must be submitted to and approved by Council's Heritage Planner. A report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Council's Heritage Planner. That report must explain how the retained building elements, such as building facades, ceilings, walls, or other significant/original fabric of the building are to be retained, supported, and not undermined by the proposed development and give details of any intervention or retrofitting needed. A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council's Heritage Planner, prior to the issue of a construction certificate. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items. An electronic digital copy of the

	Condition
	<p>archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:</p> <ul style="list-style-type: none"> i. A PDF electronic copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs; and ii. Digital copies of the archival photographs in JPEG and TIFF formats. <p>Condition Reason: To ensure conservation of heritage fabric.</p>
20.	<p>Design, Construction & Fit-out of Food Premises</p> <p>The premises is to be designed and constructed in accordance with the <i>Food Act 2003</i>, <i>Food Regulation 2010</i>, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.</p> <p>Condition Reason: To ensure the premises is appropriately built.</p>
21.	<p>Design, Construction & Fit-out of Food Premises</p> <p>The design and construction of the food premises must comply with the following requirements, as applicable:-</p> <ul style="list-style-type: none"> a. The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non-slip and non-abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer. The intersection of walls with floor and plinths is to be coved, to facilitate cleaning. b. Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface. <p>The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops, wash hand basins, sinks and equipment.</p> c. Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials. d. The ceilings of kitchens, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non-absorbent material (i.e. fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material), with a light coloured washable paint finish. 'Drop-down' ceiling panels must not be provided in food preparation or cooking areas. e. All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc must be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.

	Condition
	<p>f. Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.</p> <p>g. Fly screens and doors with self-closing devices, are to be provided to all external door and window openings and an electronic insect control device/s are to be provided in suitable locations within the food premises.</p> <p>h. A mechanical ventilation exhaust system is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, where required under the provisions of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.</p> <p>Emission control equipment shall be provided in mechanical exhaust systems serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils.</p> <p>i. Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water must be supplied to the wash hand basins through a suitable mixing device.</p> <p>j. Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.</p> <p>k. All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.</p> <p>l. Any space or gap between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).</p> <p>A statement from a suitable qualified person in mechanical ventilation systems confirming the mechanical extraction system and location of the discharge point meets the requirements of the National Construction Code (Building Code of Australia) and Australian Standards 1668. Details of compliance are to be included in the construction certificate and submitted to Council.</p> <p>Condition Reason: To ensure the premises is appropriately built.</p>
22.	<p>Design, Construction & Fit-out of Food Premises</p> <p>A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant, which confirms that the design and construction of the <i>food business</i> will satisfy the relevant requirements of the <i>Food Act 2003</i>, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to a construction certificate being issued for the 'fit-out' of the <i>food business</i>, to the satisfaction of the Principal Certifying Authority.</p> <p>Condition Reason: To ensure the premises is appropriately built.</p>
23.	<p>Noise</p> <p>Noise from the development must not cause an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and must satisfy the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW EPA Noise Policy for Industry 2017 (NPfI) and conditions of this development consent.</p>

Condition

A report prepared by a qualified Acoustic Consultant, which provides details of compliance with the abovementioned criteria, must be provided to the Council and the Certifier for the development and any recommendations and requirements are to be included in the Construction Certificate accordingly.

Condition Reason: To ensure acoustic compliance

24.

BEFORE BUILDING WORK COMMENCES

Condition

25. **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.

26. **Dilapidation Reports**

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

The dilapidation report must be submitted to the Principal Certifier, Council and the

	Condition
	<p>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>
27.	<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 • measures to be implemented to ensure public health and safety. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
28.	<p>Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
29.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise & Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise & Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of</p>

	Condition
	development consent, to the satisfaction of the Certifier.
	<p>(b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.</p> <p>(c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the <i>Construction Noise & Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise & Vibration Management Plan</i> and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.</p> <p>A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p> <p>(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
30.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
31.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>Condition Reason: To ensure public utilities are maintained.</p>
32.	<p>Public Utilities</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure public utilities are maintained.</p>
33.	<p>Hazardous Materials</p> <p>Hazardous materials arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of</p>

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Condition	
	<p>SafeWork NSW and the Environment Protection Authority, and with the provisions of:</p> <ul style="list-style-type: none">• <i>Work Health and Safety Act 2011</i>;• <i>Work Health and Safety Regulation 2017</i>;• <i>Protection of the Environment Operations Act 1997</i>;• <i>Protection of the Environment Operations (Waste) Regulation 2014</i>;• <i>NSW EPA Waste Classification Guidelines (2014)</i>;• SafeWork NSW Code of Practice for the Safe Removal of Asbestos;• Australian Standard 2601 (2001) – Demolition of Structures;• Randwick City Council's Asbestos Policy. <p>Condition Reason: To ensure public utilities are maintained.</p>

DURING BUILDING WORK									
Condition									
34.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ul style="list-style-type: none">a) showing the name, address and telephone number of the principal certifier for the work, andb) 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) andc) stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ul style="list-style-type: none">a) maintained while the building work is being carried out, andb) removed when the work has been completed. <p>This section does not apply in relation to—</p> <ul style="list-style-type: none">a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, orb) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6. <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>								
35.	<p>Restriction on Working Hours</p> <p>Building, demolition and associated site works must be carried out in accordance with the following requirements:</p> <table><tr><th>Activity</th><th>Permitted working hours</th></tr><tr><td>All building, demolition and site work, including site deliveries (except as detailed below)</td><td><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</td></tr><tr><td>Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like</td><td><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</td></tr><tr><td>Internal work only within a commercial or industrial development, located in a</td><td><ul style="list-style-type: none">• Monday to Saturday - No time limits (subject to work not being audible in</td></tr></table>	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	Internal work only within a commercial or industrial development, located in a	<ul style="list-style-type: none">• Monday to Saturday - No time limits (subject to work not being audible in
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								
Internal work only within a commercial or industrial development, located in a	<ul style="list-style-type: none">• Monday to Saturday - No time limits (subject to work not being audible in								

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

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

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

36. **Noise & Vibration**

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

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

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.

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

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

Notes:

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

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

38. **Overhead Hoardings**

An overhead ('B' class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:

	Condition
	<ul style="list-style-type: none"> • goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway • building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment • it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land • as may otherwise be required by SafeWork NSW, Council or the Principal Certifier. <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>
39.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ul style="list-style-type: none"> a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines. g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident. h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land. i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council. j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

	Condition
	<p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
40.	<p>Site Accessway</p> <p>A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.</p> <p>Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.</p> <p>Condition reason: To minimise and prevent damage to public infrastructure.</p>
41.	<p>Dust Control</p> <p>Dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.</p> <p><i>Dust control measures and practices may include:</i></p> <ul style="list-style-type: none"> • <i>Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).</i> • <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i> • <i>Installation of water sprinkling system or provision hoses or the like.</i> • <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i> • <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i> • <i>Landscaping and revegetation of disturbed areas.</i> <p>Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.</p>
42.	<p>Excavations and Support of Adjoining Land</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
43.	<p>Complaints Register</p> <p>A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>

Condition	
44.	<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>
45.	<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>
46.	<p>Road / Asset Opening Permit</p> <p>A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.</p> <p>The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.</p> <p>For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.</p> <p>Condition Reason: To ensure appropriate permits are obtained.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
47.	<p>Occupation Certificate Requirements</p> <p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
48.	<p>Post-construction Dilapidation Report</p> <p>A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <p>(a) after comparing the pre-construction dilapidation report to the post-</p>

	Condition
	<p>construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and</p> <p>(b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.</p> <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
49.	<p>Fire Safety Certificate</p> <p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
50.	<p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
51.	<p>Sydney Water Certification</p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > <i>Building and developing</i> > <i>Developing your Land</i> > <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
52.	<p>BASIX Requirements</p>

	Condition
	<p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
53.	<p>Street and/or Sub-Address Numbering</p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
54.	<p>Waste Management</p> <p>The owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services to the 1-bedroom unit.</p> <p>Condition Reason: To ensure that waste and recycling is appropriately managed.</p>
55.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
56.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ol style="list-style-type: none"> Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the

	Condition
	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 works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
57.	<p>Structural adequacy of awning over footpath</p> <p>A report is required to be obtained from a professional structural engineer, which assesses and reports on the structural adequacy of the awning located over the footway and attached to the subject premises.</p> <p>The report is required to:</p> <ul style="list-style-type: none"> (a) Confirm that the subject awning is currently structurally adequate and fit-for-purpose, or; (b) Detail the necessary works required to be carried out to ensure that the awning is structurally adequate safe. <p>In the case of a report provided in accordance with a) above, the report must be provided to the Principal Certifier and Council prior to the issuing of an Occupation Certificate or commencement of the use (whichever the sooner).</p> <p>In the case of a report provided in accordance with b) above, the necessary works identified in the report must be carried out and a further report or certificate must be provided to the Principal Certifier and Council which confirms that the necessary work has been carried out and the subject awning is structurally adequate and fit-for-purpose, prior to the issuing of an Occupation Certificate or commencement of the use of the land (whichever the sooner) or other timeframe approved by Council in writing.</p> <p>Condition Reason: To protect pedestrians and footpath users, and ensure the awning is structurally sound.</p>
58.	<p>Food Safety</p> <p>A certificate or statement must be obtained from a suitably qualified and experienced Food Safety Consultant or Council's Environmental Health Officer, to confirm that the design and construction of the <i>food business</i> satisfies the relevant requirements of the <i>Food Act 2003</i>, Food Standards Code and AS 4674 (2004) - Design, construction and fit-out of food premises, prior to issuing an Occupation Certificate.</p> <p>Condition Reason: To ensure food safety requirements are met.</p>
59.	<p>Food Safety</p> <p>The food premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.</p> <p>Condition Reason: To ensure food safety requirements are met.</p>
60.	<p>Environmental Amenity</p> <p>A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from the development (including all plant and equipment) satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>, NSW Office of</p>

Condition	
	Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's development consent. A copy of the report is to be forwarded to the Council with or prior to the issue of an occupation certificate.
	Condition Reason: To ensure acoustic compliance.
61.	Noise Validation A report or statement prepared by a suitably qualified and experienced person must be provided to the Principal Certifier and Council, which demonstrates that the noise from all plant and equipment satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i> , relevant Environment Protection Authority Guidelines and the conditions of this development consent.
	Condition Reason: To ensure acoustic compliance.

OCCUPATION AND ONGOING USE

Condition	
62.	Operational Hours The hours of operation of the ground floor commercial/shop use are 10am to 11pm Monday to Sunday inclusive.
	Condition Reason: To ensure that the approved use is operated within the approved hours of operation, to ensure safety and security and protect the amenity of surrounding areas.
63.	Fire Safety Statement A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i> , and in accordance with the <i>Fire Safety Schedule</i> for the building.
	The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i> .
	A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.
	Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> , and that adequate provision is made for fire safety in the premises for building occupant safety.
64.	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.
65.	Operational Noise 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 ensure noise is managed.

	Condition
66.	<p>Food Storage All food preparation, cooking, display and storage activities must only be carried out within the approved food premises.</p> <p>Storage shall be within appropriate shelves, off the floor and in approved storage containers. External areas or structures must not be used for the storage, preparation or cooking of food, unless otherwise approved by Council in writing and subject to any necessary further approvals.</p> <p>Condition Reason: To ensure food is stored appropriately.</p>
67.	<p>Food Safety Requirements The food premises must be Registered with Council's Health, Building & Regulatory Services Department and the NSW Food Authority in accordance with the Food Safety Standards, prior to commencing business operations.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
68.	<p>Food Safety Requirements A <i>Food Safety Supervisor</i> must be appointed for the business and the NSW Food Authority and Council must be notified of the appointment, in accordance with the <i>Food Act 2003</i>, prior to commencing business operations. A copy of which must be maintained on site and be provided to Council officers upon request.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
69.	<p>Food Safety Requirements A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bain-maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.</p> <p>A digital probe type thermometer must also be readily available to check the temperature of food items.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
70.	<p>Food Safety Requirements All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60°C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more than 5°C and keep this food cold at or below that temperature.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
71.	<p>Food Safety Requirements Food safety practices and the operation of the food premises must be in accordance with the <i>Food Act 2003</i>, Food Regulation 2004, <i>Food Standards Code</i> and Food Safety Standards at all times, including the requirements and provisions relating to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Food handling – skills, knowledge and controls. <input type="checkbox"/> Health and hygiene requirements. <input type="checkbox"/> Requirements for food handlers and businesses. <input type="checkbox"/> Cleaning, sanitising and maintenance.

Condition	
	<p><input type="checkbox"/> Design and construction of food premises, fixtures, fitting and equipment.</p> <p>The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.</p> <p>Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
	<p>72. Food Safety Requirements</p> <p>The food premises must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation & exhaust systems & ducting, storage areas, toilet facilities, basins and sinks.</p> <p>Condition Reason: To ensure the business meets the relevant food safety requirements.</p>
	<p>73. Environmental Amenity</p> <p>There are to be no emissions or discharges from the premises which will give rise to a public nuisance or result in an offence under the <i>Protection of the Environment Operations Act 1997</i> and <i>Regulations</i>.</p> <p>Condition Reason: To protect the surrounding amenity.</p>
	<p>74. Environmental Amenity</p> <p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and <i>Regulations</i>.</p> <p>In this regard, the use and operation of the premises (including all plant and equipment) shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Office of Environment & Heritage/Environment Protection Authority Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).</p> <p>Condition Reason: To protect the surrounding amenity.</p>
	<p>75. Waste Management</p> <p>Adequate provisions are to be made within the confines of the premises for the storage, collection and disposal of waste and recyclable materials, to the satisfaction of Council, prior to commencing business operations.</p> <p>The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.</p> <p>A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.</p> <p>Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.</p> <p>Condition Reason: To ensure waste is appropriately managed.</p>

	Condition
76.	<p>Waste Management</p> <p>Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to the Council prior to commencing operation of the business.</p> <p>Condition Reason: To ensure waste is appropriately managed.</p>
77.	<p>Sanitary Facilities</p> <p>Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be provided for customers and staff and be maintained in a clean and sanitary condition at all times.</p> <p>Condition Reason: To ensure sanitary facilities are maintained.</p>
78.	<p>Elevator</p> <p>The elevator must not be used for retail loading or waste removal for the ground floor commercial use.</p> <p>Condition Reason: To ensure lift amenity.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

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

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

Development Application Report No. D15/25

Subject: 9 Middle Street, Kingsford (DA/1176/2024)


Executive Summary

Proposal:	Alterations and additions to existing dwelling house including changes to and extension of the ground floor, new roof within rear portion, associated ancillary and landscaping works.
Ward:	West Ward
Applicant:	City Rhythm Pty Ltd
Owner:	Mr T Cheng
Cost of works:	\$231,000
Reason for referral:	The development involves demolition works to a heritage item.

Recommendation

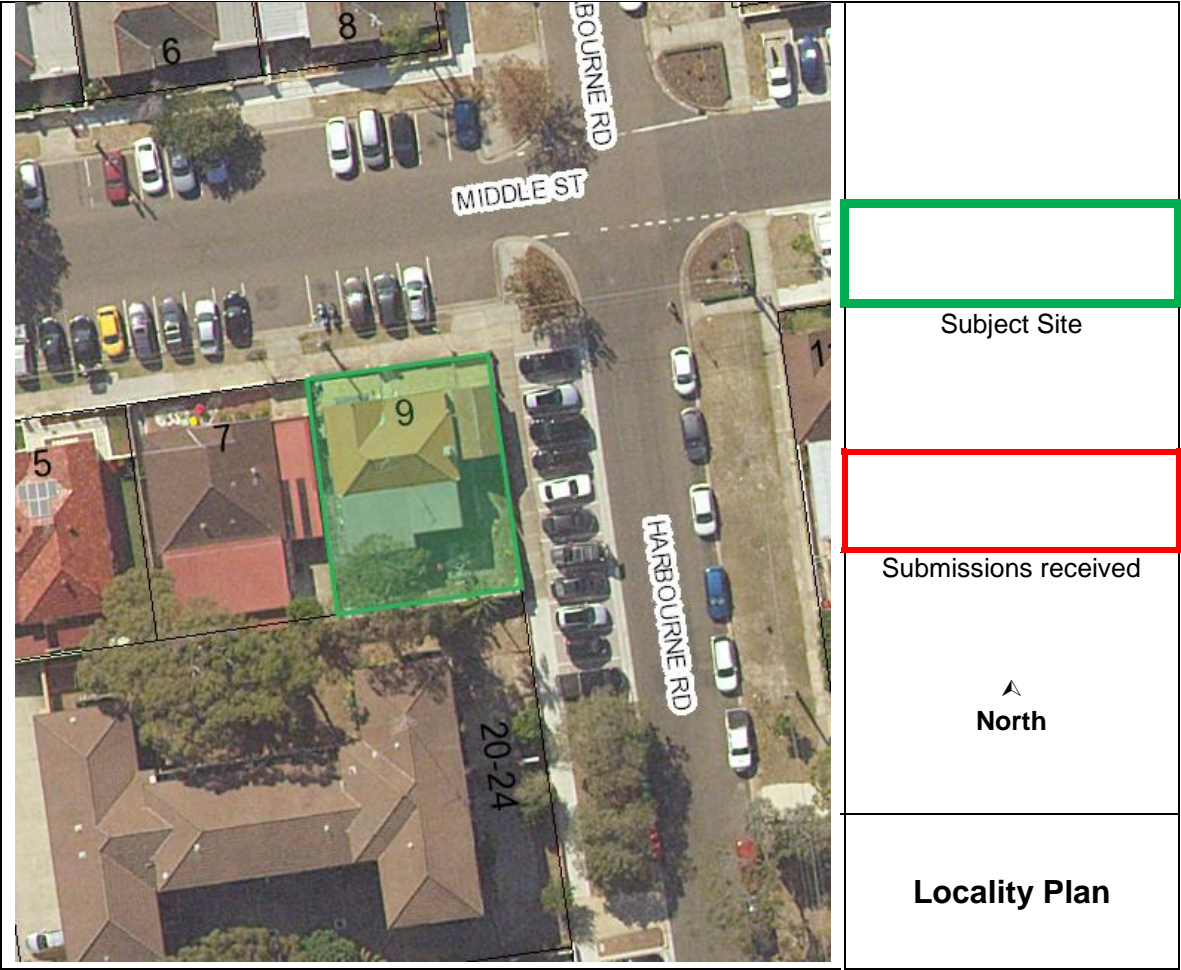
That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1176/2024 for alterations and additions to existing dwelling house including changes to and extension of the ground floor, new roof within rear portion, associated ancillary and landscaping works at No. 9 Middle Street, Kingsford, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-  RLPP Dev Consent Conditions (general) - DA/1176/2024 - 9 Middle Street, KINGSFORD NSW 2032 - DEV - Randwick City Council

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1. Executive summary

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

The proposal seeks development consent for alterations and additions to an existing dwelling house, including a rear extension at ground floor level.

The key issues associated with the proposal relate to heritage conservation, deep soil permeable surface area, and private open space.

The proposal is recommended for approval, subject to non-standard conditions to delete the proposed TV room and study and to convert existing hardstand areas to permeable surfaces. Suitable conditions are included to ensure residential amenity for future occupants and to clarify the scope of approved works.

2. Site Description and Locality

The subject site is known as 9 Middle Street and is legally described as Lot 1234 in DP 668058. The site has an area of 306.6m² and is rectangular in shape. The site has a 15.24m frontage to Middle Street (to the north) and a 20.115m frontage to Harbourne Road (to the east).

As shown in Figures 1-3, the site is currently occupied by a single storey dwelling with a detached single garage. The site is listed as a local heritage item known as “*Lanor*”, *Edwardian house* (Item No. 1157).

Surrounding development comprises a mix of residential land uses, ranging from single storey dwellings to four (4) storey residential flat buildings.



Figure 1: Existing dwelling at subject site, viewed from Middle Street (*Source: Council officer*)



Figure 2: Existing dwelling at subject site, viewed from Harbourn Road (*Source: Council officer*)

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Figure 3: Existing rear yard at subject site (Source: Council officer)

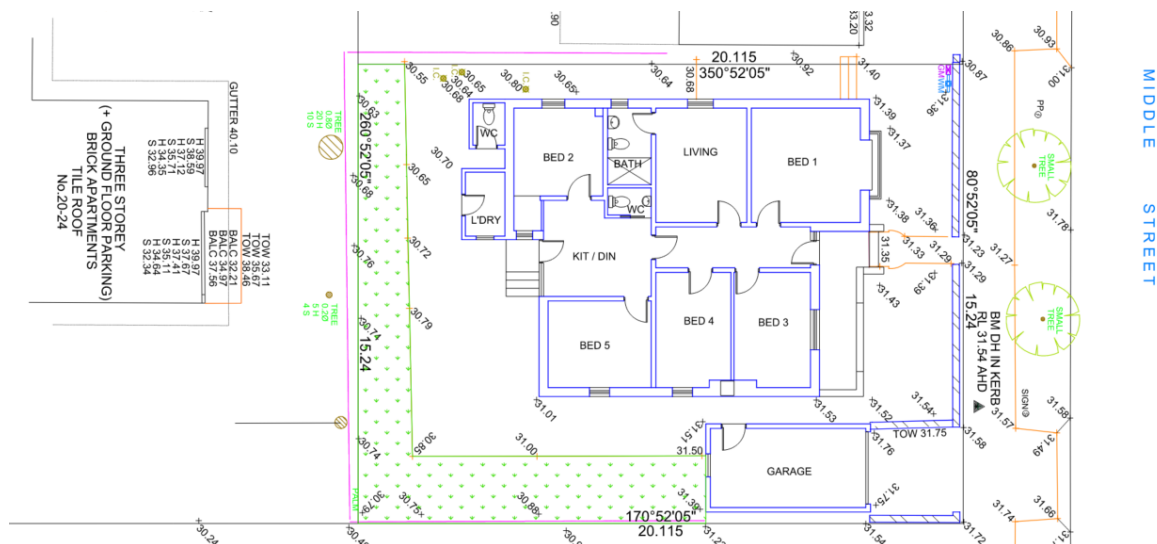
3. Relevant history

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

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling, including (refer Figures 4-6):

- Demolition of existing bathroom and laundry (to rear of dwelling).
- Rear extension and internal reconfigurations to accommodate 5 x bedrooms, living room, dining room, study, TV room, kitchen/laundry, and 4 x bathrooms.



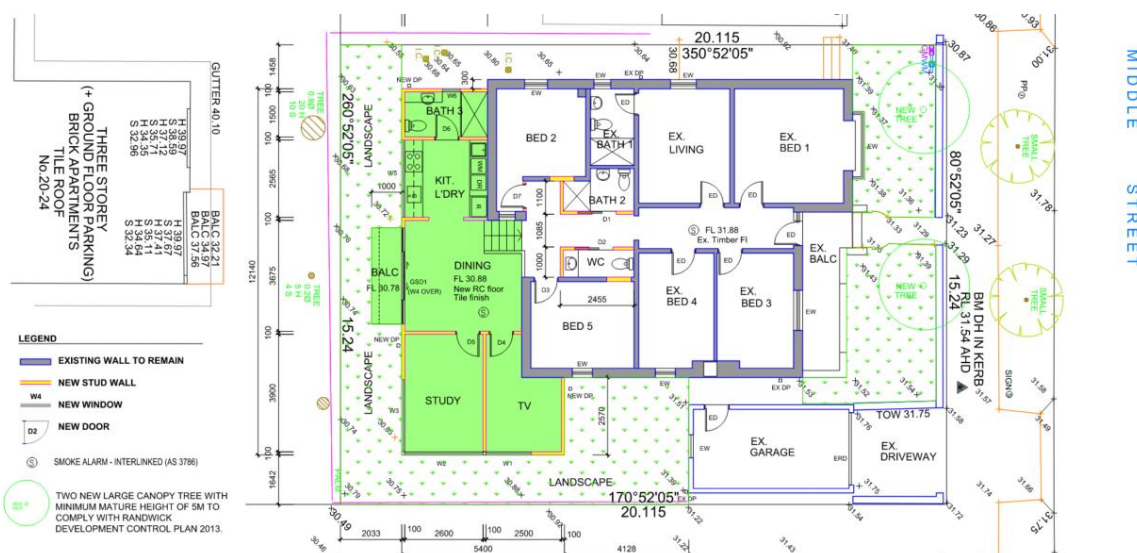


Figure 5: Proposed ground floor plan (Source: City Rhythm Pty Ltd)

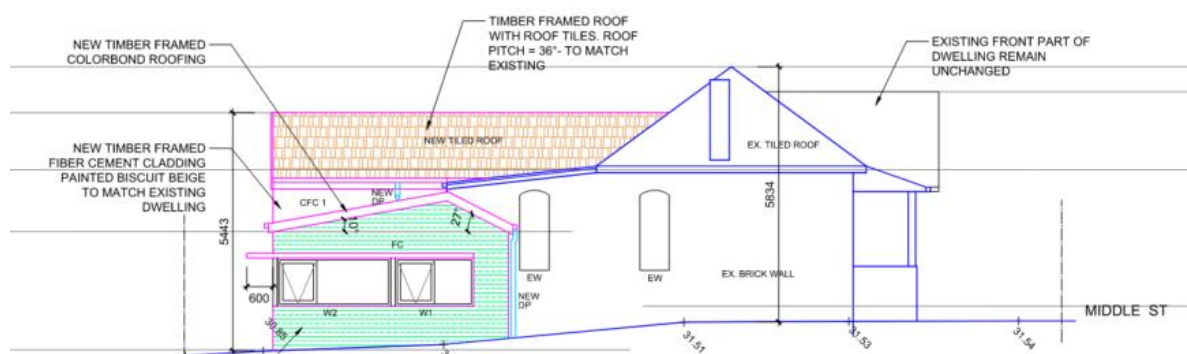


Figure 6: Proposed east elevation plan (Source: City Rhythm Pty Ltd)

Works Without Consent

It has been alleged that the subject site is currently being used as a boarding house, without consent. Additionally, based on real estate imagery and Council's site inspection, it appears that internal building works (i.e. new internal walls and doors) have been constructed at the site without consent. These matters are currently under investigation by Council's Compliance team.

Council's Compliance team are continuing to liaise with the property owner to ensure that the compliance matters are satisfactorily resolved. Notwithstanding, the Applicant has submitted a works-as-executed plan showing the unauthorised works to be excluded as part of the consideration of the subject application. A condition is included to clarify that no consent is granted for any building works which have already been undertaken without consent.

Additionally, a condition is included to clarify that consent is granted for the use of the property as a single dwelling only. No consent is granted for the use of the site as a boarding house.

Information Request

On 28 January 2025, Council requested additional information from the Applicant relating to heritage, previous building works, private open space, building articulation, deep soil area, tree canopy coverage, and site coverage.

The Applicant was provided with 21 days to provide a response by 18 February 2025. On 24 February 2025, Council granted an additional 14 day extension. Amended plans were submitted by the Applicant on 04 March 2025.

5. Notification

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

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the Sustainable Buildings SEPP 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 does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards) 2021

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

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

6.4. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R3 Medium Density Residential under Randwick Local Environmental Plan 2012 and the proposal, being for alterations and additions to a dwelling, 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
CI 4.4: Floor space ratio (max)	0.75:1 – refer clause 4.4A(2)	0.46:1 (140.3m ² GFA)	Yes
CI 4.3: Building height (max)	9.5m – refer clause 4.3(2A)	5.67m (RL37.35 roof ridge over RL31.68 existing ground) NB: No change to existing maximum building height	Yes

Clause 5.10: Heritage conservation

The site is listed under Schedule 5 of RLEP 2012 as a local heritage item known as “*Lanor*”, *Edwardian house* (Item No. I157).

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

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

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

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.

Part B2: Heritage

Council is satisfied that the proposed development meets the heritage requirements in accordance with Part B2 of RDCP 2013. Refer to detailed assessment by Council's Heritage Planner at Appendix 1.

Part B7: Transport, Traffic, Parking and Access

Pursuant to Part B7 of RDCP 2013, two (2) car parking spaces shall be provided per dwelling house with three (3) or more bedrooms. No change is proposed to the existing car parking situation, which comprises a single detached garage with one (1) parking space.

Council's Development Engineer has reviewed the application and does not raise any concern regarding the shortfall of one (1) parking space. The site benefits from its close proximity to the Kingsford light rail stop and several bus services along Anzac Parade, which are located less than 200m from the subject site. Additionally, there are several 'rear to kerb' on-street car parking spaces available along Middle Street and Harbourne Road.

In this regard, and consistent with the objectives of Part B7, it is considered that an appropriate level of off-street vehicle parking is provided in the context of the site.

Part C1: Low Density Residential

The relevant provisions of Part C1 of RDCP 2013 are addressed at 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	Refer to Section 6 of this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	Subject to conditions, the proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to Appendix 2.
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>Subject to conditions, 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, subject to conditions.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	Not applicable.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered in the public interest, subject to conditions.

8.1. Key Issues

Deep Soil Area

Pursuant to Part C1, Section 2.5 of RDCP 2013, a minimum 35% deep soil area control applies to the site. The proposed development provides 84.7m² of deep soil area, equating to 27.6% of the site area.

As discussed below, a condition is included to delete the proposed TV room and study. Subject to this condition, the quantum of deep soil area at the site will be increased by approximately 14m², equating to a total deep soil area of 98.7m² (32%).

To maximise compliance with the DCP control, a condition is included to convert existing hardstand areas to deep soil area. As shown in Figure 7, the area to the west of bathroom 3 and the area to the west of the existing garage shall be provided as deep soil area. These areas provide an additional 8m² of deep soil area, equating to a total of 106.7m² (35%).

Consistent with the objectives of Part C1, Section 2.5, the proposal (subject to conditions) provides suitable planting area for canopy trees and general vegetation to contribute to the overall tree canopy cover of the LGA and to the establishment of landscaped corridors across the locality. Conditions are included to assist with stormwater infiltration and reduction of overland flow and to improve the climate resilience of the site.

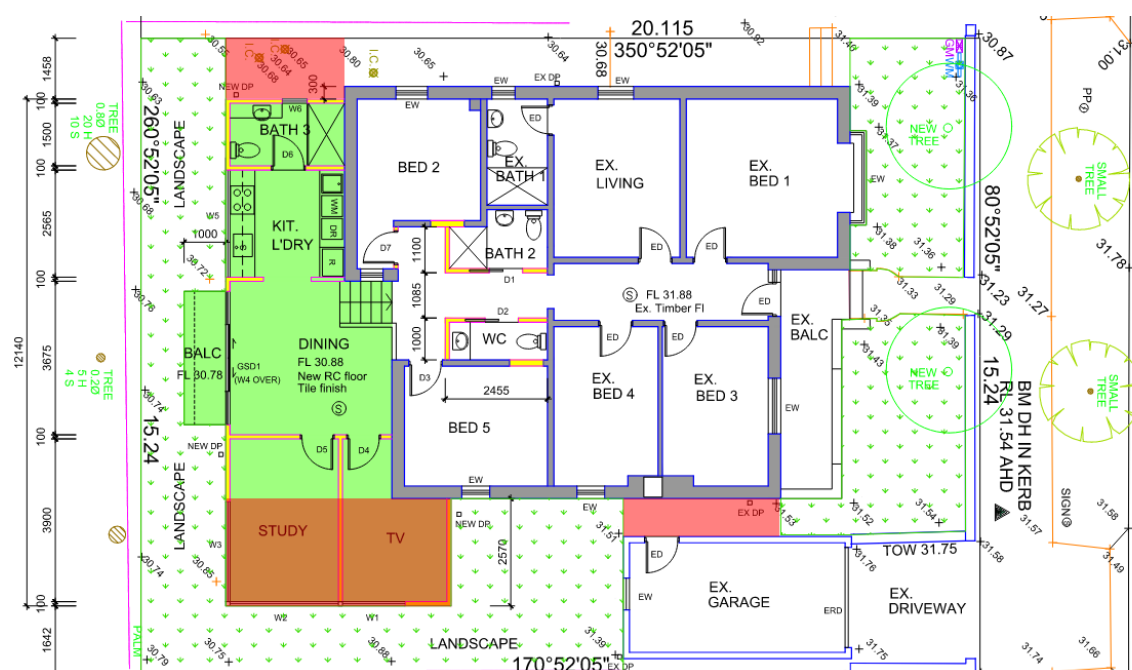


Figure 7: Markup of proposed ground floor plan – conditioned deep soil area shown in red (Source: City Rhythm Pty Ltd with Council markup)

Private Open Space

Pursuant to Part C1, Section 2.7 of RDCP 2013, at least one (1) contiguous area of private open space (POS) with minimum 6m x 6m dimensions must be provided.

The proposed development provides a 4.1m x 4.2m POS area in the eastern side setback area.

It is acknowledged that due to site constraints, 6m x 6m dimensions (equating to 36m² area) may not be possible. However, a condition is included to delete the proposed TV room and study (refer Figure 8). This will ensure that a minimum 8.5m x 4.2m (equating to 35.7m² area) POS area is provided for the dwelling and is adjacent to and directly accessible from the dining room.

As shown in Figure 8, the proposed dining room may be extended out towards the east to align with the eastern elevation of the existing dwelling, which is to be retained.

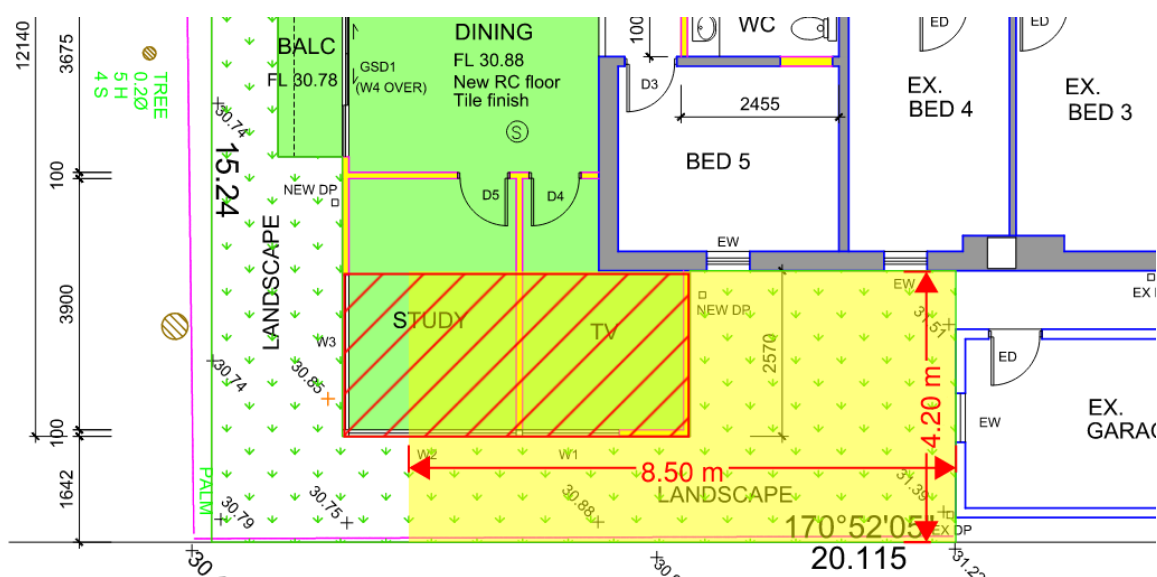


Figure 8: Markup of proposed ground floor plan – conditioned private open space area shown in yellow and deleted building footprint shown in red hatch (Source: City Rhythm Pty Ltd with Council markup)

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The Applicant contends that the front setback area provides sufficient POS for residents. However, this area does not satisfy the relevant criteria at Control (ii) which requires that the contiguous POS area be adjacent to and directly accessible from the living or dining room of the dwelling. Control (ii) also requires that the POS be located to the rear of the allotment behind the dwelling where possible.

It is unclear why a dwelling house comprising 5 x bedrooms, 4 x bathrooms, a living room, a dining room, and a laundry/kitchen would also require a separate TV room and study. As such, it is considered reasonable that these additional living rooms be deleted in this instance.

Consistent with the objectives of Part C1, Section 2.7, the proposal (subject to conditions) provides an adequate level of private open space to enable passive recreational activities by residents. Subject to conditions, the private open space is suitable in terms of useability, solar access, privacy, and accessibility.

Bedroom Size

Part C1, Section 4.1 of RDCP 2013 includes objectives and controls to ensure that the form, scale, massing, and proportions of dwellings recognise and adapt to the characteristics of a site.

Control (viii) states that master bedrooms must have a minimum area of 10m² and other bedrooms 9m², both with a minimum dimension of 3m (excluding wardrobe space). Bed 1 complies with the minimum dimension and area requirements for a master bedroom; however, the remaining bedrooms fall short of the DCP controls, as follows:

- Bed 2 – 2.96m x 2.91m (8.6m²)
- Bed 3 – 3.82m x 2.54m (9.7m²)
- Bed 4 – 3.82m x 2.50m (9.5m²)
- Bed 5 – 2.87m x 3.43m (9.8m²)

To address the non-compliant room dimensions, a condition is included to demolish the existing wall between proposed Bed 3 and Bed 4, which was constructed without consent. A condition is included to convert this enlarged room into a living room, which is consistent with the original dwelling layout (refer to Figure 9). The room labelled 'Ex. Living' on the proposed floor plan shall be converted to a bedroom as it benefits from compliant bedroom dimensions (3.02m x 3.79m).

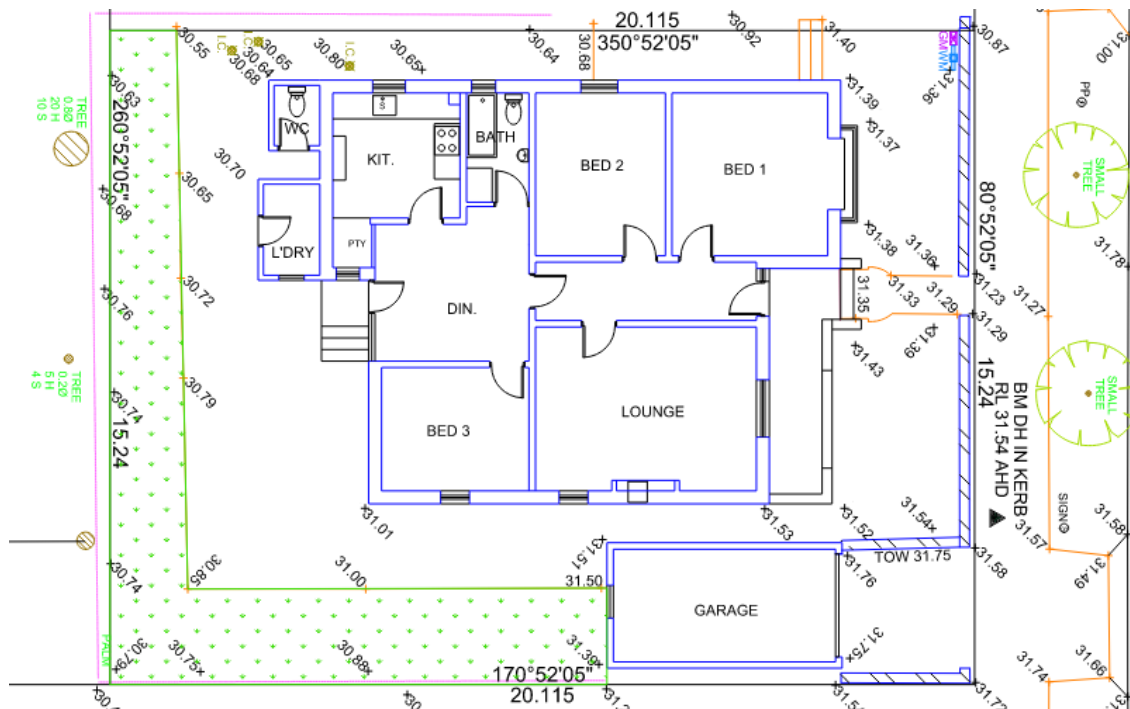


Figure 9: Original ground floor plan – prior to unauthorised building works (Source: City Rhythm Pty Ltd)

Minor numeric non-compliance for Bed 2 and 5 is considered acceptable in this instance noting that suitable residential amenity will be afforded to future residents. There is sufficient room width to accommodate a bed (with adequate circulation space), as well as any additional furniture. The reduced room dimensions are resultant of the existing dwelling footprint and configuration, which is generally proposed to be retained.

9. Conclusion

That the application for alterations and additions to existing dwelling house including changes to and extension of the ground floor, new roof within rear portion, associated ancillary and landscaping 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.
- The proposal is consistent with the specific objectives of the R3 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, subject to conditions.
- The proposed works do not add any significant bulk or detract from the heritage significance of the building or the streetscape.
- Suitable conditions are included to ensure residential amenity for future occupants.
- Suitable conditions are included to clarify the scope of approved works, improve onsite landscaping and to clarify that consent is granted for the use of the site as a dwelling house only.

Appendix 1: Referrals

1. Heritage Planner

In general, the proposed development appears to be consistent with RDCP and have acceptable changes to the heritage item (given that the item has undergone previous alterations). The proposal is supported from a heritage perspective subject to the following conditions –

- 1. The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and consistent with the architectural style of the building. Details of any changes to 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, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- 2. Details of external elements of any proposed mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*
- 3. The face brickwork/stone/tiles must not be rendered, painted or coated.*
- 4. Existing mortar joints should be repointed if necessary using a soft mortar mix.*
- 5. The original brick corners of the building are to be left intact and the brick extension and the new work is to be separated from the old by an expansion joint.*

2. Development Engineer

Undergrounding of power lines to site

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

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

*The subject **is** located within 15m of a power pole on the same side of the street hence the above clause **is** applicable, however, it is noted that the proposed works are located towards the rear and there are no alterations or additions proposed at the front of the dwelling where the existing electricity supply connects. It is therefore considered a nexus cannot be established between the council resolution and the proposed works and subsequently the condition has not been recommended in this instance.*

3. Landscape Officer

The inspection of 16/01/25 revealed two juvenile Bottlebrush on Council's Middle Street verge, spaced evenly between the vehicle crossing for this development site and the driveway of the neighbouring property to the west, no.7, which are automatically protected by the DCP due to their location on public property, and while there are no external works shown in this area, protection measures still need to be imposed to avoid secondary impacts from trucks, deliveries and similar, and have been included in this report.

Still on public property, but further to their east, in a garden bed right out at the corner of Middle Street and Harbourne Road is a semi-mature Plane Tree which is also protected by the DCP and has been heavily lopped and topped away from the overhead service wires and given its further distance away from the site and all works, should not be impacted, so conditions have not been imposed.

While there is no vegetation at this development site at all, there is a row of three established specimens wholly within the adjoining private property to the south, 20-24 Harbourne Road, hard

up against the existing dividing fence, comprising from east to west, a mature, 10m tall *Howea fosteriana* (Kentia Palm), a 5m tall Cypress then a mature *Eucalyptus* species (Gum Tree), with the survey confirming that the location of the common boundary is actually just to the north of the existing fence.

As a group they assist with amenity by preventing direct over-looking from the neighbouring multi-level unit block to the south, into the rear, private open space of this development site, with both Council and the applicant having a common law responsibility to ensure they are not affected in any way by these works.

The plans show the dwelling being extended further out to the south, closer to these trees, but only to the extent of the existing concrete surfacing, so will still maintain an area undisturbed deep soil contiguous with the boundary and their trunks, which will assist in minimising impacts.

The Kentia Palm is known to have a compact/contained root system and the Cypress is smaller in size and younger in age class, so neither would be affected by these works, and despite excavations for the new footprint being performed within the TPZ, as well as slightly into the SRZ of the larger Gum Tree, it is expected that the existing concrete described above would have restricted surface root growth in this direction to some degree, and as suitable separation will still be maintained, with works also limited to one side of its root plate only, the protection conditions listed in this report should be sufficient to avoid major root damage, with relevant measures provided.

Lastly, despite its crown overhanging into/above the development site, it was observed to be held at such a height above ground level that there would be no conflict with the new works, so pruning should not be necessary.

Landscape/C1 DCP Comments


The SEE details that this site is currently deficient in minimum landscape area, 35% required for a Lot size of 307sqm, as per Section 2.5 of the C1 DCP, and while demolition/removal of an area of existing concrete surfacing between the future TV room and existing garage will slightly increase the amount of deep soil, still represents a numerical non-compliance, but as there is no space anywhere else within the site where deep soil could be increased further, the suitability of this departure from the controls will need to be determined by the assessing officer.

While the limited space at this property is noted, the fact remains that site coverage will be increased by 10%, so there is not seen to be any reasonable justification why clauses 2.5 – 2.6 of the C1 DCP should not be applied in this case, with conditions in this report formally requiring that planting be provided in the front setback along with 3 canopy trees throughout the site, utilising smaller tree species which are more appropriate for the space available, attaining 4m in height at maturity, and while their mature canopies are unlikely to occupy 25% of the site within 10 years of completion of works, this will fulfill the intent of the controls, so is deemed acceptable in the circumstance.

Appendix 3: DCP Compliance Table – Part C1

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	
2	Site planning	Site = 306.6m 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%	Proposed = 54.9% (168.5m 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	Proposed = 27.6% (84.7m ²) Suitable conditions are included to ensure compliance.	Subject to conditions – refer discussion at Key Issues
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	As detailed at Appendix 1, Council's Landscape Officer has included conditions to ensure that at least 25% of the front setback is planted, and at least three (3) canopy trees are planted on the site.	Subject to conditions – refer Landscape Officer comments at Appendix 1.
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 = 4.1m x 4.2m Suitable conditions are included to ensure compliance.	Subject to conditions – refer discussion at Key Issues
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.75:1	0.46:1 (140.3m ² GFA)	Yes
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 5.67m	Yes
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage	Proposed = single storey dwelling with 2.6m (minimum) ceiling height. Non-compliance with the 2.7m ceiling height control is acceptable noting that compliance with the 2.4m NCC requirements is achieved. Increased ceiling heights (>2.7m) are provided for the front bedrooms, living room, and rear dining room and kitchen.	On merit

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DCP Clause	Controls	Proposal	Compliance																							
3.3	Setbacks																									
3.3.1	Front setbacks <ul style="list-style-type: none"> i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front. 	<p>No change proposed to front setback (to Middle Street).</p> <p>As detailed at the Key Issues section, a condition is included to delete the TV room and study. Subject to this condition, the existing setback to Harbourne Rd (4.2m) shall be maintained for the rear extension.</p>	Yes																							
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	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	Proposed = 1.2m to western side (to align with existing building)	Yes
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 <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>Rear setback controls do not apply to corner allotments.</p> <p>Notwithstanding, it is noted that the proposed rear setback (2m) is generally consistent with the predominant rear setback line. The proposed rear setback does not extend any further south than the neighbouring dwellings at Nos. 5 and 7 Middle Street – refer aerial image below.</p>	Yes																							
																										

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DCP Clause	Controls	Proposal	Compliance
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context: <ul style="list-style-type: none"> articulated to enhance streetscape stepping building on sloping site, no side elevation greater than 12m encourage innovative design balconies appropriately sized Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	The proposed alterations and additions are generally suitable and appropriately respond to the site characteristics and the surrounding natural and built context.	On merit – refer discussion at Key Issues section of report.
4.6	Colours, Materials and Finishes		
	i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and uses lighter colours. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone	The selected materials and finishes are suitable.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	Suitable solar access will be retained to the dwelling.	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. 	The proposed works are unlikely to result in significant overshadowing impacts to neighbouring properties.	Yes

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> 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		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> Skylights (ventilated) Clerestory windows Fanlights above doorways Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) Living rooms contain windows and doors opening to outdoor areas <i>Note:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable	Suitable natural lighting and ventilation is provided to the dwelling.	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> windows are offset or staggered minimum 1600mm window sills Install fixed and translucent glazing up to 1600mm minimum. Install fixed privacy screens to windows. Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	Suitable visual privacy is provided to the subject and neighbouring dwellings.	Yes
5.4	Acoustic Privacy		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows.	The proposed works are unlikely to result in any acoustic impacts.	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)	As per the existing arrangement, the dwelling main entry is located on the front elevation (to Middle Street). Habitable room windows are provided to both street frontages.	Yes
5.6	View Sharing		
	i) Reasonably maintain existing view corridors	The proposed works	Yes

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DCP Clause	Controls	Proposal	Compliance
	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.	are unlikely to result in any view sharing impacts.	
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable surfaces)	No change is proposed to the existing car parking arrangement at the site, which comprises a single detached garage, accessed via Middle Street.	N/A – no change to existing

Responsible officer: Julia Warren, Senior Environmental Planning Officer

File Reference: DA/1176/2024

Development Consent Conditions



D15/25

Folder /DA No:	DA/1176/2024
Property:	9 Middle Street, KINGSFORD NSW 2032
Proposal:	Alterations and additions to existing dwelling house including changes to and extension of the ground floor, new roof within rear portion, associated ancillary and landscaping works.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
DA-3C, Proposed Site Plan & Roof Plan	City Rhythm Pty Ltd	03/03/2025	04/03/2025
DA-5B, Demolition Plan	City Rhythm Pty Ltd	03/03/2025	04/03/2025
DA-6C, Proposed GF Plan	City Rhythm Pty Ltd	03/03/2025	04/03/2025
DA-7C, East & South Elevation	City Rhythm Pty Ltd	03/03/2025	04/03/2025
DA-8B, West & North Elevation	City Rhythm Pty Ltd	03/03/2025	04/03/2025
DA-9B, Section AA	City Rhythm Pty Ltd	03/03/2025	04/03/2025
P2, Original Ground Floor Plan	City Rhythm Pty Ltd	06/02/2025	10/02/2025
P3, Current Ground Floor Plan	City Rhythm Pty Ltd	06/02/2025	10/02/2025

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
A1769551	21/10/2024	04/12/2024

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

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

2. **Amendment of Plans & Documentation**
The approved plans and documents must be amended in accordance with the following requirements:
 - a. The existing hardstand areas to the west of bathroom 3 and to the west of the existing garage shall be replaced with a permeable surface. The permeable

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Condition	
	surfaces shall be provided as landscaped areas (lawn, grasses, shrubs, and trees) and/or areas with loose gravel (or the like) upon soil that water can easily penetrate.
	b. The proposed study and TV room shall be deleted. The proposed dining room may be extended out towards the east to align with the eastern elevation of the existing dwelling, which is to be retained.
	c. The existing wall between proposed Bed 3 and Bed 4 shall be demolished. This enlarged room shall be converted to a living room.
	d. The room identified as 'Ex. Living' shall be converted and used as a bedroom.
	Amended plans shall be submitted to and approved by Council's Manager Development Assessment prior to issue of a construction certificate .
	Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.
3.	Works Without Consent The works that have already been undertaken on site (as shown on the 'Original Ground Floor Plan' (Dwg. P2) and the 'Current Ground Floor Plan' (Dwg. P3) dated 06 February 2025) do not form part of this consent. This consent does not include approval for any works carried out prior to the issue of the development consent. Condition Reason: To clarify the scope of the consent.
4.	Use of Premises No consent is granted for the use of the premises as a boarding house (or the like). The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes. Condition reason: To ensure the development is used for its intended purpose.
5.	Heritage Conservation Details of external elements of any proposed mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to and approved by Council, in accordance with Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> prior to a construction certificate being issued for the development. The face brickwork/stone/tiles must not be rendered, painted or coated. Existing mortar joints should be repointed if necessary using a soft mortar mix. The original brick corners of the building are to be left intact and the brick extension and the new work is to be separated from the old by an expansion joint. Condition Reason: To ensure the heritage significance of the site is maintained.
BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE	
Condition	
6.	Consent Requirements The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated

	Condition
	<p>documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
7.	<p>External Colours, Materials & Finishes</p> <p>The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and consistent with the architectural style of the building.</p> <p>Details of any changes to 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, in accordance with Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
8.	<p>Section 7.12 Development Contributions</p> <p>In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$231,000 the following applicable monetary levy must be paid to Council: \$2,310.00.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
9.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$1000.00 - Damage / Civil Works Security Deposit

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	Condition
	<p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
10.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
11.	<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</p>

Condition	
Planning and Assessment Regulation 2021.	
12.	<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>
13.	<p>Stormwater Drainage</p> <p>Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifier and details are to be included in the construction certificate application for the development.</p> <p>Absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance.</p> <p>Condition Reason: To control and manage stormwater run-off.</p>
14.	<p>Landscaping and Canopy Trees</p> <p>To comply with Sections 2.5 – 2.6 of the C1 DCP, a stand-alone 'C1 DCP Compliance Plan' must be provided which includes sufficient details, notations, calculations and similar to comply with the following:</p> <ul style="list-style-type: none">a) A minimum 25% of the front setback area must be planted out with a combination trees, shrubs, plants and ground-covers;b) A minimum of three (3) dwarf/cultivar canopy trees, selecting species which will attain a minimum height at maturity of 4 metres must be planted throughout the site, at the greatest distance possible from the dwelling, and are to be strategically located to maximise screening, privacy and future amenity between this site and neighbouring properties;c) A planting Plan and Plant Schedule which nominates exactly what will be planted where, dimensions at maturity, quantity and any other relevant details;d) Native species must comprise at least 60% of plant material used, with Council's Community Nursery able to assist in this regard. <p>A plan complying with the requirements specified above must be submitted to, and be approved by, the Principal Certifier, who must then ensure it is implemented in its entirety on site as part of the works.</p> <p>Condition Reason: To ensure compliance with DCP controls relating to landscaping and canopy trees.</p>

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Condition	
15.	<p>Street Tree Protection</p> <p>To ensure retention of the two juvenile <i>Callistemon viminalis</i> (Bottlebrush) on the Middle Street verge, spaced evenly between the vehicle crossing for this development site and the driveway of the neighbouring property to the west, no.7 in good health, the following measures are to be undertaken:</p> <ul style="list-style-type: none"> a) All documentation submitted for the Construction Certificate application must note them for retention, with their positions to be clearly and accurately shown on all plans. b) Both trees must be physically protected by installing evenly spaced star pickets at a setback of 1 metre to their east and west, matching up with the kerb to their north and footpath to their south, to which, safety tape/para-webbing/shade cloth or similar shall then be permanently attached to completely enclose them for the duration of works. c) 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". d) 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. e) 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. f) A refundable deposit in the form of cash, credit card or cheque for an amount of \$500.00 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. <p>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).</p> <p>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 to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.</p> <p>Condition Reason: To ensure suitable tree protection measures are implemented.</p>
16.	<p>Neighbouring Tree Protection</p> <p>To also ensure retention of the three established specimens that are located wholly within the adjoining private property to the south, 20-24 Harbourne Road, against the existing dividing fence, comprising from east to west, a mature <i>Howea fosteriana</i> (Kentia Palm), a smaller <i>Cypress</i> then a mature <i>Eucalyptus species</i> (Gum Tree) in good health, the following measures are to be undertaken:</p>

Condition
<p>a) All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown on all plans in relation to the common boundary and new works.</p> <p>b) All Construction Certificate plans must show that the new footprint will not extend past (to the south of), the existing concrete surface, so that a strip of undisturbed deep soil will be maintained between the dwelling and southern site boundary, consistent with the Architectural Plans by City Rhythm dated 28.11.24.</p> <p>c) There must be no excavations associated with the installation of new services, pipes, stormwater systems or similar in the area of deep soil described in point 'b' above, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.</p> <p>d) Ground protection comprising strapped together rumble boards, sheets of plywood or similar must be provided for the area between the concrete slab/new footprint and the southern site boundary for the duration of works, until such time as the approved landscaping is being installed.</p> <p>e) To prevent soil/sediment being washed over their root systems, erosion control measures must be provided at ground level across the southern site boundary.</p> <p>f) Ground levels within the area described in point 'd' above must not be altered by more than 200mm, with no other structures such as continuous strip footings, planter boxes or similar to be located in this area, which is to remain as undisturbed, deep soil.</p> <p>g) Within the area described in point 'd' above there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.</p> <p>h) Demolition/removal of existing surfacing and structures, as well as all initial excavations for footings and similar within a 3 metre radius of the Gum Tree must be performed by hand, not machinery, to avoid unnecessary root damage.</p> <p>i) Where roots are encountered which are in direct conflict with the approved works, they may be cut cleanly using only hand-held tools, not machinery, with the affected area to then be backfilled with clean site soil as soon as practically possible.</p> <p>j) Any new dividing fencing along the southern site boundary can only be a system which is supported on localised pads, not continuous strip footings, with details confirming compliance to be shown on the Construction Certificate plans.</p> <p>k) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.</p>

Condition Reason: To ensure suitable tree protection measures are implemented.

BEFORE BUILDING WORK COMMENCES

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	Condition
17.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <ul style="list-style-type: none"> b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and e) at least two days' notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works. <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
18.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.</p>
19.	<p>Dilapidation Reports</p> <p>A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:</p> <ul style="list-style-type: none"> • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises; • demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site

	Condition
	<p>boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);</p> <ul style="list-style-type: none"> excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and as may be required by the Principal Certifier for the development. <p>The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.</p> <p>The dilapidation report must be submitted to the Principal Certifier, the Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
20.	<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 measures to be implemented to ensure public health and safety. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
21.	<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>

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Condition	
	Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.
22.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
23.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

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

Condition

under the Act, Part 6.

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

25.

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.

26.

Construction Site Management

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

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

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

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

Notes:

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

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	Condition
	Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.
27.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ul style="list-style-type: none"> a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines. g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident. h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land. i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council. j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details. <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
28.	<p>Excavations and Support of Adjoining Land</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and</i></p>

Condition	
	<p><i>Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
29.	<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>
30.	<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>
31.	<p>Tree Management</p> <p>Approval is granted for the removal of all vegetation from within this development site where needed to accommodate the works as shown, given their small size and insignificance, and is subject to full implementation of the C1 DCP – Landscaping & Canopy Trees plan detailed earlier in this consent.</p> <p>Condition Reason: To clarify the scope of approved vegetation removal.</p>
32.	<p>Road / Asset Opening Permit</p> <p>A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.</p> <p>The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.</p> <p>For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.</p> <p>Condition Reason: To ensure that suitable permits are obtained as required.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
33.	Occupation Certificate Requirements

	Condition
	<p>An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
34.	<p>BASIX Requirements</p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
35.	<p>Council's Infrastructure, Vehicular Crossings and Street Verge</p> <p>The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. <p>The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
36.	<p>Landscaping & Canopy Tree Certification</p> <p>The Principal Certifier must ensure that the requirements of the C1 DCP – Landscaping & Canopy Tree Plan as described earlier in this consent have been</p>

Condition
<p>implemented in their entirety on site, prior to any Occupation Certificate, with the owner to then maintain them in a healthy and vigorous state until maturity.</p> <p>That part of the nature-strip upon Council's footways which is damaged during works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that landscaping and canopy tree planting is undertaken.</p>

OCCUPATION AND ONGOING USE

Condition
<p>37. Use of Premises The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p> <p>Condition reason: To ensure the development is used for its intended purpose.</p>
<p>38. External Lighting External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
<p>39. Waste Management Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.</p> <p>Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.</p>
<p>40. 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>.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
<p>41. 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.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition
<p>42. Demolition Work A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements:</p>

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

DURING DEMOLITION WORK

Condition	
43.	<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>

Condition

- | |
|---|
| <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. |
|---|

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

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

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

Development Application Report No. D16/25

Subject: 133 Belmore Road, Randwick (DA/1094/2024)

Executive Summary

Proposal: Alterations and additions to an existing building including first floor changes and extension and provision of garage.

Ward: West Ward

Applicant: Tuyen Quynh Pty Ltd

Owner: Tuyen Quynh Pty Ltd


Cost of works: \$165,000.00

Reason for referral: The development involves partial demolition of a heritage item.

Recommendation

- A. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/1094/2024 for alterations and additions to an existing building including first floor changes and extension and provision of garage at No. 133 Belmore Road, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (mixed-use) - DA/1094/2024 - 133 Belmore Road, RANDWICK NSW 2031 - DEV - Randwick City Council

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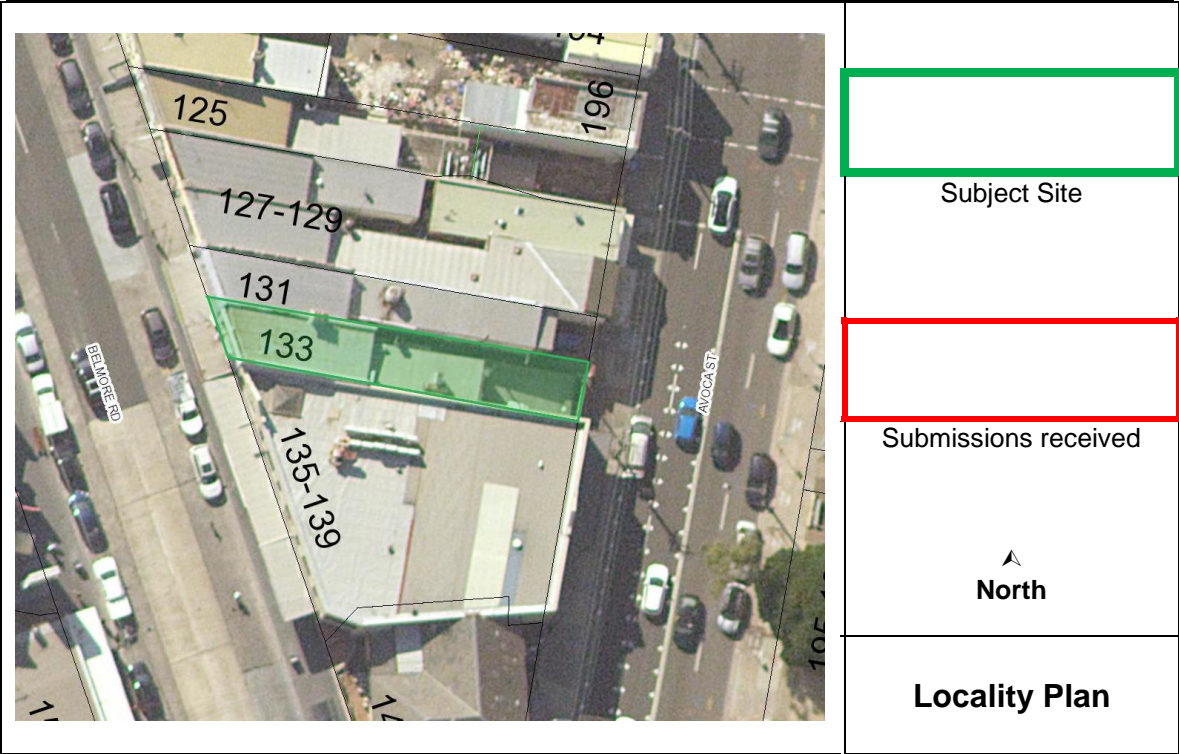


Figure 1: The subject site (RCC Interactive Mapping, 2025)

1. Executive summary

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

- The development involves demolition works to a local heritage item.

DA/1094/2024 seeks development consent for alterations and additions to an existing building including first floor changes and extension, and provision of garage space. Amended plans were received which converted the proposed commercial/office space at first floor level to part of the dwelling and included minor amendments in relation to heritage concerns.

This report will assess DA/1094/2024 (*the application*) for 133 Belmore Road, Randwick (*the subject site*) against the relevant heads of consideration under s4.15(1) of *Environmental Planning and Assessment Act 1979*.

The key issues associated with the proposal relate to the heritage significance of the site and proposed works.

The proposal is recommended for approval subject to non-standard conditions in relation to heritage preservation.

This report finds the application to be in the public interest, with a recommendation for approval subject to the conditions in **Attachment 1**.

2. Site Description and Locality

The subject site is commonly known as No. 133 Belmore Road and legally described as Lot 5 within DP 33276. The site is located on the eastern side of the commercial precinct of Belmore Road between the intersection with Short Street to the north, and the junction with Avoca Street to the south, in Randwick. The site comprises two street frontages with the rear of the allotment fronting Avoca Street to the east.

The allotment is considered irregular in shape comprising a primary street frontage to Belmore Road measuring 5.28m, a northern side boundary length of 32.065m, southern side boundary length of 26.05m and rear boundary fronting Avoca Street measuring 4.51m, for a total site area of 139.1m².

The site is predominately orientated west to east, with a negligible topographical fall of approximately 1.25m across the length of the site from Belmore Road (RL 68.54) to Avoca Street (RL67.29) according to the submitted survey plan.

The subject site is presently occupied by a two-storey rendered brick and face brick building with metal roof forming part of a row of matching commercial/retail premises and shop-top housing with addresses from 125-133 Belmore Road. The ground floor and part of the upper level comprises Choy's Chinese Restaurant, with shop-top housing component occurring towards the rear of the first floor. The premises also comprises a roofed loading facility and associated storage rooms and amenities at the rear accessed via Avoca Street.

The property is within the 'E2 Commercial Centre' zone within Randwick Junction Town Centre. The locality is characterised by a mix of two storey retail and commercial ground floor tenancies – many including shop-top housing. A larger shopping complex and examples of school campuses, places of worship and public health facilities are also present within the wider vicinity.

The site is situated within the 'Randwick Junction Conservation Area' and is also identified as Local Heritage Item 'I300' within Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012) forming part of a group of the two storeyed shop fronts/shop top housing with addresses 125-133 Belmore Road. As such, the proposal is referred to Council's Heritage officer for assessment against the relevant heritage controls.

Figures 2 to 17 below illustrate the subject site:

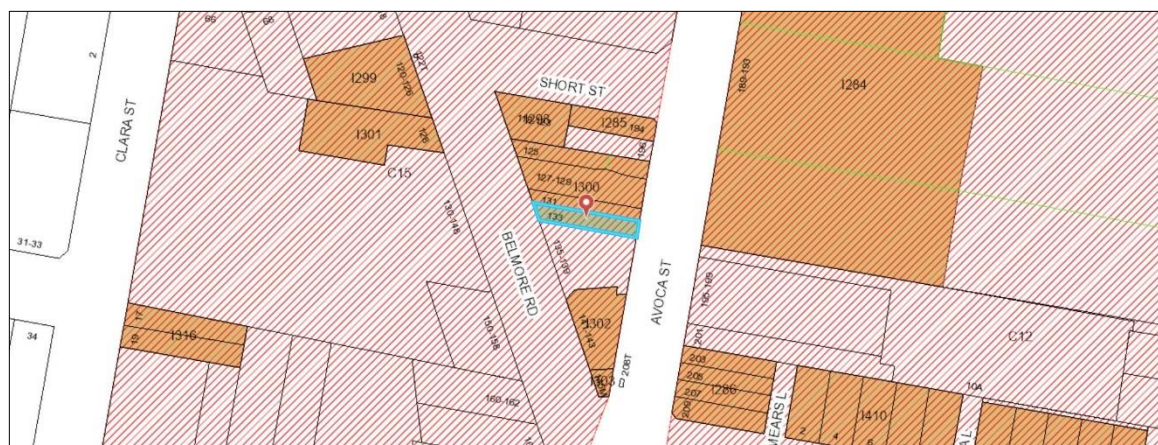


Figure 2: 'Randwick Junction' Heritage Conservation Area, with subject site (Heritage Item No. '1300') pinned (RCC Interactive Mapping)

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Figure 3: West oblique aerial view of the subject block (*Nearmap, May 2023*)



Figure 4: East oblique aerial view of the subject block (*Nearmap, May 2023*)



Figure 5: Belmore Road frontage (RCC Site inspection, March 2025)



Figure 6: Avoca Street frontage (RCC Site inspection, March 2025)

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Figure 7: Avoca Street frontage south approach (*RCC Site inspection, Nov 2024*)



Figure 8: Restaurant interior – view of reception desk and Belmore Rd entry door (*RCC Site inspection, Nov 2024*)



Figure 9: Restaurant interior – ground floor dining area (*RCC Site inspection, Nov 2024*)



Figure 10: Internal stair (*RCC Site inspection, Nov 2024*)

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Figure 11: Restaurant interior – first floor dining area with view to Belmore Road window opening (*RCC Site inspection, Nov 2024*)



Figure 12: Restaurant interior – first floor dining area toward stairwell landing on the right hand side (*RCC Site inspection, Nov 2024*)



Figure 13: First floor hallway access to residential accommodation (*RCC Site inspection, Nov 2024*)

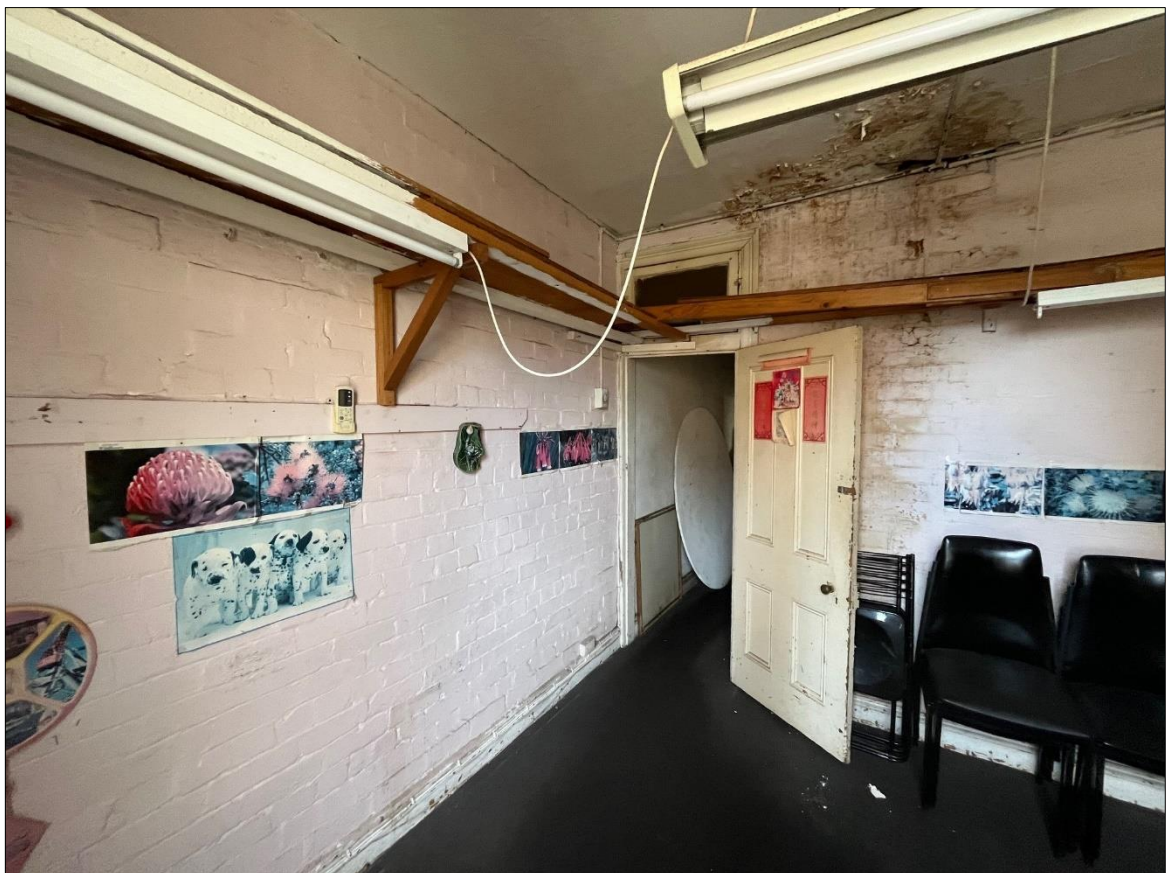


Figure 14: First floor typical room (*RCC Site inspection, Nov 2024*)

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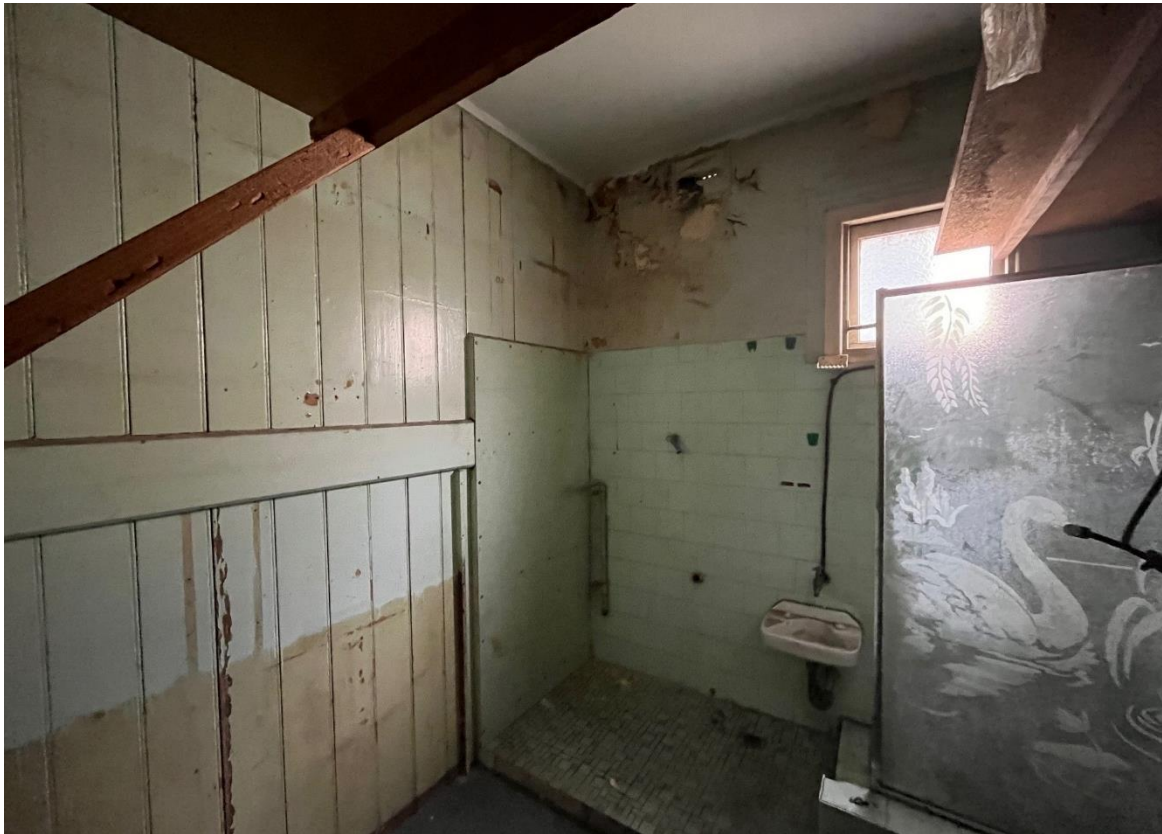


Figure 15: First floor bathroom facility (*RCC Site inspection, Nov 2024*)



Figure 16: First floor rear view overlooking Avoca Street (*RCC Site inspection, Nov 2024*)



Figure 17: First floor northern side setback (*RCC Site inspection, Nov 2024*)

3. Relevant history

The land has been used for mixed use (commercial/residential) purposes for an extended period of time. A search of Council's records revealed the following applications history for the site:

BA/139/1971 – Renovations. Approved by Council. Record dated 01/01/1971

BA/596/1975 – Alterations. Approved by Council. Record dated 01/01/1975.

BA/69/1976 – Addition. Approved by Council. Record dated 01/01/1976.

DA/133/1976 – Convert existing first floor storage area to a dining room in conjunction with restaurant. Refused by Council on 24/09/1976.

BA/495/1984 – Storeroom. Refused by Council. Record dated 01/01/1984.

DA/182/1984 – To erect a single storey storage structure at rear of existing 2 storey comm building. Refused by Council. File conversion dated 25/10/1994.

DA/376/1984 – Convert part of 1st floor storage area for use as seating in conjunction with Chinese restaurant. Approved by Council on 08/05/1985.

DA/294/1985 – To erect a new brick and metal carport/loading dock. Approved by Council on 27/12/1985.

BA/17/1986 – Extension. Records conversion dated 08/01/1986.

DA/38/1987 – Erect shelves 800mm wider to the sides of existing carport loading dock for storage purpose. Approved by Council on 15/05/1987.

BC/215/1988 – 2 storey restaurant / metal roof. Approved on 16/12/1988.

DA/905/2014 – Demolition of existing structures, retention of front facade and construction of a basement plus 4 storey building containing a medical centre at ground floor and boarding house with 11 rooms above (Heritage Conservation Area). Refused by Council on 27/07/2025.

4. Proposal

Development Application DA/1094/2024 submitted under the provisions of the Environmental Planning and Assessment Act 1979 sought approval for:

Alterations and additions to an existing building including first floor changes and extension and provision of garage with office space above (Heritage Conservation Area and Heritage Item).

However, amended plans were submitted which included the deletion of separate commercial/office space at first floor level and use as part of dwelling, and minor heritage amendments.

The proposal/proposed works specifically involves:

Ground Floor Restaurant Operation

The application proposes to maintain the current approved hours of operation for the ground floor restaurant component:

- 12:00pm – 10:00pm Monday to Sunday.

Ground Floor works

- Demolition of the existing internal stair
- Demolition of rear ground floor lean to structures and associated door openings
- Addition of (2) window openings fronting Belmore Road
- Addition of WC to the rear of existing restaurant floor area
- Proposed rear (enclosed) garage facility
- Addition of private stair access within rear garage
- Proposed WC and storage within rear garage
- New rear roller door and separate pedestrian entry door fronting Avoca Street

First Floor works

- Demolition of internal stair, and wall partitions
- Removal of and replacing of glazing overlooking Belmore Road
- Removal of exposed AC unit above the Belmore Road awning
- Reinstatement of arched opening fronting Belmore Road
- New accommodation including:
 - Family Study Room (overlooking Avoca Street)
 - Open plan Kitchen, Living and Dining
 - Bathroom
 - 2 Bedrooms including (one with Ensuite) and associated built-in robes
 - Laundry cupboard
- Proposed sunroom / winter garden overlooking Belmore Road
- New side facing window openings
- Private stair

Roof works

- New skillion roof form over family study at the rear fronting Avoca Street
- (4) Skylights

The application proposes to maintain the current use and operation of the ground floor as a *food and drink premises*.

The original application sought consent for a new separate commercial/office premise at first floor level. However, amended plans were received which changed this space to use as a family room/study in conjunction with the dwelling. As such, the application (as amended) seeks to change the use of the first floor for the purposes of residential use as a dwelling.

The use of the subject site is thus *shop-top housing*.

Plan and documentation revision history

26 February 2025 – Amended floor plans received in response to a request for information in order to address planning matters as well as Heritage and Building Compliance recommendations.

Council requested updated plans and elevations demonstrating the following:

- *Introduce sliding glazed doors to the front bedroom 2 allowing access to the front balcony/sunroom. Should this provide adequate amenity, the dormer is to be deleted.*
- *Reinstate the street facing arched opening in the form of a “winter garden” with fixed glazed panel above operable or louvred style windows for breezes.*
- *Remove and relocate existing A/C units away from street view. Confirm locations.*
- *Introduce a second window opening to match existing northern side facing window and locate adjacent the dining table. Equally spaced along the external wall*
- *The rear elevation is to provide more articulation, such as deeper window reveals, and the garage door is to be articulated and further recessed.*
- *The elevation is to generate heights, articulation, “lines” from adjoining faces to be more integrated to the Avoca St streetscape.*
- *The garage door is to incorporate a pedestrian entry as per the Building and Compliance recommendation and in accordance with the BCA report provisions.*

Submitted plans recorded as ‘ARCHITECTURAL DRAWINGS REV B’.

28 February 2025 – the applicant re-submitted amended plans on 28 February incorporating an updated BASIX Certificate to reflect the revised glazed openings.

Submitted plans recorded as ‘ARCHITECTURAL DRAWINGS REV C’.

Upon receipt of the above Rev C, the final assessment proceeded. The assessment is based on the final amended plans.

Figures 18 to 33 below illustrate the current plans / scope of works.

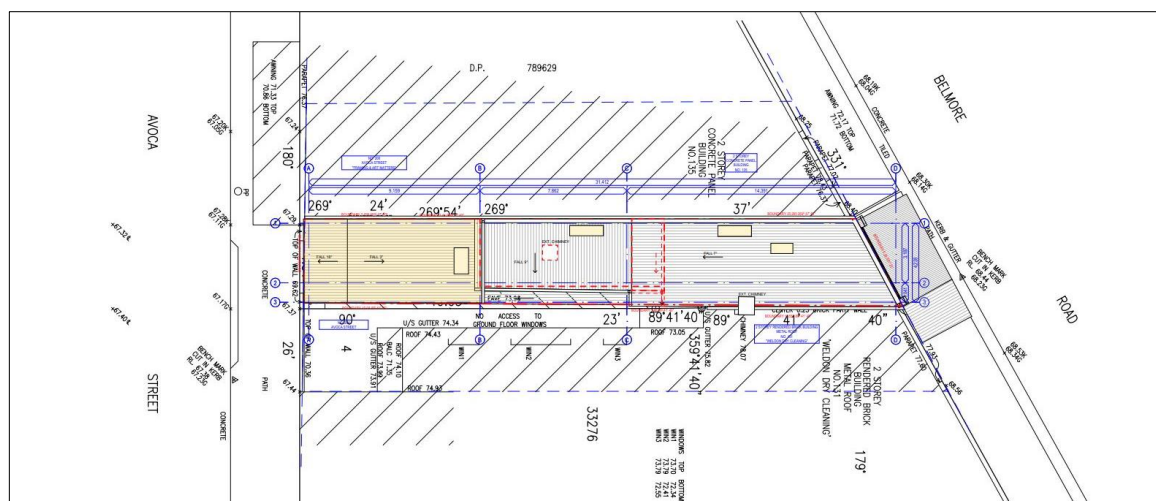


Figure 18: Proposed site plan (Square One Atelier)

Architectural floor plan of a restaurant building at 2127-2131 Belmont Road, Avoca, CA. The plan shows a long, narrow structure with various rooms including a kitchen, bar, dining area, and restrooms. It includes detailed dimensions for setbacks, lot lines, and room sizes. Key features include a 'LINE OF EFFLUENT VENT ABOVE' and a 'TYPICAL BRICKWORK ABOVE BUILDING RETAIL DROP IN TO WILLOW CREEK CANYON'. The plan is oriented with Belmont Road to the east and Avoca Street to the west. A north arrow is located at the top center.

Room Labels and Dimensions:

- EX. FREZ (Freezer)
- EX. COOLROOM (Cooling Room)
- EX. WC (Restroom)
- EX. KITCHEN 3.14 x 7.89
- EX. RESTAURANT 4.24 x 6.91
- EX. BAR 1.31 x 3.11
- EX. DINING 1.31 x 3.11
- EX. ENTRY 1.31 x 3.11
- EX. STAIRS 1.31 x 3.11
- EX. TOILET 1.31 x 3.11
- EX. OFFICE 1.31 x 3.11
- EX. BREAK 1.31 x 3.11
- EX. STORAGE 1.31 x 3.11
- EX. LOBBY 1.31 x 3.11
- EX. WAITING 1.31 x 3.11
- EX. BAR 1.31 x 3.11
- EX. DINING 1.31 x 3.11
- EX. ENTRY 1.31 x 3.11
- EX. STAIRS 1.31 x 3.11
- EX. TOILET 1.31 x 3.11
- EX. OFFICE 1.31 x 3.11
- EX. BREAK 1.31 x 3.11
- EX. STORAGE 1.31 x 3.11
- EX. LOBBY 1.31 x 3.11
- EX. WAITING 1.31 x 3.11

Setback and Boundary Dimensions:

- BOUNDARY 5.155 20P' 17" 46"
- BOUNDARY 1.64 20P' 17" 46"
- BOUNDARY 24.282 20P' 17" 46"
- BOUNDARY 18.88 30P' 41" 46"
- BOUNDARY 1.48 30P' 41" 46"
- BOUNDARY 18.88 30P' 41" 46"
- BOUNDARY 1.48 30P' 41" 46"

Other Labels:

- NO. 212 AVOCA STREET "WILLOW CREEK RESTAURANT"
- 2127-2131 COMPOSITE PAVIL BUILDING NO. 11A
- NO. 214 AVOCA STREET
- LINE OF EFFLUENT VENT ABOVE
- TYPICAL BRICKWORK ABOVE BUILDING RETAIL DROP IN TO WILLOW CREEK CANYON
- AVOCA STREET
- BELMONT ROAD

Figure 19: Existing ground floor plan (*Square One Atelier*)

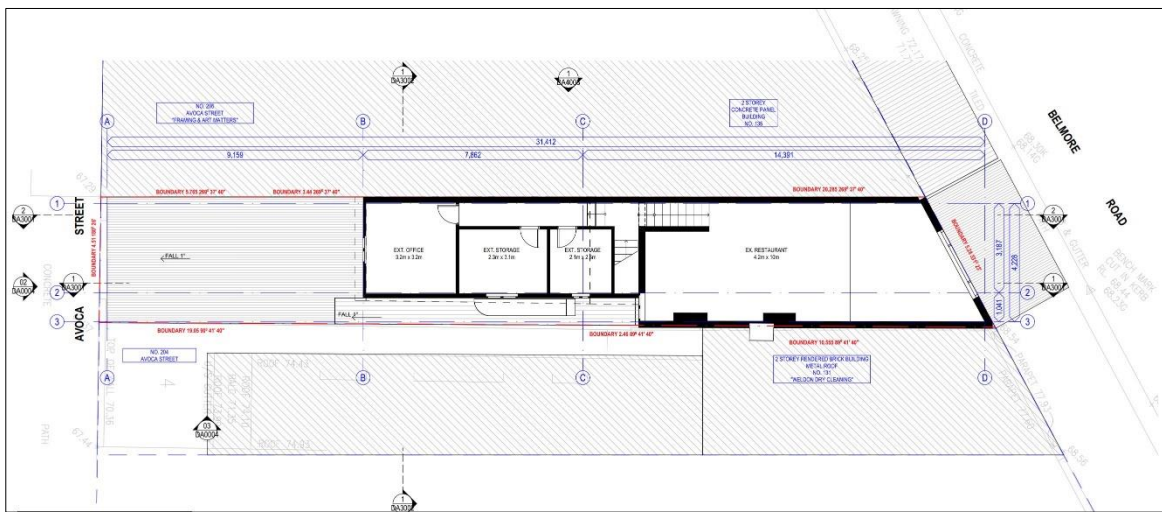


Figure 20: Existing first floor plan (*Square One Atelier*)

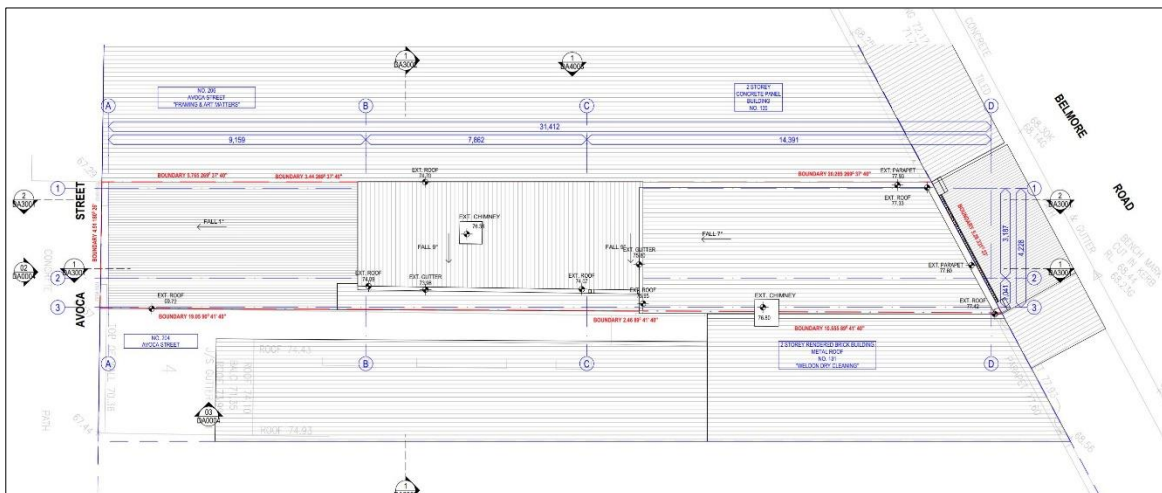


Figure 21: Existing roof plan (Square One Atelier)

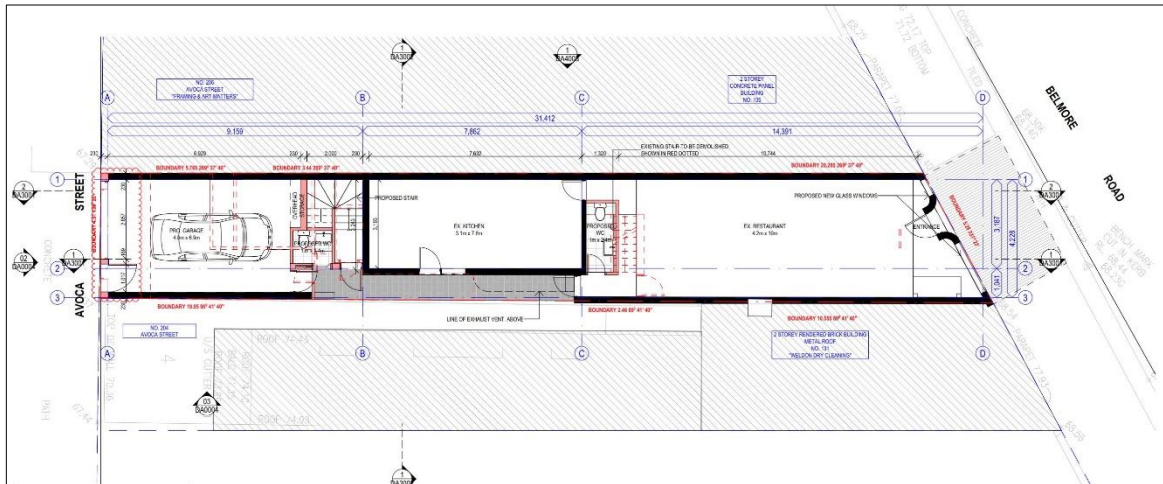


Figure 22: Proposed ground floor plan with demolition overlay (Square One Atelier)

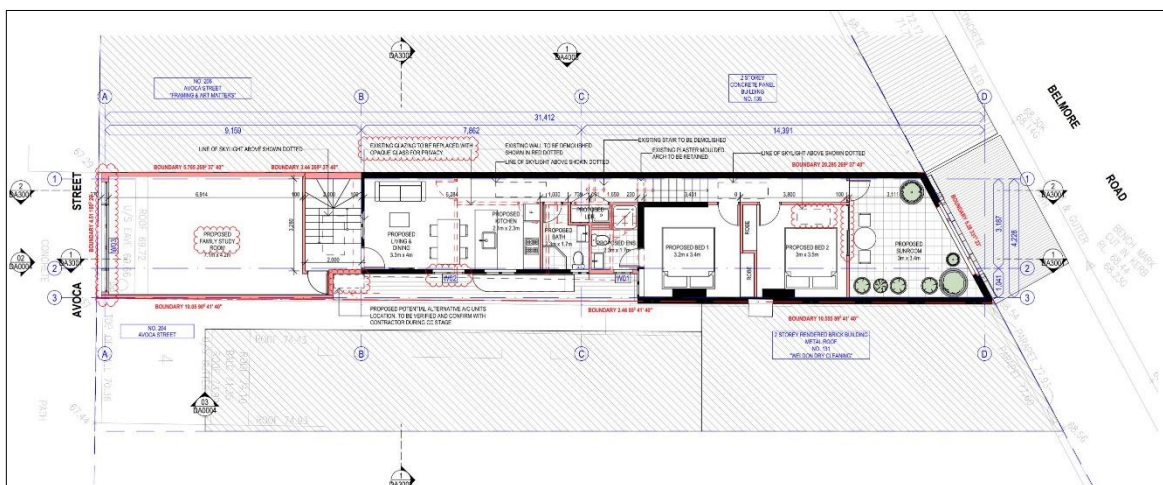


Figure 23: Proposed first floor plan with demolition overlay (Square One Atelier)

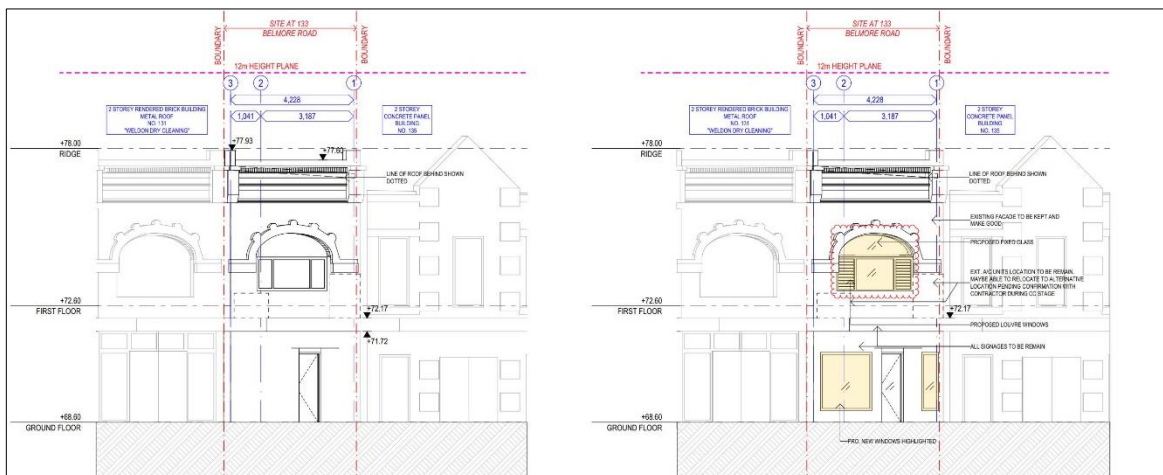


Figure 24: Existing (L) and proposed (R) Belmore Rd elevations (Square One Atelier)

D16/25

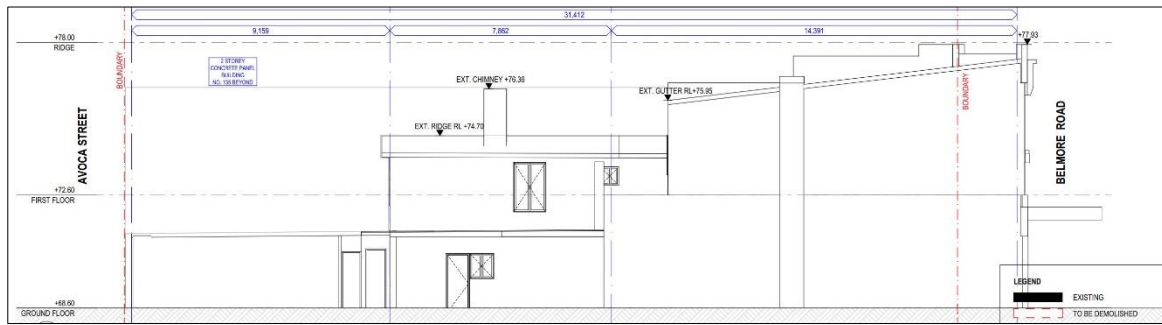


Figure 25: Existing north (side) elevation (*Square One Atelier*)

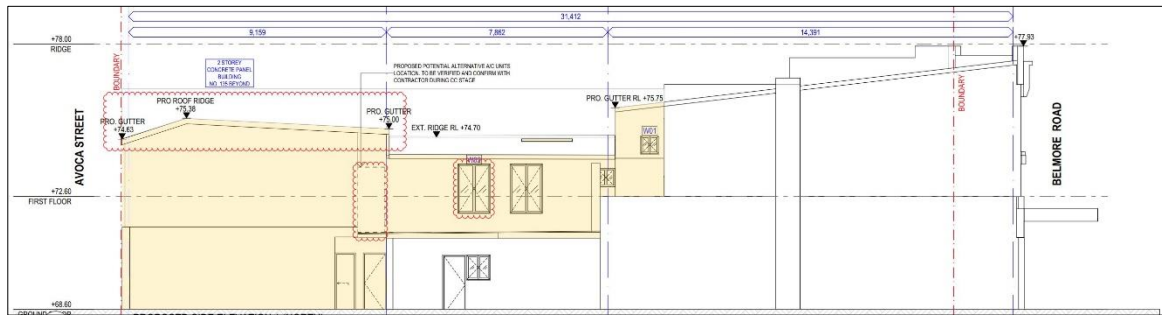


Figure 26: Proposed north (side) elevation (*Square One Atelier*)

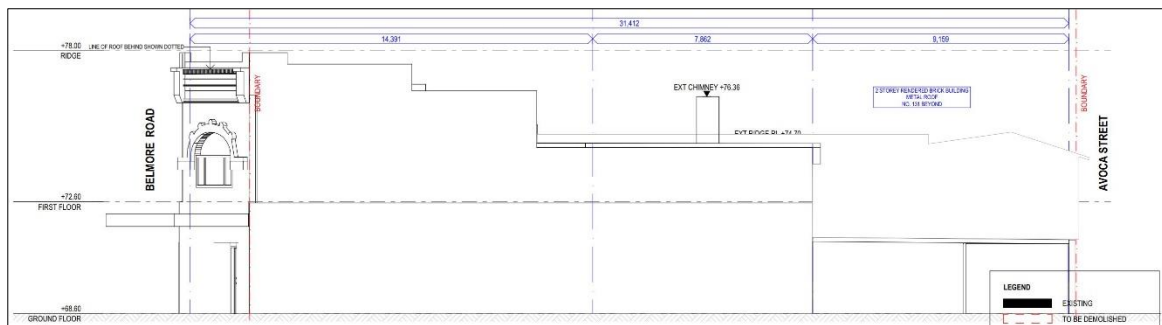


Figure 27: Existing south (side) elevation (*Square One Atelier*)

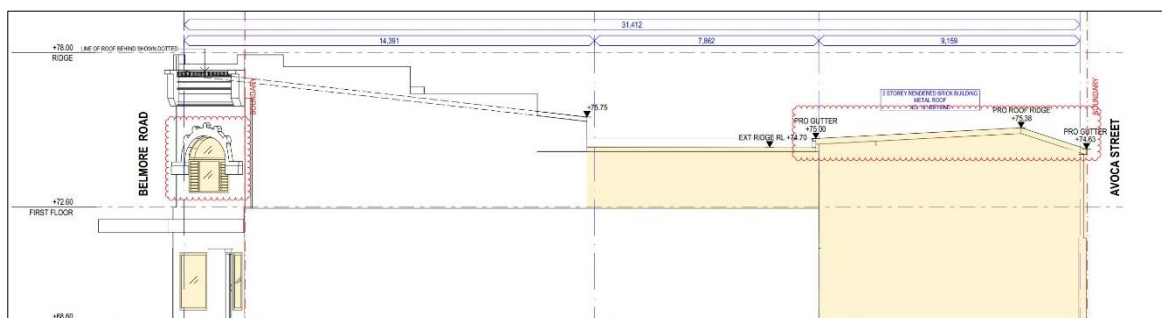


Figure 28: Proposed south (side) elevation (*Square One Atelier*)

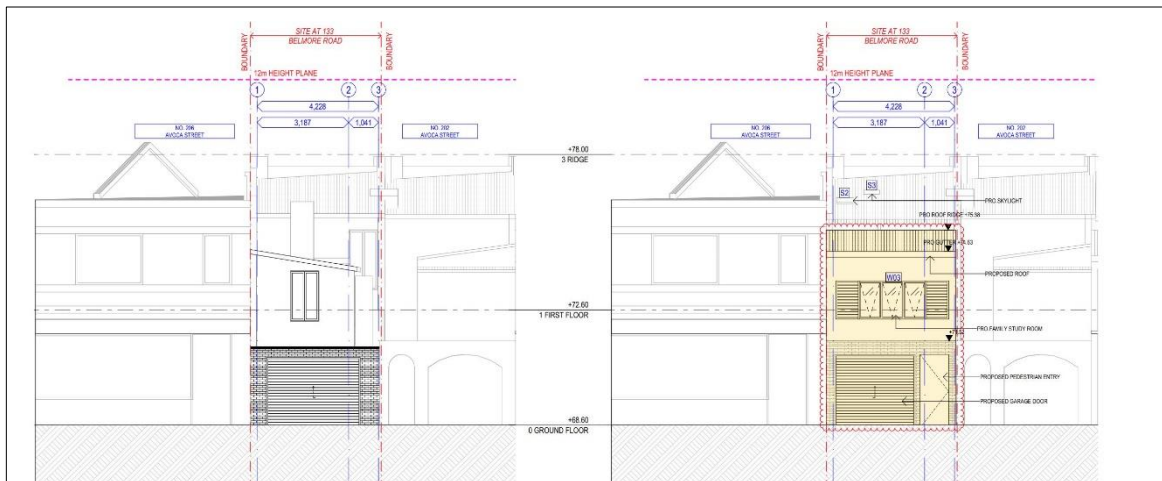


Figure 29: Existing (L) and proposed (R) Avoca Street elevations (*Square One Atelier*)

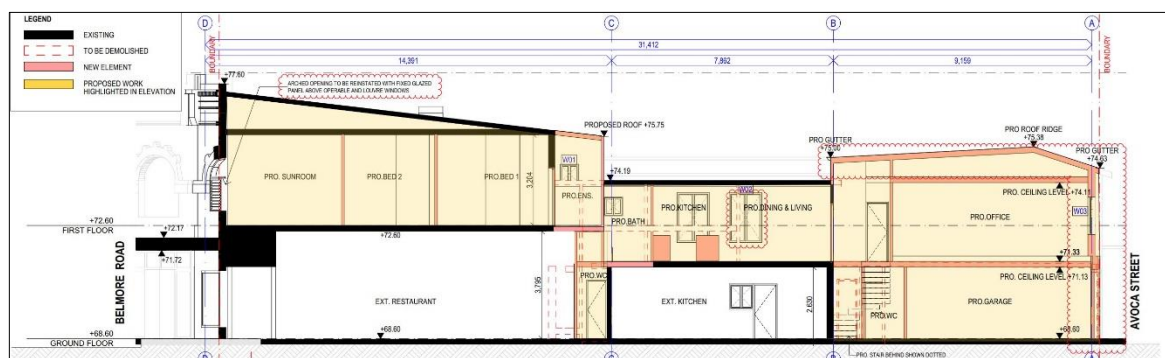


Figure 30: Proposed long section 1 (*Square One Atelier*)

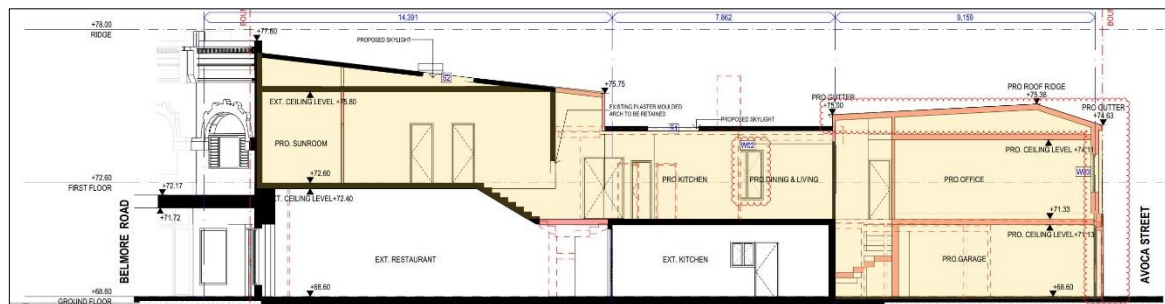


Figure 31: Proposed long section 2 (*Square One Atelier*)

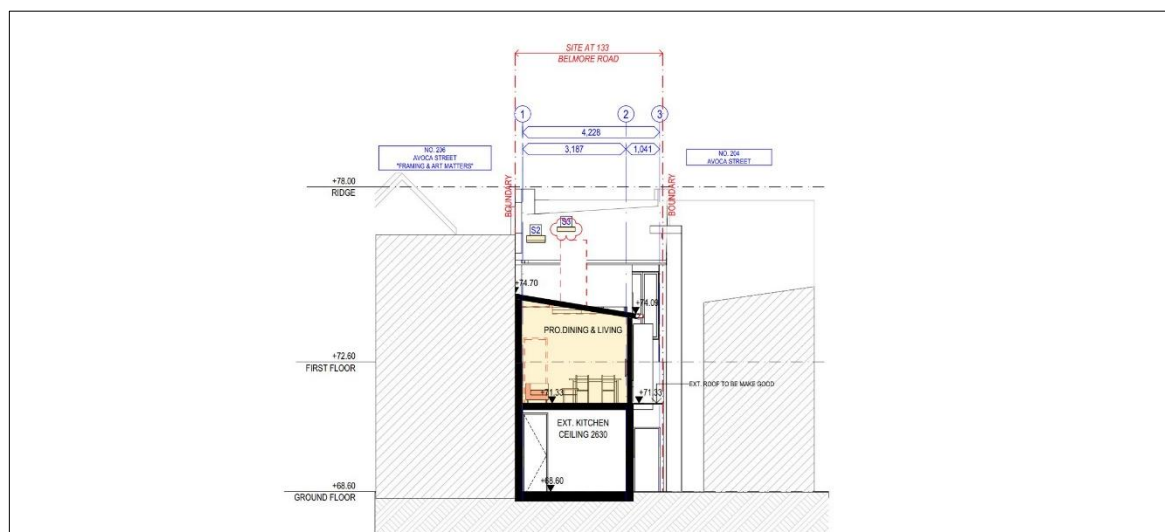


Figure 32: Proposed cross section 1 (*Square One Atelier*)

D16/25

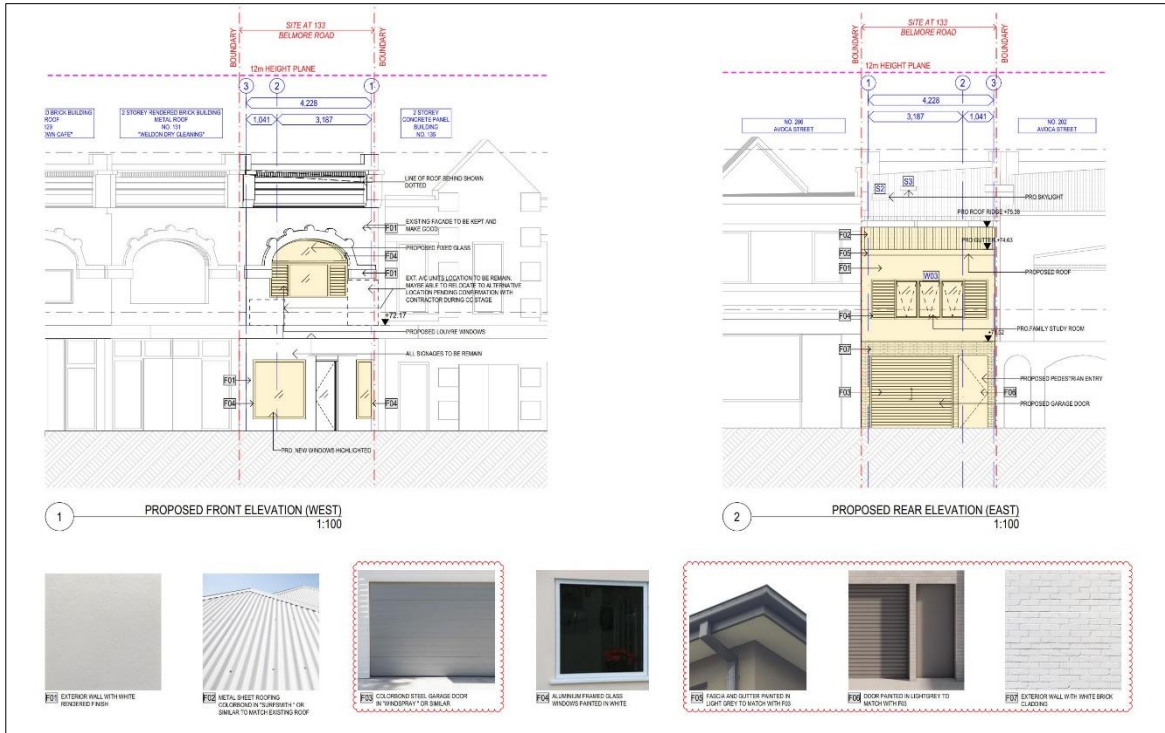


Figure 33: Schedule of proposed finishes (*Square One Atelier*)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy.

No submissions were received as a result of the notification process.

5.1. Renotification

Not applicable.

The received amended plans do not alter the scope of work to an extent that renotification is required.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

BASIX certificate reference No. A1785160 issued 26 February 2025 has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and the Sustainable Buildings SEPP.

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

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.

Chapter 2 of the SEPP does not apply to the site to the proposal and subject site as the proposed development does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

The provisions of 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 mixed residential accommodation/commercial retail purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to an existing shop top housing development) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

6.4. SEPP (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Clause 2.119 of the Transport and Infrastructure SEPP states that the consent authority must not grant development consent on land that has a frontage to a classified road unless it is satisfied with the following matters:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject site has frontages to Belmore Road (front) and Avoca Street (rear), which are classified roads. Council is satisfied that the existing addressing to Belmore Road would not change.

6.5. Randwick Local Environmental Plan 2012 (LEP)

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

The site is zoned E2 Commercial Centre under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

D16/25

Zone E2 Commercial Centre			
1 Objectives of zone			
<ul style="list-style-type: none"> To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity. To encourage investment in commercial development that generates employment opportunities and economic growth. To encourage development that has a high level of accessibility and amenity, particularly for pedestrians. To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area. To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces. To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community. To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones. To facilitate a safe public domain. To support a diverse, safe and inclusive day and night-time economy. 			
2 Permitted without consent			
Home occupations			
3 Permitted with consent			
Amusement centres; Artisan food and drink industries; Backpackers' accommodation; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Creative industries; Dwelling houses; Entertainment facilities; Function centres; Group homes; High technology industries; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Shop top housing ; Tank-based aquaculture; Vehicle repair stations; Veterinary hospitals; Any other development not specified in item 2 or 4			
4 Prohibited			
Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Port facilities; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies			

Figure 2: E2 permitted and prohibited uses (RLEP 2012, current version 15 December 2023)

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will provide for the ongoing viability of the local centre whilst integrating residential development in a suitable manner that protects the amenity of the local residents and stakeholders.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max) Site area = 139.1m ²	2:1 Max. permissible GFA of 278.2m ²	1.4:1 Total proposed GFA of 198.03m ²	Yes
CI 4.3: Building height (max)	12m	Existing max. building height = 9.53m (as calculated between the existing parapet RL77.93 to existing footpath RL68.40) New construction max. height = 7.35m *	Yes

6.5.1. Clause 4.3 – Height of Buildings

Assessing Officer's comments:

***Height of Buildings**

The building heights have been measured and calculated from the submitted plans and nominated ridge RLS in conjunction with the submitted survey plan drawings.

The existing building from its existing parapet ridge fronting Belmore Road (RL77.93) down to its existing street level (RL68.40) measures 9.53m, being 2.47m below the maximum permissible building height limit.

The first floor ensuite roof addition adjacent gutter (RL75.75) is proposed to be built to a height of 7.35m above the corresponding ground level, resulting in the highest part of new development being 4.65m below the maximum permissible building height limit.

Thus, no works are proposed at 12 metres or above from existing ground level. As such, a Clause 4.6 variation for height of buildings is not required.

6.5.2. Clause 5.10 - Heritage conservation

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

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

The subject site comprises an item of local heritage significance. As such, the application was referred internally to Council's Heritage Planner for consideration and comment.

Council's Heritage Planner eventually confirms support for the application subject to conditions as outlined within their commentary that the proposed works comply with clause 5.10 of RLEP 2012.

Refer to comments from Council's Heritage Planner at Referrals section of this report within **Appendix 1**.

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.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received during the course of the assessment.
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

Housing and Productivity Contribution

The Housing and Productivity Contribution (HPC) came into effect on 1 October 2023 by way of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*, under section 1.4 of the *Environmental Planning and Assessment (EP&A) Act 1979*. The HPC was introduced by the NSW Government and is a state infrastructure contribution which shall support housing and productivity in key growth areas in NSW. Contributions will help deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure, and regional open space.

The HPC applies to development for the purpose of residential development, commercial development and industrial development as defined in the updated Ministerial planning order dated 30 June 2024. In the Order, residential development is defined as follows:

Residential development means:

- (a) *subdivision of land (other than strata subdivision) on which development for the purposes of residential accommodation is permitted with development consent by an environmental planning instrument applying to the land (residential subdivision),*
- (b) *medium or high-density residential development,*
- (c) *development for the purposes of a manufactured home estate.*

Medium or high-density development means:

- (a) *Attached dwellings,*
- (b) *Build-to-rent housing,*
- (c) *Dual occupancy;*
- (d) *Multi-dwelling housing,*
- (e) *Residential flat building,*
- (f) *Semi-detached dwellings,*
- (g) *Seniors living (independent living units),*
- (h) *Shop top housing.*

As the proposed development involves shop-top housing with one new dwelling proposed, the HPC is applicable. A condition of consent requiring the payment of the relevant contribution has been imposed as a condition of consent.

9. Conclusion

That the application DA/1094/2024 seeking consent for alterations and additions to an existing building including first floor changes and extension and provision of garage with office space above (Heritage Conservation Area and Heritage Item) be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the E2 commercial centre zone in that the proposed activity and built form will enable residential development that is consistent with the Council's strategic planning for residential development in the area and strengthen the role of the commercial centre.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The design and planning outcome for the site will establish a positive precedent in the area.
- The development enhances the visual quality of the public domain/streetscape
- The proposed development will make a positive contribution to the commercial centre

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The application has been referred to Council's Heritage Officer for consideration. The proposal is supported subject to recommended conditions. The referral history is outlined as follows:

Initial referral comments as follows:

The Site

- *The subject site is identified as a heritage item of local significance and located within the Randwick Junction Heritage Conservation Area (HCA).*
- *The site has a primary frontage to Belmore Road and a secondary frontage to Avoca Street. The Belmore Road frontage is occupied by a two storey commercial/residential building, with vehicular access from Avoca Street. The building is part of a group comprising nos. 125 to 133 Belmore Road listed as a heritage item, I300.*
- *The State Heritage Inventory sheet for the group identifies their significance as follows -*
 - *"The two Victorian Italianate style commercial terraces ... are within a row of five ..., constructed for commercial use in c.1897. The subject properties are representative of a continuing process of suburbanisation within the Randwick Municipality. The terrace row is a surviving example of a Victorian commercial development within the Randwick municipality and is of some importance in demonstrating the principal characteristics of this type."*
- *There are a number of heritage items within the vicinity of the subject site –*
 - *To the north, "Cooks Lodge" at no.119 – 123 Belmore Road and no.194 Avoca Street*
 - *To the south, a two storey commercial building constructed in the late 1980s or 1990s and on the corner of Avoca Street and Belmore Road are the former Star and Garter Inn (constructed between 1859 and 1879) and the Statue of Captain James Cook*
 - *To the east, Our Lady of the Sacred Heart Church and "Ventnor" on the opposite side of Avoca Street are within the High Cross heritage conservation area*

Background

Refused DA/905/2014 - Demolition of existing structures, retention of front facade and construction of a basement plus 4 storey building containing a medical centre at ground floor and boarding house with 11 rooms

Proposal

Alterations and additions to an existing building including first floor changes and extension and provision of garage with office space above

Submission

D05515226 – Architectural Drawings

D05515216 – SOHI

P00355658 – Survey Plan

Controls

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

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

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

Comments

- *The proposal involves the demolition of the rear garage presenting to Avoca Street and introduction of a new major addition to the place. The proposal also included minor alterations and additions including a revised floor layout on the first floor, new windows to the main/west façade and introduction of skylights and a dormer window.*
- *Following a site inspection on 27 November 2024, it is noted that the building is a two storey federation terrace presenting a rendered masonry façade that retained its period detailing at first floor. The ground floor shopfront is significantly altered. The principal building retained its skillion roof and rendered chimney, however, the rear built form has alterations and additions including a single storey garage.*
- *It is also noted that the subject site has major internal alteration to accommodate its current and/or previous use as a restaurant/café. However, there are existing significant fabric and characteristics as identified in the State Heritage Inventory sheet and on the site inspection such as lath and plaster ceilings, ceiling rose, chimney breasts, moulding details, timber flooring, double hang sash windows, architraves, and skirting boards. The original layout of the building is still legible.*
- *The applicant should be advised that any interventions into these original elements as noted above including the side dividing walls would constitute the chief heritage assessment. By interventions is meant any chasings for the introduction of electrical or plumbing requisites or fittings such as shelving etc.*
- *Removed or altered significant fabric should be reinstated when circumstances permit (Burra Charter 2013 and RDCP 2023). It is recommended to re-instate the front balcony facing Belmore Road. This is a great opportunity as part of conservation of the heritage item and minimising intervention to the original fabric/deletion of dormer window; as well as providing better amenity to the bedroom 2.*
- *Amenity and privacy of the living/dining room is a concern. The window/opening for this space is facing the enclose staircase area.*
- *Any proposal to alter or add to a heritage item or building in a heritage conservation area should start by assessing the heritage significance of the item and its various parts or the area, and also its relationship to neighbouring properties and the streetscape. A new building, or additions which will be visible from the street, should fit into its streetscape context. The site analysis which is required for any DA must include a detailed streetscape analysis to identify consistent streetscape features. The proposed east elevation design and character/presentation to the streetscape appears to be inconsistent with RDCP 2023. To promote high quality design that compliments the streetscape character and heritage item, it is recommended to pay a careful attention to the adjacent and existing character and exercise design solutions that improves or enhance the character. For instance, the alternative design should consider the following element including but not limited to*
 - *incorporating existing material/facebrick*
 - *inclusion of a pedestrian entry (separated/distinctive from the vehicle access),*
 - *taking reference / be consistent with important horizontal lines of buildings in the streetscape in particular ground floor levels and eaves lines, where appropriate*
 - *be compatible / sympathetic in design and form including roof form and articulations, windows, openings, etc.*

Recommendation

Further amendments are recommended for the proposal to consider in the design –

1. *It is recommended to re-instate the front balcony facing Belmore Road and introduce an opening for bedroom 2 and delete dormer window. This is to improve the amenity of the bedroom 2 and minimising impact on the original fabric of the heritage item.*
2. *Amenity and privacy of the living/dining room is a concern. It is recommended to provide alternative solution to address this issue.*
3. *Prepare and submit a site analysis which must include a detailed streetscape analysis to identify consistent streetscape features and amended drawings (i.e. north elevation, plans, etc.) to address the requirements of RDCP 2023*

The following conditions should be included in any consent (please note that the issues raised above must be resolved prior to the approval):

1. *The proposed works are to be carried out in a manner to retain and avoid demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item. These items are including but not limited to lath and plaster ceilings, ceiling rose, chimneys/chimney breasts, moulding details, timber flooring, double hang sash windows, architraves, skirting boards, and side dividing walls.*
2. *The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.*
3. *Prior to commencement of demolition or construction work, a report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Council. The report must explain how the retained building elements, such as building facades, ceilings, walls, or other significant/original fabric of the building are to be retained, supported, and not undermined by the proposed development and give details of any intervention or retrofitting needed.*
4. *Where internal walls are to be removed at least 600mm or 1m of wall (including architraves and skirting boards) are to be retained in the locations marked on the plans at key junctions of the original room layout to assist interpretation of the former layout of the building. Where internal joinery features are to be conserved, any components replaced or reinstated, are to match the existing in profile and section size.*
5. *The layout of the floors of the existing building are to incorporate a **minimum** 300mm nib walls and beams projecting below ceiling level, as evidence of the original layout of the building.*
6. *The original brick corners of the building are to be left intact and the brick extension and the new work is to be separated from the old by an expansion joint.*
7. *Where proposed, details of external elements of mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to Council for review.*
8. *New services*
 - a. *must use existing service runs*
 - b. *Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted to Council for review*
9. *Photographic Archival Documentation*
 - a) *A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture.*

The first submission of the archival recording of significant building fabric or furnishings is to be prior to the removal of any significant building fabric or furnishings from the site, and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a Construction Certificate being issued.

The second submission of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site and must be submitted to Council prior to any Occupation Certificate being issued.

- b) *A digital copy of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:*
- *A PDF electronic copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs;*
 - *Digital copies of the archival photographs in JPEG and TIFF formats.*

Assessing officer's comments: The above was noted and concurred with. Subsequent to this, an information request was issued to the applicant requiring amended plans be provided to satisfy the above heritage concerns. The additional information was received on 26 February 2025 and re-referred to Council's Heritage Planner on 26 February 2025 for further consideration and comments, registered in TRIM Doc. (No D05651362) and are as follows:

The amended plans are generally supported from a heritage perspective subject to the following conditions:

1. *The AC units facing Belmore Road are to be relocated to a location that is not visible from Belmore Road or Avoca Street.*
2. *The winter garden facing Belmore Road must retain exiting design/finishes and height (window-sill height) similar to Nos 125-131 Belmore Road.*
3. *The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building. Off white and earth-tone colours/materials are more appropriate than white or grey/black colours or materials. Details of any proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.*

Assessing officer's comments: The above referral comments are noted and concurred with. Any recommended conditions shall be imposed should consent be granted.

1.2. Development Engineer

Council's Development Engineer confirms the proposed development is satisfactory and provides the following comments:

An application has been received for alterations and additions to the existing shop top housing at the above site including a new garage fronting Avoca St with office space above.

This report is based on the following plans and documentation:

- *Architectural Plans by Squareone Atelier and dated 7.11.24;*
- *Statement of Environmental Effects by MP Planning;*
- *Detail & Level Survey by W Buxton P/L*

General Comments

Development Engineering notes the subject site is well serviced by Public Transport (buses & light rail). The site is constrained in being able to provide multiple parking spaces. The existing parking space should be for the use of the residence above the shop.

Undergrounding of power lines to site

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

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

*The subject **is** located within 15m of a power pole on the same side of the street hence the above clause **is/ is not** applicable. A suitable condition has been included in this report.*

1.3. Landscape Comments

Council's Landscape Development Officer raises no objection to the proposed development and provides the following comments:

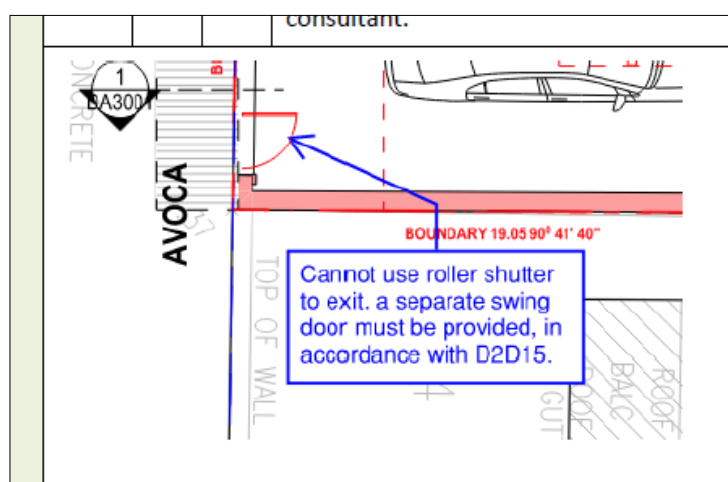
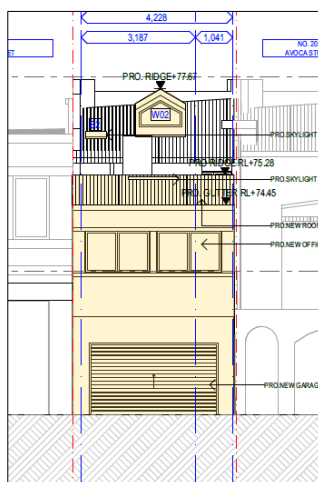
There are no existing trees, covered by Part B5 (Preservation of Trees and Vegetation) in Council's DCP 2013, that will be affected by this proposal.

1.4. Building and Regulatory comments

Council's Building and Regulatory officer confirms the proposed development is satisfactory and provides the following comments:

"I have no objections to the proposal, subject to the development being implemented in accordance with the submitted BCA report for 133 Belmore Road, Randwick (By Silver End Pty Ltd, Issue A 21//10/2024) and full details of compliance with the Building Code of Australia being incorporated into the construction certificate for the development.

... to comply with the BCA provisions, the BCA report states that an exit door would be required to the rear elevation, as shown below. Therefore, the roller door width would need to be reduced in width to accommodate the provisions of an exit door in this location. I don't think it would have a detrimental change to the elevation, but something for your consideration."



Assessing officer's comments: The above referral comments are noted and are reflected in the amended plans. Any recommended conditions shall be imposed should consent be granted.

Appendix 2: DCP Compliance Table

2.1 Section D3: Randwick Junction Town Centre

DCP Clause	Control	Proposal	Compliance
5	Visual Character		
	i) Views and vistas should be addressed in the site analysis for new development, as they may necessitate adjustments to the built form and site layout, so that view corridors and vistas are not obstructed. ii) Development should fit within the wider townscape indicated by the view corridors and should not disrupt existing visual relationships.	i) Views and vistas are unlikely to be affected	
8	Site Planning		
	i) Provide ground floor retail and/or commercial floor space along all business zoned street frontages, other than the frontage required for access. ii) In addition to the continuous commercial street frontage, the ground floor commercial area should have a minimum depth of 10 metres in order to achieve a viable shop or office size (except in heritage situations where it may be different). iii) Development should relate to the dimensions and shape of the site. iv) Development should integrate with the surrounding area through consideration of streetscape and landscape design and pedestrian and cycle links. v) Retain and integrate heritage items or contributory buildings and significant features such as stone fencing and retaining walls. vi) Development must minimise impacts on the amenity of neighbouring sites.	i) The proposal maintains the current ground floor retail use and continuous commercial street frontage. ii) The proposal maintains the current 10.744m depth of viable shop currently dedicated for the restaurant fronting Belmore Rd. iii) The development is maintained within the existing site parameters. iv) The development incorporates an infill to the rear of the site that integrates with the predominant 2 storey presentation of adjoining Avoca Street development and does not alter pedestrian pathways. v) Retention of and integration with heritage fabric is achieved and generally support by Council's Heritage Planner. See Referrals section under Appendix 1. vi) The proposal does not impact current	Yes Yes Yes Yes Yes

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DCP Clause	Control	Proposal	Compliance
		adjoining amenity	
9	Building Envelope		
	<ul style="list-style-type: none"> i) The FSR and building height controls set by RLEP together with DCP envelope controls define the overall built form and scale of development. ii) New development should be built to the street alignment and to the side boundaries of the allotment. iii) Where adjoining and nearby development is set back from the street, new development should be consistent with the setbacks of adjoining development or the dominant setbacks along the street. iv) Where buildings are setback from the front boundary, such as the school and terraces along Avoca Street, fences are to be used to reinforce the street alignment and provide a strong visual transition point between public and private space. 	<ul style="list-style-type: none"> i) The proposal complies with the prescribed building envelope controls. ii-iv) The proposal does not alter the current established street alignment and maintains current NIL setbacks. The proposal maintains compatibility with the current street alignment and street wall character observed along this part of Avoca Street. 	<ul style="list-style-type: none"> Yes Yes
10	Building Design		
10.1	Shopfronts		
	<ul style="list-style-type: none"> i) Original heritage shopfronts and detailing (eg doors, tiles, windows and ornamental detailing) should be retained. ii) New shopfronts must be designed to reinforce the character of the locality and to ensure street level continuity. The form, scale and proportion of shopfront elements should be consistent with nearby heritage or contributory buildings/development. iii) Acceptable security measures include expanding metal grilles, open, perforated or clear shutters or shutter grilles which can be placed inside the shopfronts. iv) The use of solid roller shutters is unacceptable as these severely detract from the visual and heritage amenity of the area outside of business hours. v) The installation of “drop blind” type signs suspended from awnings is encouraged. 	<ul style="list-style-type: none"> i) The proposal maintains the key aspects of the heritage frontage. The minor façade enhancements and maintenance upgrade works improve internal amenity and are supported by Council’s heritage officer. ii) The proposal involves appropriately proportioned window openings to an existing and mostly blank shopfront that reinforces the character of the locality and provides much improved connection to passing trade. iii) Existing security measures are satisfactory and are maintained. iv-v) Roller shutters, blinds or the like are not proposed. 	<ul style="list-style-type: none"> Yes Yes Yes Yes

DCP Clause	Control	Proposal	Compliance
10.2	Awnings		
	<ul style="list-style-type: none"> i) Continuous awnings attached to buildings and covering all main pedestrian routes must be provided for pedestrian comfort. ii) Provide, as characterises many suburban shopping centres of similar age, steel-framed awnings, suspended from wall brackets, and covering the 3.5m wide footpath. iii) The traditional box awnings are acceptable as they consolidate the centre's overall character. iv) Development should include a flat suspended/ cantilevered awning to provide continuous pedestrian shelter. v) Awning fascias should align with the awning of adjoining buildings, matching the established height above footpath level. vi) The depth of the fascia should be uniform with adjoining properties. Design and materials should be light weight to complement the building to which the awning is to be attached. vii) Development should provide an awning across its street frontage, setback 600mm from the kerb, between 3.5m and 4.5m above the footpath and with openings provided for street tree planting. Gaps between awnings should be closed. viii) Glass or translucent roofing must not be used as these materials provide no shade and facilitate heat transfer. Opaque materials such as ribbed sheet steel are encouraged. ix) Drop blinds protecting shopfronts and shoppers from low sun angles should be included at the outer edge of awnings. x) Advertising space on these could be used to diversify the street appearance. The underside of drop blinds should be at least 3m above the footpath level. In cases where it is impractical or unreasonable to require continuous awnings other forms of providing shade and shelter may be considered. 	<ul style="list-style-type: none"> i-ix) The current attached awning is retained, thus the existing character, proportions, materials etc that also relate to the adjoining shopfronts are preserved. x) The existing 'Choy's' awning signage is retained. No changes to the current advertising space is proposed. 	<p>Yes</p> <p>Yes</p>
10.3	Upper level facades		
	<ul style="list-style-type: none"> i) For new development, façade alterations and infill buildings, verandahs and upper storey balcony design and materials should be compatible to the heritage items and contributing facades within the area. ii) Cantilevered balconies should not be used on new buildings. iii) Balconies should be sized and arranged so that strong horizontal lines do not dominate the façade of the development. iv) Recessed balconies which modulate the façade should be incorporated in the design of new development. 	<ul style="list-style-type: none"> i) The proposal reinstates the original upper-level arched opening fronting Belmore Road and involves general maintenance upgrades that enhances the streetscape. Whilst the rear upper-level infill portion fronting Avoca Street is compatible with and reinforces the 	<p>Yes</p>

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DCP Clause	Control	Proposal	Compliance
	v) Balconies should be designed to protect the visual amenity of occupants, neighbours and the street and should therefore have a solid appearance.	<p>predominant 2 storey presentation of Avoca Street, and contributes to the visual enhancement of the block.</p> <p>ii) No cantilevered balconies are proposed.</p> <p>iii-iv) A portion of the upper-level is converted to a balcony/winter garden that is recessed behind the existing façade and wholly contained within the existing building envelope. The original arched opening is reinstated and utilised for natural light and amenity purposes. The façade is largely maintained.</p> <p>v) The proposed balcony/wintergarden provides privacy to residential occupants, with glazed elements providing an adequate acoustic buffer to Belmore Road noise. The winter garden is contained within the building fabric.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
10.4	Materials and colours		
	<p>i) Materials and finishes for new development should be compatible with adjoining and nearby development. Sympathetic use of building materials can reduce the impact of a modern shopfront on the streetscape.</p> <p>ii) Acceptable materials include face brickwork (traditional reds, browns and manganese) and rendered masonry. The use of precast concrete is to be avoided. Acceptable roof materials include corrugated iron and Marseilles tiles.</p> <p>iii) Original face brickwork or stone should not be painted or rendered.</p> <p>iv) Colours should enhance the locality and be appropriate to the architectural style of the building.</p>	<p>i-iv) The nominated materials and finishes are generally supported in principle subject to the conditions outlined within the Heritage Officer's recommendations.</p> <p>See Appendix 1.</p>	Subject to Heritage conditions

DCP Clause	Control	Proposal	Compliance
10.5	Outdoor advertising		
	i) Advertising should respect and demonstrate an understanding of the design of the building and should not adversely affect the heritage streetscape values. ii) If an advertising structure is proposed to be attached to a building, the drawings accompanying the application should provide elevations showing windows, awnings or other major architectural features in relation to the advertising structure. iii) The use of above awning signage is not suitable. iv) The installation of "drop blind" type signs suspended from awnings is encouraged.	i-iv) Existing "Choy's" signage is retained. No additional advertising signs are proposed. iv) No blinds/shutters or the like are proposed.	Yes Yes
11	Car parking and Access		
	i) To protect the streetscape onsite car parking is to be provided either at ground level or as basement car parking. ii) Above ground car parking must not be visible from Belmore Road or Avoca Street. iii) Carpark ventilation grilles must not be located on primary street frontages. iv) If the development has access to a rear lane, the loading and unloading facilities must be provided from the lane, in order to minimise the intrusion of vehicular access and servicing upon the pedestrian character of Randwick Junction. v) Rear servicing areas in mixed use development should be able to cater for both residential and commercial servicing requirements.	i-ii) The ground level parking facility is maintained at the rear of the property utilising the existing driveway crossover on Avoca Street. iii) N/A - the parking facility does not front the primary street frontage that is Belmore Rd. iv) No changes proposed - Avoca Street will remain as the primary access point for services and deliveries to the premises. v) The proposal maintains the current mixed use servicing requirements.	Yes Yes Yes Yes

2.2 Section D6: Neighbourhood Centres – General Controls

DCP Clause	Control	Proposal	Compliance
2	Site planning		
2.3	Building heights		
	i) Where 9.5m height limit applies, development must not exceed 2 storeys (with exception of habitable roof space/partial floor). ii) Where 12m height limit applies,	i) N/A - see item ii) below. ii) No change to the existing maximum	Yes Yes

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DCP Clause	Control	Proposal	Compliance
	<p>development must not exceed 3 storeys (with exception of habitable roof space/partial floor).</p> <p>iii) Minimum 3.3m floor to ceiling height at ground floor and 2.7 at upper floors.</p>	<p>building height is proposed. The two storey street presentation to Belmore Road is maintained. A two storey elevation is proposed fronting Avoca Street to the rear.</p> <p>iii) Existing ground floor ceiling heights apply to the restaurant (3.795m) and kitchen (2.63m) and are retained. The garage addition at 2.63m does not require strict numerical compliance</p> <p>The plans demonstrate that a minimum 2.7m or greater ceiling height is achieved across the first floor.</p>	<p>Yes</p>
2.4.1	Front setback		
	<p>i) Development on primary road, up to 9.5m in height: nil setback.</p> <p>ii) Development on primary road, above 9.5m in height: 2m setback.</p> <p>iii) Corner allotments: minimum 1.5m x 1.5m splay corner at all levels.</p>	<p>i-ii) As existing. The development fronting the primary road maintains the current pre-existing NIL setback.</p> <p>iii) N/A - the subject site is not a corner allotment</p>	<p>Yes</p> <p>Yes</p>
2.4.2.	Rear setback		
	<p>i) Rear lane access: 1m minimum setback for car parking and ancillary buildings.</p> <p>ii) Maximum 6m height and 4.5m wall height for all ancillary buildings fronting laneways.</p> <p>iii) Ancillary buildings on laneways must have a mass and scale secondary to the primary dwelling on the allotment.</p> <p>iv) Any upper level (for ancillary buildings) must be contained within the roof form as an attic storey.</p> <p>v) Where there is no rear lane access and the site adjoins land in a residential zone, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the lesser.</p>	<p>i) The proposal does not front a laneway, nonetheless, maintains the current NIL setback from the secondary street frontage thus maintains the general street pattern at ground floor and upper levels fronting this part of Avoca Street.</p> <p>The proposal comprises a 6.06m height above the rear footpath.</p> <p>The proposal results in</p>	<p>Yes</p>

DCP Clause	Control	Proposal	Compliance
		<p>a compatible form that is consistent with the development pattern and appropriate in form and scale thus can be supported.</p> <p>iii-iv) N/A – no ancillary building.</p> <p>v) N/A – the site is not adjoining a residential zone and fronts a registered road (Avoca St)</p>	
2.4.3	Side setback		
	<p>i) Adjacent to business zone: nil setback.</p> <p>ii) Dwellings in business zone: refer Part C1 or C2 of DCP.</p> <p>iii) Adjacent to non-business zone: 3m for a minimum of 60% of lot depth.</p>	<p>i-iii) The proposal maintains existing side setbacks as follows:</p> <p>South side = NIL (no change) North side = NIL to 900mm (existing no change)</p> <p>ii) Proposed addition to the rear adjoining E2. NIL setback supported.</p> <p>iii) N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3	Building design		
3.1	Façades		
	<p>i) Where a development has two street frontages, each façade treatment must respond to the buildings in those streets.</p> <p>ii) Include shopfronts on side street frontages of corner sites to enhance the commercial potential of the space and minimise blank walls to the streetfront.</p> <p>iii) Facades should display proportions and detailing which respect the prevailing building facades across the centre (i.e. designing fine grain shop fronts, where the existing subdivision is fine grain).</p> <p>iv) Distinguish residential entries from commercial/retail entries in the case of mixed use development.</p> <p>v) Design shopfronts, including entries and windows, to reinforce any prevalent character in the centre.</p> <p>vi) All street frontage windows at ground level are to have clear glazing. Large glazed shopfronts should be avoided, with window configurations broken into discrete sections</p>	<p>i) The proposal maintains the current two storey presentation to Belmore Road. The design of the two storey frontage to the Avoca Street side responds to the prevailing the surrounding two storey development character and takes articulation cues from adjoining facades.</p> <p>ii) N/A – not a corner site.</p> <p>iii) Belmore Road façade generally maintained with</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

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DCP Clause	Control	Proposal	Compliance
	<p>to ensure visual interest.</p> <p>vii) All facade elements must be contained within the site boundaries.</p> <p>viii) Building services, such as drainage pipes shall be coordinated and integrated with overall facade and balcony design.</p> <p>ix) Balconies to the street facade are to be recessed behind the principal building facade.</p> <p>x) Balcony balustrades should comprise a light open/glazed material and should be compatible with the style of the building.</p> <p>xi) The development of colonnades is discouraged.</p>	<p>adjustments including windows opening of an appropriate proportion and size improving amenity and visual connection to passing trade. The Avoca Street elevation is design with cues and horizontal lines taken from adjoining facades within the block.</p> <p>iv) Distinct and separate entries are proposed for residential and commercial uses respectively.</p> <p>v) The existing shopfront entry is retained. Additional windows reinforce the prevalent shop front character of Belmore Rd.</p> <p>vi) Achieved</p> <p>vii) Achieved</p> <p>viii) Existing and unsightly AC units currently mounted atop the street awning in are proposed to be relocated pending on-site feasibility. Service design appropriate. Services and Utilities subject to standard conditions to ensure integration of services are appropriately undertaken.</p> <p>ix) The proposed balcony / wintergarden is recessed and wholly contained within the existing building envelope fronting Belmore Rd.</p> <p>x-xi) NA – no balustrades or colonnades are</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Subject to Heritage conditions</p> <p>Yes</p>

DCP Clause	Control	Proposal	Compliance
		proposed.	
3.2	Roof Forms		
	<ul style="list-style-type: none"> i) In centres where parapet forms are prevalent, development should include parapets that reflect the rhythm, scale and detailing of existing parapets. ii) Provide flat roofs where these prevail across the centre, unless the site conditions justify an alternative roof form (eg. Corner sites). iii) Design roof forms to generate a visually interesting skyline, while minimising apparent bulk and potential for overshadowing. The style and pitch of new roofs should relate sympathetically to neighbouring buildings. iv) Relate roof forms to the size and scale of the building, the building elevation and the three dimensional building form. v) Structures such as ventilation shafts, lift over-runs and service plants, should be wholly contained within roof structures and not project above the roof line. 	<ul style="list-style-type: none"> i) The existing Belmore Road parapet form remains unaltered. ii) Rear roof character is appropriate and of a modest scale with minor pitch. iii-iv) The roof form is sympathetic to the development and surrounding context. The proposed roof is considered to satisfy these controls. v) A condition of consent is applied to ensure compliance with this control. 	<ul style="list-style-type: none"> Yes Yes Yes Subject to condition
3.4	Colours, materials, and finishes		
	<ul style="list-style-type: none"> i) Utilise high quality and durable materials and finishes which require minimal maintenance. ii) Combine different materials and finishes to assist building articulation and modulation. iii) The following materials are considered incompatible: large wall tiles; rough textured render and/or bagged finish; curtain walls; and highly reflective or mirror glass. iv) Avoid large expanses of any single material to facades. v) Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%. 	<ul style="list-style-type: none"> i-iv) The nominated materials and finishes are generally supported in principle subject to the conditions outlined within the Heritage Officer's recommendations. See Appendix 1. 	Subject to Heritage conditions
3.5	Lighting		
	<ul style="list-style-type: none"> i) The external lighting of buildings must integrate external light features with the architecture of the building. ii) Under awning lighting should be provided in accordance with the relevant Australian Standard. iii) Where residential development is located above or adjoins the development, provide location and design details demonstrating that light is directed away from residences. iv) Avoid floodlights or excessive lighting of buildings. 	<ul style="list-style-type: none"> External lighting maintained. iii) Residential portion located above commercial. Adequate light separation achieved. iv) Not proposed. 	Yes
3.6	Signage		
	<ul style="list-style-type: none"> i) The location, size and design of signage must integrate with the architectural detail of the building and act as a unifying element to the neighbourhood centre. 	<ul style="list-style-type: none"> i-viii) Existing "Choy's" signage and street numbering is maintained. 	Yes

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DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> ii) Signage must not: obscure important architectural features; dominate the architecture of buildings; protrude from, or stand proud of, the awnings; project above any part of the building to which it is attached; cover a large portion of the building façade. iii) Avoid fin signs, signage on canvas blinds, signage on roller shutters and projecting wall signs and large elevated solid panel business and building name signs including those fixed on parapets or roofs. iv) Ensure that signs provide clear identification of premises for residents, visitors and customers. v) All premises must display a street number. The height of these numbers should be legible but not a dominating feature, and no less than 300mm presented in a clear readable font. vi) Signage must relate to the business being carried out on the property. vii) Early building names (on parapets, pediments, etc) should be preserved wherever possible. viii) Any signage structure or sign must have regard to the impact on residential occupants in terms of illumination and visual impact. 	No additional advertising signs are proposed.	
4	Public domain		
4.1	Active frontages		
	<ul style="list-style-type: none"> i) Maximise street level activity and minimise opaque or blank walls at ground level. ii) Minimise vehicular entrances not associated with active uses or building entries. iii) Security grilles or shutters may be fitted only within the shop itself behind glazing and must offer a minimum of 70% transparency. iv) Doors shall not encroach over the footpath when open. The use of fully operable glass walls or windows to open cafés and restaurants to the street is encouraged, where suitable for the prevailing character of existing buildings in the centre. v) ATMs and takeaway service counters should be recessed within a building wall to avoid negative impact on footpaths being used as service/queuing space. These areas are to be designed to avoid a hidden alcove/niche 	<ul style="list-style-type: none"> i) Street level activity is improved with the addition of ground level shop front windows demonstrated within the plans. ii) The vehicular entry is maintained at the rear and remains separated from the main entry / active use along Belmore Rd. iii) No security grilles, shutters or the like are proposed. iv) The existing restaurant door is retained and does not open onto public footpath. The additional window openings to Belmore Rd commercial precinct achieve the 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

DCP Clause	Control	Proposal	Compliance
		desired engagement with passing trade. v) N/A. No external ATMs or take away counters proposed that require wall recesses.	Yes
4.2	Pedestrian friendly access and spaces		
	<ul style="list-style-type: none"> i) Development should aim to increase the area of public spaces and pedestrian links that are available in the business centres. ii) In designing such areas, consideration should be given to solar access and protection from wind and rain. iii) Pedestrian and vehicle accessways are to be separated and clearly distinguishable. iv) Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths. v) Consider artworks and design which integrates private development with the public domain. Eg. Window treatments, paving, sculptures and decorative elements. 	i-v) The existing pedestrian and vehicle accessways are maintained.	Yes
4.3	Vehicular access		
	<ul style="list-style-type: none"> i) Where new development has access available off rear laneways or side streets, vehicular access must be provided from the laneway or side streets. ii) Design driveways to minimise visual impact on the street and maximise pedestrian safety. Setback any rear lane garage doors 1 metre from the laneway alignment. iii) Avoid locating accessways to driveways adjacent to the doors or windows of habitable rooms. 	i-iii) The existing vehicular accessway at the rear of the property fronting Avoca Street is maintained.	Yes
4.4	Loading areas		
	<ul style="list-style-type: none"> i) Provide for loading facilities on site wherever feasible or demonstrate that suitable alternative arrangements to minimise impact on other premises and people within the centre. ii) Service/delivery areas are to be located to minimise conflict between pedestrians/cyclists and vehicles and to minimise impact on residential amenity of neighbouring properties. iii) Where new development has access available off rear laneways or side streets, loading areas shall be located off these areas. 	i-iii) The existing services and deliveries access at the rear of the property fronting Avoca Street is maintained.	Yes
5	Amenity		
5.1	Solar Access		
	i) Commercial and mixed use development are not to reduce sunlight to adjacent dwellings below a minimum of 3 hours of sunlight on a portion of the windows of the	Shadow diagrams have been submitted by the applicant for 8am, 12pm and 4pm in	Yes

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DCP Clause	Control	Proposal	Compliance
	<p>habitable rooms between 8am and 4pm on 21 June.</p> <p>ii) Where adjacent dwellings and their open space already receive less than the standard hours of sun, new development should seek to maintain this solar access where practicable.</p>	<p>midwinter.</p> <p>It is noted south-adjoining premises at No. 135-139 Belmore Road currently does not comprise any north facing windows or private open spaces.</p> <p>Thus, the proposal will not alter the existing access to natural light currently enjoyed by neighbouring properties.</p>	
5.2	Acoustic and visual privacy		
	<p>i) Developments are to be designed to minimise noise transmission by:</p> <ul style="list-style-type: none"> Locating busy noisy areas next to each other and quieter areas next to each other; Locating bedrooms away from busy roads and other noise sources; Using storage or circulation areas within a dwelling to buffer noise from adjacent apartments, mechanical services or corridors/lobbies. Avoid locating wet areas, such as toilets, laundries and kitchens, adjacent to bedrooms of adjoining dwellings. <p>ii) Locate exhaust vents away from windows and open space of dwellings.</p> <p>iii) For development fronting arterial roads, provide noise mitigation measures to ensure an acceptable level of living amenity for the dwellings is maintained.</p> <p>iv) Operating hours must be submitted with the DA. Should the development require deliveries and/or operation of machinery outside of standard hours (7.30am to 5pm, Monday to Friday), an acoustic report must accompany the DA. The acoustic report must be prepared by a suitably qualified acoustic consultant.</p>	<p>i) The proposed upper level floorplan layout is unlikely to result in adverse impacts on acoustic privacy of occupants and adjoining neighbours.</p> <p>The new upstairs layout are designated for private use considered of low noise transmission, thus the proposal is unlikely to result in additional adverse noise impacts compared to the current scenario.</p> <p>ii-iii) Mitigation measures in relation to mechanical equipment can be appropriately conditioned.</p> <p>iv) The proposal does not seek to change the current operating hours of 12pm-10pm Monday to Sunday and does not propose deliveries or machine operation outside the hours of 7:30am to 5pm weekdays.</p>	<p>Yes</p> <p>Subject to standard conditions</p> <p>Yes</p>
6	Shop top housing		
	<p>i) Entries to residential apartments are to be separated from commercial entries to</p>	<p>i) Separate staircase provided to residential</p>	<p>Yes</p>

DCP Clause	Control	Proposal	Compliance
	<p>provide security and an identifiable address for each of the different users.</p> <p>ii) Each dwelling must be provided with private open space directly accessible from its living area, in the form of either a balcony at least 2m deep or a terrace or private courtyard at least 10 square metres in area.</p> <p>iii) Private open spaces should be: located adjacent to and accessible from the main living areas of the dwelling; located so as to maximise solar access; located to ensure privacy and away from noisy locations, where possible; and screened by vegetation or a wall to ensure privacy.</p> <p>iv) If an elevator is provided for residential use, it must not be used for retail loading or waste removal.</p> <p>v) Separate the waste storage facilities for commercial and residential components of a development.</p> <p>vi) Site services and facilities (such as letterboxes and drying yards) should be designed to enable safe and convenient access by residents; in an aesthetically sensitive way; to have regard to the amenity of adjoining developments and streetscape; to require minimal maintenance; and to be visually integrated with the development.</p>	<p>component.</p> <p>ii) The upper floor dwelling incorporates a balcony/winter garden accessible via the hallway leading from proposed living areas, with dimensions at least 3.1 x 3.4m (10.54m²).</p> <p>iii) The balcony (POS) is appropriately located with direct solar access and ventilation as well as provision for noise buffering from Belmore Road due to its operable glazing elements.</p> <p>iv) N/A – no lift proposed.</p> <p>v) Separate residential and commercial bins is not detailed within the plans.</p> <p>vi) Services appropriately located.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Subject to condition</p> <p>Yes</p>

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2.3 Part B2: Heritage

Council is satisfied that the proposed development meets the heritage requirements in accordance with Part B2 of RDCP 2013. Refer to detailed assessment by Council's Heritage Planner at Referrals section of this report.

2.4 Part B5: Preservation of Trees and Vegetation

Council is satisfied that the proposed development meets the tree preservation requirements in accordance with Part B5 of RDCP 2013. Refer to comments by Council's Landscape Officer at Referrals section of this report.

2.5 Part B6: Recycling and Waste Management

Significant construction waste not expected and would be suitably addressed via conditions of consent. A condition of consent has been imposed for operational waste management provisions to be provided for the commercial use, to the satisfaction of Council.

2.6 Part B7: Transport, Traffic, Parking and Access

A loading bay is provided at the rear of the site for the commercial portion of the subject site (existing).

Development Engineer raised no objection to the proposed parking provisions subject to a motorcycle parking space being provided at the rear.

Responsible officer: Jose Serrao, Environmental Planning Officer

File Reference: DA/1094/2024

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Development Consent Conditions (Mixed use)



D16/25

Folder /DA No:	DA/1094/2024
Property:	133 Belmore Road, RANDWICK NSW 2031
Proposal:	Alterations and additions to an existing building including first floor changes and extension and provision of garage (Heritage Conservation Area and Heritage Item).
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

Plan	Drawn by	Dated	Received by Council
DA2001 Rev C – Ground Floor Plan – Proposed & Demo	Square One Atelier	26/02/2025	26/02/2025
DA2002 Rev C – First Floor Plan – Proposed & Demo	Square One Atelier	26/02/2025	26/02/2025
DA2003 Rev C – Roof Plan	Square One Atelier	26/02/2025	26/02/2025
DA3001 Rev C – Section 01 (Long)	Square One Atelier	26/02/2025	26/02/2025
DA3002 Rev C – Section 02 (Cross)	Square One Atelier	26/02/2025	26/02/2025
DA4001 Rev C – East Elevation	Square One Atelier	26/02/2025	26/02/2025
DA4002 Rev C – North Elevation	Square One Atelier	26/02/2025	26/02/2025
DA4003 Rev C – South Elevation	Square One Atelier	26/02/2025	26/02/2025
DA4004 Rev C – West Elevation	Square One Atelier	26/02/2025	26/02/2025

BASIX Certificate No.	Dated	Received by Council
A1785160	26/02/2025	26/02/2025

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.

- Minimisation of services and structures projecting above roof forms**
 Structures such as ventilation shafts, lift over-runs and service plants, shall be

	Condition
	wholly contained within roof structures and not project above the roof line to ensure compliance pursuant to RDCP Section D6: Neighbourhood Centres – general Controls DCP Clause 3.2(v).
	Compliance with the above is to be demonstrated in the Construction Certificate documentation.
	Condition Reason: To ensure compliance with prescribed development controls and minimise the visual impact of service structures.
3.	Waste storage facilities Separate residential and commercial bins are to be detailed within the plans in accordance with RDCP Section D6: Neighbourhood Centres – Clause 6(v), and in order to provide allocated areas for residential and business waste. Condition Reason: To ensure appropriate waste management and compliance with prescribed development controls.

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

	Condition
4.	Consent Requirements The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation. Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.
5.	BCA compliance The development is to be implemented in accordance with the submitted BCA report for 133 Belmore Road, Randwick (By Silver End Pty Ltd, Issue A 21//10/2024) and full details of compliance with the Building Code of Australia being incorporated into the Construction Certificate for the development. Condition Reason: To ensure compliance with the application documentation and Building Code of Australia.
6.	Heritage Conservation The proposed works are to be carried out in a manner to retain and avoid demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item. These items are including but not limited to lath and plaster ceilings, ceiling rose, chimneys/chimney breasts, moulding details, timber flooring, double hang sash windows, architraves, skirting boards, and side dividing walls. Condition Reason: To ensure the heritage significance of the development is maintained.
7.	Heritage Conservation The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan. Condition Reason: To ensure the heritage significance of the development is maintained.
8.	Heritage Conservation Prior to commencement of demolition or construction work, a report or certification

Condition	
	<p>from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Council. The report must explain how the retained building elements, such as building facades, ceilings, walls, or other significant/original fabric of the building are to be retained, supported, and not undermined by the proposed development and give details of any intervention or retrofitting needed.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
9.	<p>Heritage Conservation</p> <p>Where internal walls are to be removed at least 600mm or 1m of wall (including architraves and skirting boards) are to be retained in the locations marked on the plans at key junctions of the original room layout to assist interpretation of the former layout of the building. Where internal joinery features are to be conserved, any components replaced or reinstated, are to match the existing in profile and section size.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
10.	<p>Heritage Conservation</p> <p>The layout of the floors of the existing building are to incorporate a minimum 300mm nib walls and beams projecting below ceiling level, as evidence of the original layout of the building.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
11.	<p>Heritage Conservation</p> <p>The original brick corners of the building are to be left intact and the brick extension and the new work is to be separated from the old by an expansion joint.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
12.	<p>Heritage Conservation</p> <p>Where proposed, details of external elements of mechanical ventilation systems, including layout and dimensions of ductwork, are to be submitted to Council for review.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
13.	<p>Heritage Conservation</p> <p>New services</p> <ul style="list-style-type: none"> a) must use existing service runs b) Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted to Council for review. <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
14.	<p>Heritage Conservation - Photographic Archival Documentation</p> <ul style="list-style-type: none"> a) A digital photographic archival recording of the property internally and externally shall be prepared and submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development. This recording shall be in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture.

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	Condition
	<p>The first submission of the archival recording of significant building fabric or furnishings is to be prior to the removal of any significant building fabric or furnishings from the site, and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a Construction Certificate being issued.</p> <p>The second submission of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site and must be submitted to Council prior to any Occupation Certificate being issued.</p>
	<p>b) A digital copy of the archival recording is to be submitted to Council for inclusion in the Local History Collection of Randwick City Library and for Council's own records incorporating the following:</p> <ul style="list-style-type: none"> • A PDF electronic copy of the archival record incorporating a detailed historical development of the site, purpose of the archival recording, copyright permission for Council to use the photographs for research purposes, photographic catalogue sheet cross-referenced to the base floor and site plans showing the locations of archival photographs taken, and index print of the photographs; • Digital copies of the archival photographs in JPEG and TIFF formats.
	<p>Condition Reason: To ensure a photographic recording is archived appropriately so it is documented for future generations.</p>
15.	<p>Heritage – AC unit relocation</p>
	<p>The AC units facing Belmore Road are to be relocated to a location that is not visible from Belmore Road or Avoca Street.</p>
	<p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
	<p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
16.	<p>Heritage – Winter garden window opening</p>
	<p>The winter garden facing Belmore Road must retain existing design/finishes and height (window-sill height) similar to Nos 125-131 Belmore Road.</p>
	<p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
17.	<p>Heritage – External Colours, Materials & Finishes</p>
	<p>The colours, materials and finishes of the external surfaces to the building are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building. Off white and earth-tone colours/materials are more appropriate than white or grey/black colours or materials. Details of any proposed colours, materials and textures (i.e- a schedule and brochure/s or sample board) are to be submitted to and approved by Council, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.</p>
	<p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development, and maintain the heritage significance of the site.</p>
18.	<p>Section 7.12 Development Contributions</p>
	<p>Development Contributions are required in accordance with the applicable</p>

	Condition		
	<p>Randwick City Council Development Contributions Plan, based on the development cost of \$165,000.00 the following applicable monetary levy must be paid to Council: \$825.00.</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> <p>IDC = ODC x CP2/CP1</p> <p>Where: IDC = the indexed development cost ODC = the original development cost determined by the Council CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>		
19.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$5,000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>		
20.	<p>Housing and Productivity Contribution</p> <p>Before the issue of the first Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.</p> <table border="1"> <thead> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> </thead> </table>	Housing and productivity contribution	Amount
Housing and productivity contribution	Amount		

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Condition	
Housing and productivity contribution (base component)	10,623.63
Transport project component	-
Total housing and productivity contribution	10,623.63

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order)*.

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Condition Reason: To require contributions towards the provision of regional infrastructure, and to ensure the housing and productivity contribution is paid.

21.

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

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

Condition Reason: To ensure the development satisfies Sydney Water requirements.

22.

Building Code of Australia

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

	Condition
	<p>- 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>
23.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
24.	<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>
25.	<p>Site stability, Excavation and Construction work</p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:</p> <ol style="list-style-type: none"> Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties. Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings. Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration. Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work. Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises

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Condition	
	(including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.
	Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.
26.	<p>Stormwater Drainage</p> <p>Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
27.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/tapin</p> <p>The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
28.	<p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <p>a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the construction certificate, the approved development consent</p>

	Condition
	<p>plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <p>b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and</p> <p>c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and</p> <p>d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p> <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
29.	<p>Home Building Act 1989</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.</p>
30.	<p>Dilapidation Reports</p> <p>A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the <i>Principal Certifier</i> for the development.</p> <p>The dilapidation report must be submitted to the Principal Certifier, Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
31.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise & Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p>

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Condition

- (a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline* (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.
- (b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.
- (c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the *Construction Noise & Vibration Management Plan* and which demonstrates compliance with relevant criteria.
- (d) Any recommendations and requirements contained in the *Construction Noise & Vibration Management Plan* and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.

A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.

- (e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.

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

32.

Construction Site Management Plan

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

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

Condition	
	<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>
33.	<p>Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
34.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
35.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
36.	<p>Public Utilities</p> <p>The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.</p> <p><i>NOTE: The existing overhead power feed between the mains distribution pole in Avoca Street and the development site shall be relocated to an underground (UGOH) connection. No Permanent Private Poles are to be installed. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out any required works to the requirements and satisfaction of Ausgrid and at no cost to Council.</i></p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

DURING BUILDING WORK

Condition	
37.	<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</p>

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

38.

Restriction on Working Hours

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

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

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

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

39.

Noise & Vibration

Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies, in accordance with the

Condition	
	<p><i>Construction Noise & Vibration Management Plan</i>, prepared for the development and as specified in the conditions of consent.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
40.	<p>Construction Site Management</p> <p>Temporary site safety fencing or site hoarding must be provided to the perimeter of the site prior to commencement of works and throughout demolition, excavation and construction works, in accordance with the SafeWork guidelines and the following requirements:</p> <ul style="list-style-type: none"> (a) Temporary site fences or hoardings must have a height of 1.8 metres and be a cyclone wire fence (with geotextile fabric attached to the inside of the fence to provide dust control), heavy-duty plywood sheeting (painted white), or other material approved by Council in writing. (b) Hoardings and site fencing must be designed to prevent any substance from, or in connection with, the work from falling into the public place or adjoining premises and if necessary, be provided with artificial lighting. (c) All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible. (d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land. (e) Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time. (f) Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings. <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>
41.	<p>Overhead Hoardings</p> <p>An overhead ('B' class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:</p> <ul style="list-style-type: none"> • goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway • building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment • it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land • as may otherwise be required by SafeWork NSW, Council or the Principal Certifier. <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>

	Condition
42.	<p data-bbox="480 293 815 322">Public Safety & Site Management</p> <p data-bbox="480 322 1257 389">Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ul style="list-style-type: none"> <li data-bbox="517 416 1257 483">a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. <li data-bbox="517 510 1257 577">b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. <li data-bbox="517 604 1257 649">c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. <li data-bbox="517 676 1257 743">d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. <li data-bbox="517 770 1257 837">e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. <li data-bbox="517 864 1257 931">f) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident. <li data-bbox="517 958 1257 1128">g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to the site to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible. <p data-bbox="480 1155 1257 1200">Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p data-bbox="480 1227 1257 1323"><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p> <ul style="list-style-type: none"> <li data-bbox="517 1350 1257 1417">h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land. <li data-bbox="517 1444 1257 1563">i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council. <li data-bbox="517 1590 1257 1733">j) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

	Condition
	Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
43.	<p>Dust Control</p> <p>Dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.</p> <p><i>Dust control measures and practices may include:</i></p> <ul style="list-style-type: none"> • <i>Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).</i> • <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i> • <i>Installation of water sprinkling system or provision hoses or the like.</i> • <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i> • <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i> • <i>Landscaping and revegetation of disturbed areas.</i> <p>Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.</p>
44.	<p>Site Accessway</p> <p>A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.</p> <p>Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.</p> <p>Condition reason: To minimise and prevent damage to public infrastructure.</p>
45.	<p>Excavations and Support of Adjoining Land</p> <p>Tin accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
46.	<p>Complaints Register</p> <p>A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>

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Condition	
47.	<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>
48.	<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>
49.	<p>Road / Asset Opening Permit</p> <p>A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.</p> <p>The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.</p> <p>For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542.</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road & footpath assets and ensure public safety.</p>
50.	<p>Ausgrid Power Feed Connection</p> <p>Should the existing overhead power feed from the Ausgrid Power Pole need to be reconnected to the site during any stage of building works it is to comply with either of the following methods:</p> <ol style="list-style-type: none"> From the power pole directly to the façade of the dwelling to the satisfaction of Ausgrid; <p>OR</p> <ol style="list-style-type: none"> Relocate the existing overhead power feed from the distribution pole in Avoca Street to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements. <p>Note: A Private Power Pole at the site frontage is not permitted. The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements</p>

Condition
are provided to the certifier and adhered to.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>51. Occupation Certificate Requirements An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
<p>52. BASIX Requirements In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
<p>53. Post-construction Dilapidation Report A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.</p> <p>The dilapidation report shall detail whether:</p> <ul style="list-style-type: none"> (a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and (b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent. <p>The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.</p> <p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
<p>54. Fire Safety Certificate A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p>

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	Condition
	<p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
55.	<p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
56.	<p>Sydney Water Certification</p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > <i>Building and developing</i> > <i>Developing your Land</i> > <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
57.	<p>Noise Control Requirements & Certification</p> <p>The use and operation of the development (including all plant and equipment) shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and <i>Regulations</i>.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
58.	<p>Noise Control Requirements & Certification</p> <p>A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from the development (and plant and equipment) satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.</p> <p>A copy of the report must be provided to the <i>Principal Certifier</i> and Council prior to an occupation certificate being issued.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
59.	<p>Structural adequacy of awning over footpath</p> <p>A report is required to be obtained from a professional structural engineer, which assesses and reports on the structural adequacy of the awning located over the footway and attached to the subject premises.</p> <p>The report is required to:</p>

Condition	
	<p>(a) Confirm that the subject awning is currently structurally adequate and fit-for-purpose, or;</p> <p>(b) Detail the necessary works required to be carried out to ensure that the awning is structurally adequate safe.</p> <p>In the case of a report provided in accordance with a) above, the report must be provided to the Principal Certifier and Council prior to the issuing of an Occupation Certificate or commencement of the use (whichever the sooner).</p> <p>In the case of a report provided in accordance with b) above, the necessary works identified in the report must be carried out and a further report or certificate must be provided to the Principal Certifier and Council which confirms that the necessary work has been carried out and the subject awning is structurally adequate and fit-for-purpose, prior to the issuing of an Occupation Certificate or commencement of the use of the land (whichever the sooner) or other timeframe approved by Council in writing.</p> <p>Condition Reason: To protect pedestrians and footpath users, and ensure the awning is structurally sound.</p>
60.	<p>Street and/or Sub-Address Numbering</p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
61.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
62.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <p>a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.</p>

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Condition	
b)	Works on Council land, must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
c)	The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

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

63. **Undergrounding of Power in Avoca St**

The Principal Certifier shall ensure that all power supply to the development site has been provided to comply with either of the following methods:

- a) From the power pole directly to the façade of the dwelling to the satisfaction of Ausgrid;
- OR
- b) Relocate the existing overhead power feed from the distribution pole in Avoca Street to the development site via an underground (UGOH) connection (No Private Pole is to be provided). These works are to be to Ausgrid requirements.

All work is to be completed to the requirements and satisfaction of Ausgrid and at no cost to Council. All private poles must be removed prior to the issuing of an occupation certificate, unless otherwise approved in writing by Council's Development Engineering Coordinator.

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

OCCUPATION AND ONGOING USE

Condition	
64.	<p>Operational Hours</p> <p>The hours of operation of the restaurant are restricted to 12:00pm to 10:00pm Monday to Sunday (unless otherwise specifically approved in a separate development consent).</p> <p>Deliveries</p> <p>Deliveries must be maintained between the standard operational hours of the loading dock between 12pm to 10pm Monday to Sunday and on Public Holidays.</p> <p>Deliveries must be mostly limited to staff hours.</p> <p>Condition Reason: To ensure that the approved use is operated within the approved hours of operation, to ensure safety and security and protect the amenity of surrounding areas.</p>
65.	<p>Use of Premises</p> <p>The first floor level Family/Study room shall be used in conjunction with the residential dwelling and is not to be used for any commercial purpose.</p>

	Condition
	Any commercial use of this area would require a separate development consent for the use and operation.
	Condition Reason: To ensure the development is used for its intended purpose.
66.	<p>Use of Premises</p> <p>The residential component of the premises is only permitted as a single residential dwelling (shop top housing) and must not be used for dual or multi-occupancy purposes.</p> <p>Condition Reason: To ensure the development is used for its intended purpose.</p>
67.	<p>Use of parking spaces</p> <p>The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
68.	<p>Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
69.	<p>External Lighting</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

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

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

The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the demolition work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work.

Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m² of bonded asbestos materials or any friable asbestos material, the work must be undertaken by a SafeWork Licensed Asbestos Removal Contractor.

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

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

DURING DEMOLITION WORK

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

Condition

- Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist or Licensed Asbestos Removal Contractor) which is to be submitted to the Principal Certifier and Council upon completion of the asbestos removal works,
- Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.

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

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

Development Application Report No. D17/25

Subject: 70 Johnston Parade, South Coogee (DA/63/2025)

Executive Summary

Proposal:	Alterations and additions to CDC-approved semi-detached dwellings including excavation of additional area along the southern half of the building to provide a larger ground level and additional rooms, relocation of the approved external walls on the northern, western and eastern elevations, altered door openings, re-configured layouts of ground floor, first floor and Level 2, fenestrations and balustrades in response to re-configured layouts, provision of additional outdoor space with new paved courtyard areas along the sides and rear of the building and increase in gross floor area, installation of new lift for each dwelling and changes to front fencing
Ward:	Central Ward
Applicant:	Sharon Louise Deans
Owner:	Sharon Louise Deans
Cost of works:	\$462,000
Reason for referral:	Exceeds FSR development standard by more than 10%

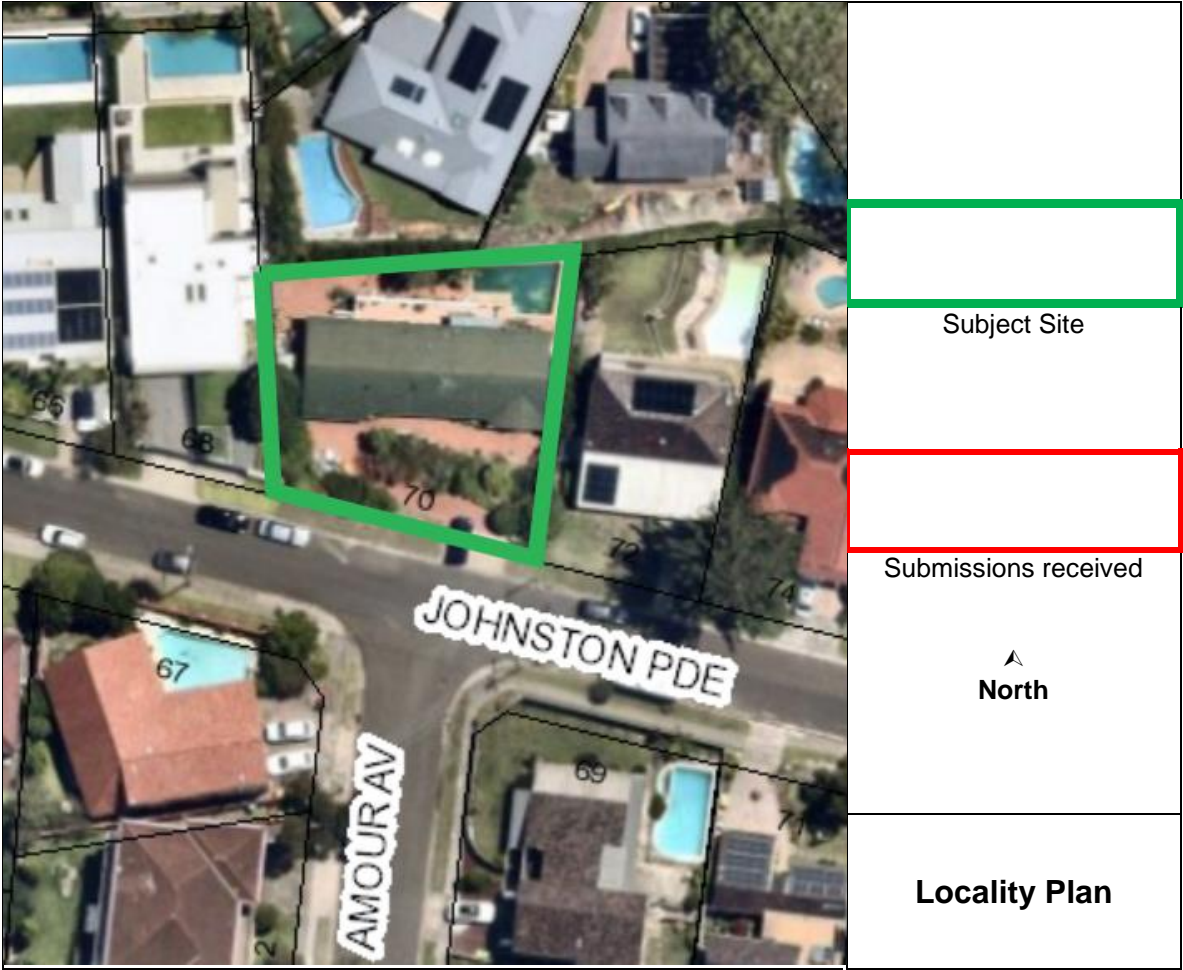
Recommendation

- A. That the RLPP is satisfied that the applicants written request to vary the development standard relating to floor space ratio (FSR) in clause 4.4 of Randwick Local Environmental Plan 2012 have demonstrated that:
 - i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
 - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standards.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 63/2025 for *alterations and additions to CDC-approved semi-detached dwellings including excavation of additional area along the southern half of the building to provide a larger ground level and additional rooms, relocation of the approved external walls on the northern, western and eastern elevations, altered door openings, re-configured layouts of ground floor, first floor and Level 2, fenestrations and balustrades in response to re-configured layouts, provision of additional outdoor space with new paved courtyard areas along the sides and rear of the building and increase in gross floor area, installation of new lift for each dwelling and changes to front fencing*, at No. 70 Johnston Parade, South Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions - DA/63/2025

D17/25



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as the development contravenes the development standard for floor space ratio (FSR) by more than 10%

The proposal seeks development consent for alterations and additions to a CDC-approved semi-detached dwelling development involving the reconfiguration and enlargement of the internal living area at ground level, provision of outdoor courtyard areas along the sides and rear of the building, installation of lift access and changes to the front fencing.

The originally approved CDC development was characterised as a dual occupancy (attached) as it comprised two dwellings on the one allotment. However, a separate CDC application approved a Torrens title subdivision creating two ‘semi-detached dwellings.’

The application was publicly notified for 14 days from the 12 February 2025 to 26 February 2025. No submissions were received in response to the notification process.

The key assessment issue relates to the non-compliance with the FSR development standard under Randwick Local Environmental Plan (LEP) 2012. The variation to the FSR development standard equates to 29.5%.

The applicant submitted a written request seeking an exception to the FSR development standard under Clause 4.6 of the LEP.

The proposed additional floorspace remains within the CDC-approved building envelope and does not alter the overall height, bulk or scale of the development. Furthermore, it does not result in any adverse amenity impacts to the adjoining residential properties or within the streetscape.

Accordingly, the Clause 4.6 written request has adequately demonstrated that strict compliance with the FSR development standard is unreasonable or unnecessary in this case. In addition, there are sufficient environmental planning grounds to justify exceeding the standard. On that basis, the requirements of Clause 4.6(3) of the RLEP have been satisfied, allowing development consent to be granted despite the FSR exceedance.

The proposal is recommended for approval, subject to conditions

2. Site Description and Locality

The site is located on the northern side of Johnston Parade, opposite the intersection with Amour Avenue, South Coogee. The site is irregular in shape with a frontage of 26.85m, a maximum side boundary depth of 30.16m and a total site area of 739.8m².

The site slopes down from the street boundary to the rear, representing a change in level of approximately 4m.

The site contains a single storey detached dwelling house set down from the street. The CDC approved development has not commenced construction.

The adjoining property to the east at 72 Johnston Parade contains a two storey dwelling house.

The adjoining property to the west at 68 Johnston Parade contains a three level dwelling house with a pool in the rear yard.

Refer to **Figures 1 to 3**.



Figure 1 – Existing view of the site from Johnston Parade

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Figure 2 – Boundary interface with No. 72 Johnstone Parade (east)



Figure 3 – Boundary interface with No. 68 Johnstone Parade (west)

3. Relevant History

On 19 December 2024, a Complying Development Certificate (CDC) for the construction of an attached dual occupancy development was approved by a Private Certifier (CDC23/0066/01). Refer to **Figure 4**.

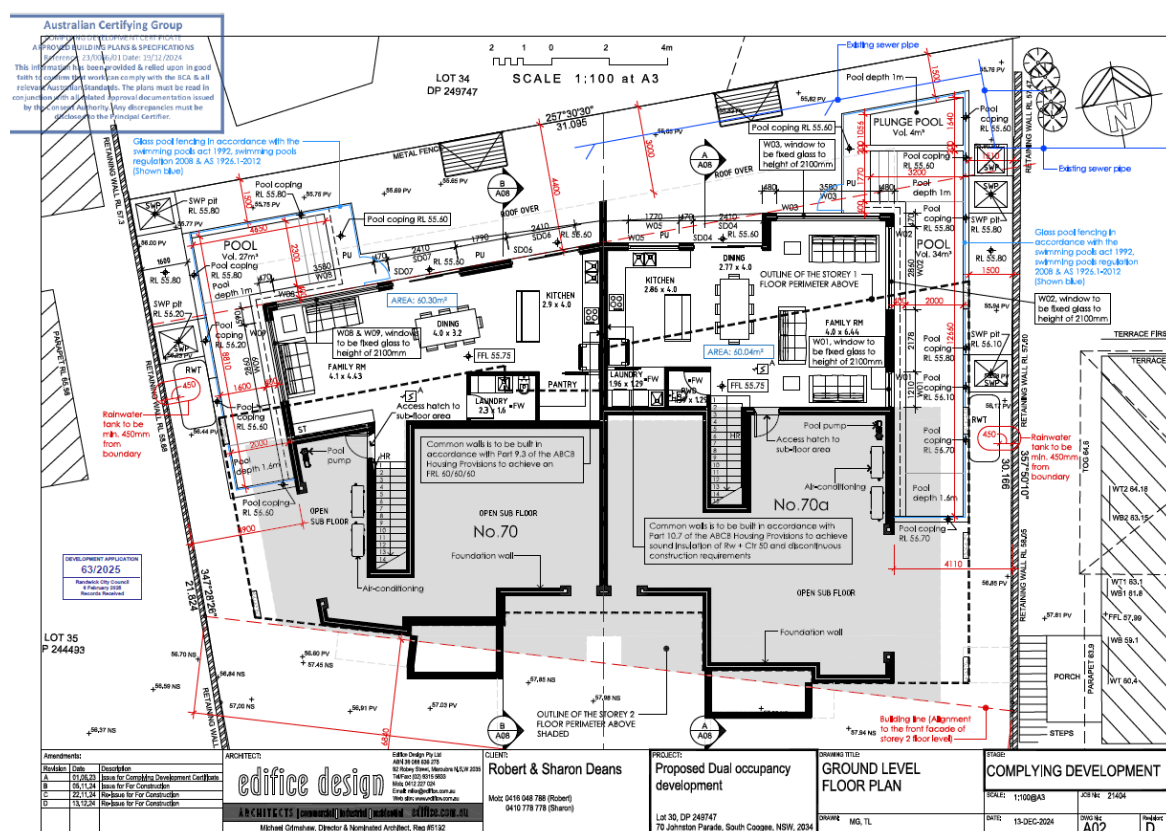


Figure 4 – Approved Ground Level (CDC)

On 20 January 2025, a CDC for Torrens Title of the development into two lots was approved by a Private Certifier (TCDC765/25). Refer to **Figure 5**.

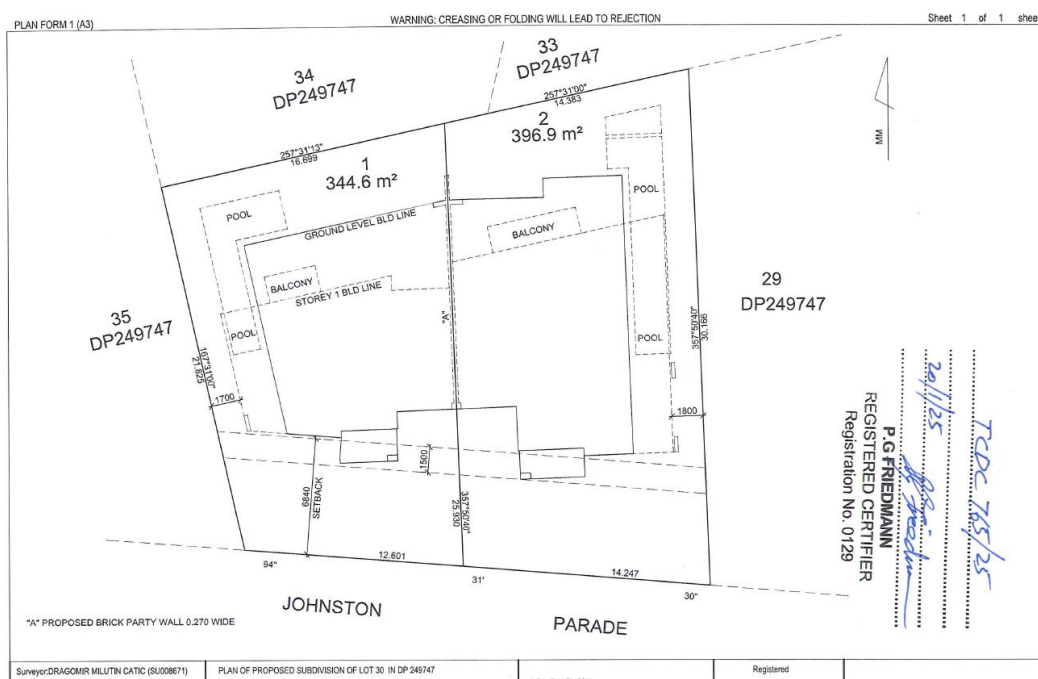


Figure 5 – Approved Torrens Title subdivision (CDC)

4. Proposal

The proposal is for alterations and additions to CDC-approved semi-detached dwelling development. The proposed works include:

Ground Level:

- Excavation of additional area along the southern half of the building to provide a larger ground level and additional rooms for both dwellings.
- Relocation of the approved external walls on the northern, western and eastern elevations to
- reduce the footprint of the lower level and create larger side and rear setbacks allowing for the provision of additional outdoor space.
- Altered door openings, fenestrations and balustrades with the new layout.
- Reconfiguration of the floor plan in each dwelling to provide:
 - Larger open plan kitchen, living and dining areas with larger walk-in-pantries
 - Larger laundry rooms
 - A new large bathroom
 - A new wine cellar / storage room within no. 70A
 - A new lift within each dwelling located on the southern front elevation providing access to each of the three (3) levels
- Additional outdoor space with new paved courtyard areas along the sides and rear of the building.

Level 1:

- New lift within each dwelling located on the southern front elevation.
- Relocation of the front entry door and new front steps into each dwelling to accommodate the
- location of the new lift.
- Widen north facing balcony within no.70

Level 2:

- Deletion of the study nook and associated window in each dwelling to accommodate the new lift located on the southern front elevation of each dwelling.

Fences and Street Elevation:

- Increase to the front boundary fence height from 1.2m to 1.8m. Materials of rendered brick piers and vertical fin blades to remain as approved.
- Relocated front entry doors and altered entry stair orientations to be front facing (previously side facing steps with balustrades).
- Two (2) new front brick columns extending from the Ground Floor to Level 2 each containing the new lift shafts for each dwelling.
- Infilling of Ground Level openings to have walls containing the expanded Ground Level design.

The proposed modified development will increase the gross floor area (GFA) by 89.83m² due to the additional floor area added at the lower ground level, where the additional bathroom, enlarged laundry and kitchen are proposed. Refer to **Figure 6**.

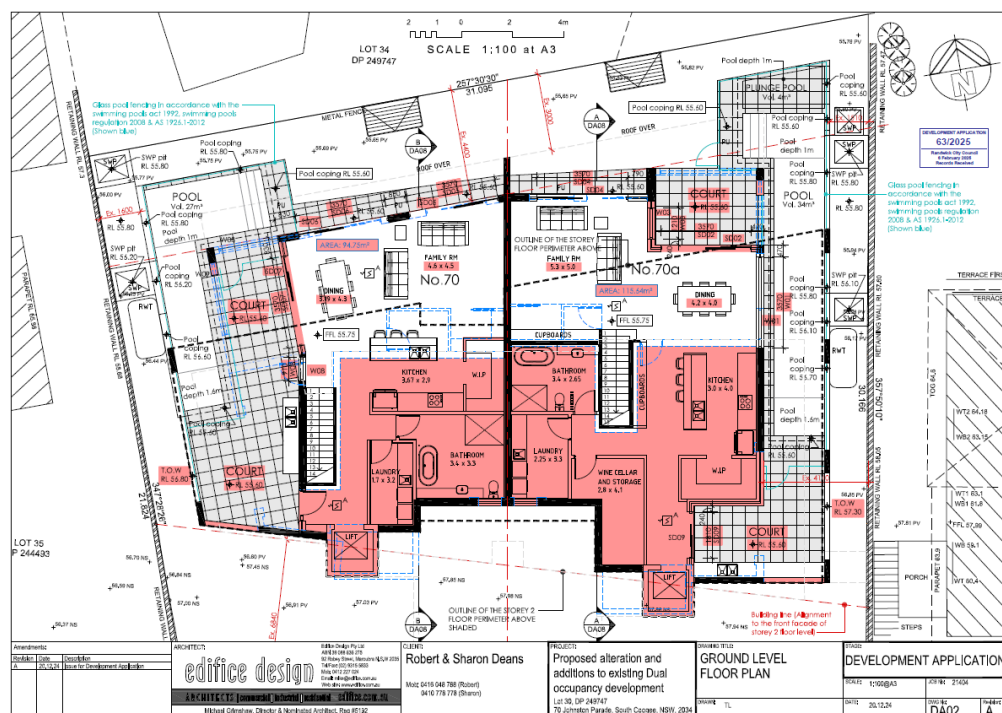


Figure 6 – Proposed modified ground level (additional floorspace coloured)

5. Notification

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

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted in accordance with the requirements of the SEPP (Building Sustainability Index: BASIX) 2004.

6.2. SEPP (Biodiversity and Conservation) 2021

The proposed alterations and additions do not require the removal of any additional trees or vegetation. The site is not mapped as containing any biodiversity values and as such, the proposed works in this application do not interfere with the aims of this chapter.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Pursuant to Clause 4.6(1) considerations, the subject site has been historically used for residential purposes. The CDC approval continues the residential use of the site. As such, it is unlikely to contain any contamination, and further investigation is not warranted in this case.

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.

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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)
CI 4.4: Floor space ratio (max)	0.6:1 (443.34m ²)	<p>The approved CDC development has a GFA of 485.29m², which equates to an FSR of 0.65:1.</p> <p>The proposed development will have a total GFA of 575.12m², which equates to an FSR of 0.77:1.</p>	No
CI 4.3: Building height (max)	9.5m	<p>The approved CDC development has a maximum building height of 8.26m (measured at the rear elevation).</p> <p>The proposed overall height will not change under this DA. The maximum height of the proposed lift structures at the front of the building is below the maximum approved building height.</p>	Yes

6.4.1. **Clause 4.6 - Exceptions to development standards**

The non-compliance with the FSR development standard is discussed in section 7 below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.6:1	0.77:1	131.24m ²	29.5

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

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

3. *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
(b) there are sufficient environmental planning grounds to justify the contravention of the development standard

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

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

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

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

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

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

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

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

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

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

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

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

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

The applicant's written justification for the departure from the FSR standard is contained in **Appendix 2**.

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

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- the modified development responds to the low density desired future character of the area;
- the additional floor area is located at the ground floor level; and
- the development is compliant with the building height and setback controls achieves and acceptable scale and built form.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- the development achieves adequate articulation in form of staggered wall lengths and a change in materiality; and
- it exceeds the BASIX requirements for environmental performance.

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that:

- the development minimises privacy impacts through increased side setbacks and design elements including louvred windows and the orientation of living areas and balconies towards the rear boundary.
- the development has been designed to minimise any overshadowing impacts to the adjoining properties at 68 and 72 Johnston Parade which will retain 3 hours of direct sunlight on 21 June.

Assessing officer's comment: The objective of the FSR development standard (in conjunction with the other development controls under the LEP), is to ensure that the intensity of development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the neighbouring residents or surrounding area. The proposed additional floorspace will be contained within the subfloor area of both dwellings approved under the CDC, resulting in no change to the overall height, bulk and scale of the development when viewed from the adjoining properties and within the streetscape. The proposal will therefore be compatible with the desired future character of the locality and consistent with Objective (a).

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets. The proposal is therefore consistent with Objective (b).

As stated above, the additional floorspace is largely contained within the approved building envelope under the CDC, resulting in no change to the built form or adverse impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views. The proposal is therefore consistent with Objective (d).

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

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

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

- The definition of GFA under the Codes SEPP is different to the Standard Instrument which includes internal walls, mezzanines, habitable rooms in basements and lift wells which technically inflate the floor area. Despite this the additional floorspace does not significantly alter the building's envelope, form or scale.
- Enclosing the wall along the side elevation creates a more secure and better design aesthetic by eliminating undercroft areas.
- New windows along the southern elevation (street) result in a better visual outcome
- New lifts increase liveability and access for the future occupants.
- The additional floor space is required to create a functional, enclosed space that allows for the necessary waterproofing, the installation of windows, and the integration of essential amenities like the bathroom and laundry.
- It does not increase intensification of the use, instead it enhances the amenity of the approved dwellings.

Assessing officer's comment:

The proposed additional floor space will be achieved through excavation within the footprint of the CDC-approved development and therefore it would not result in any adverse amenity impacts to the adjoining properties. The excavation is setback approximately 6m from the western side boundary and 6.7m from the eastern side boundary. The extent of earthworks would not result in any adverse impacts in terms of natural ground levels, streetscape, stormwater impacts or change the relationship with adjoining properties.

The proposed new courtyards along the side elevations and at the rear at ground level maintain appropriate setback to the boundaries and do not pose a privacy risk due to intervening boundary fencing/walls and ground levels.

The development maintains a two storey built form when viewed from the street. The stepped built form at the rear will be retained and is an appropriate response to the topography. The enclosing walls at ground level eliminate the undercroft areas and create an improved and spacious internal layout with good internal amenity for the occupants, resulting in a better outcome for and from the development.

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

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built	<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>

Section 4.15 'Matters for Consideration'	Comments
environment and social and economic impacts in the locality	The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	No submissions were received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Floor Space Ratio

The CDC-approved development has a floor area of 485.29m² (0.654:1) which is permitted under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* ('Codes SEPP'). The prescribed maximum floor area for the site is 485.375m² (0.655:1) under Part 3B Low Rise Housing Diversity Code, Division 2 'Development standards for certain dual occupancies and attached development' of the Codes SEPP.

A maximum FSR of 0.6:1 applies to the site under Clause 4.4A(2) of LEP. The LEP and Codes SEPP have slightly different definitions of "gross floor area," with the Standard Instrument definition generally includes more areas within the GFA calculation. All the additional floor area added by the proposed development is at the lower ground level, where the additional bathroom, enlarged laundry and kitchen are proposed.

The total proposed floor area for the proposed development is 575.12m², which equates to an FSR of 0.77:1, resulting in an increase in floor area of 89.83m² contravening the FSR development standard by 29.5%.

The applicant submitted a written request seeking an exception to the development standard in accordance with Clause 4.6 of LEP. The applicant's written request has adequately demonstrated that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.

The additional floor space will eliminate the undercroft areas, enhancing both the overall design and visual outcome from adjoining properties. It will also improve the internal layout and amenity for the future occupants, resulting in a better outcome for and from the development.

The requirements of Clause 4.6(3) of RLEP have been satisfied and that development consent may be granted for development that contravenes the FSR development standard.

10. Conclusion

That the application for alterations and additions to CDC-approved semi-detached dwellings including excavation of additional area along the southern half of the building to provide a larger ground level and additional rooms, relocation of the approved external walls on the northern, western and eastern elevations, altered door openings, re-configured layouts of ground floor, first floor and Level 2, fenestrations and balustrades in response to re-configured layouts, provision of additional outdoor space with new paved courtyard areas along the sides and rear of the building

and increase in gross floor area, installation of new lift for each dwelling and changes to front fencing be approved for the following reasons:

- The proposal is consistent with the relevant objectives contained within the Randwick Local Environmental Plan 2012 and the relevant requirements of the Randwick Development Control Plan 2013.
- The proposal is consistent with the specific objectives of the Residential R2 Low Density under Randwick Local Environmental Plan 2012 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 proposed development is considered to be suitable for the location, generally consistent with the current built form outcome and is compatible with the desired future character of the locality.
- The proposed additional floor area is contained within the CDC-approved building envelope and would not result in any adverse amenity impacts to the adjoining properties.

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Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer

An application has been received for alterations and additions to an approved CDC Dual Occupancy at the above site.

This report is based on the following plans and documentation:

- *Architectural Plans by Edifice Design Architects and dated 20.12.24;*
- *Statement of Environmental Effects by Creative Planning Solutions;*
- *Detail & Level Survey by D & C Surveying.*

The application appears to include additional floor space and lifts for each proposed dwelling.

Development Engineering has reviewed the submitted Development Application plans along with the CDC approved plans and advise that there are no Development Engineering/Landscaping conditions or requirements in relation to the subject application.

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

70 Johnston Parade, South Coogee

24 January 2025

Clause 4.6 Written Request to Vary a Development Standard

Randwick Local Environmental Plan 2012

Applicant’s name	Robert and Sharon Deans
Site address	70 Johnston Parade, South Coogee (Lot 30 DP 249747)
Proposal	Alterations and additions to existing dwelling.
Environmental Planning Instrument	<i>Randwick Local Environmental Plan 2012</i>
Development standard to be varied	Clause 4.4A Exceptions to floor space ratio – Zones R2 and R3

Introduction

This Report contains a written request to vary the floor space ratio development standard in accordance with Clause 4.6 of the *Randwick Local Environment Plan 2012* (‘RLEP 2012’) which provides the framework for consideration of proposed variations to development standards.

This variation sought under Clause 4.6 of the RLEP 2012 has been prepared having regard to appropriate case law, including but not limited to *Initial action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

Clause 4.4 ‘Floor space ratio’ provides that the maximum floor space ratio (‘FSR’) is 0.5:1. Clause 4.4A(2) of RLEP 2012 provides that the maximum FSR for semi-detached dwellings for sites within the R2 zone is 0.6:1 for allotments greater than 300m². The site has an area of 741.5m² and is zoned R2 Low Density Residential.

The site is subject to a maximum permissible FSR of 0.6:1 (444.9m²) pursuant to clause 4.4A ‘Exceptions to floor space ratio – Zones R2 and R3’ of the RLEP 2012. The existing approved semi-detached dwellings development has a floor area of 485.29m² (0.654:1). The proposed development seeks to increase in floor area by 89.83m². The development comprises a total GFA 575.12m², resulting in an FSR of 0.776:1.

The proposed development exceeds the maximum FSR standard when measured in accordance with the Standard Instrument definition of gross floor area, which is:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

(a) the area of a mezzanine, and

- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and*
- (e) any basement—*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting,*
and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

Clause 4.6 provides flexibility to vary the RLEP 2012 development standards where it can be demonstrated the development standard is unreasonable or unnecessary in the circumstances, and where there are sufficient environmental grounds to justify the contravention. Clause 4.6 provides the following:

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that —*
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

The justification for the contravention of the FSR standard applicable under RLEP 2012 is set out below.

Note: Clause 4.6(8) of the RLEP 2012 does not expressly exclude clause 4.4A of the RLEP 2012 from the operation of clause 4.6 of the RLEP 2012.

Definition of development standard

Section 1.4 'Definitions' of the *Environmental Planning and Assessment Act 1979* (the Act) provides the following definition of a development standard.

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.*

[*Emphasis added*].

Clause 4.4A of RLEP 2012 satisfies the definition for a development standard under the Act, meaning the provisions of clause 4.6 of the RLEP 2012 apply.

Floor space ratio Standard

Clause 4.4 of RLEP 2012 prescribes a maximum floor space ratio for land to which the plan applies. The relevant provisions of clause 4.4 are reproduced below:

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

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

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

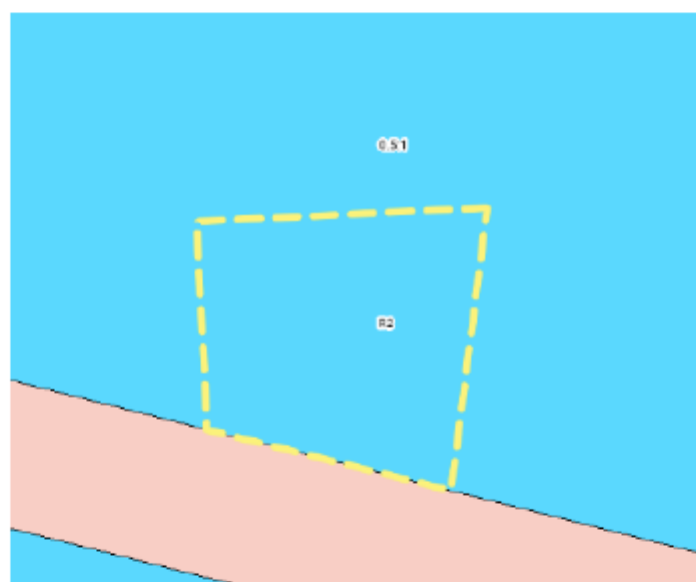


Figure 1 – RLEP 2012 Floor Space Ratio Map extract, with subject site identified by yellow outline.

Source: <https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/randwick-local-environmental-plan-2012>

The Floor Space Ratio Map (Figure 1) prescribes a maximum Floor Space Ratio of 0.5:1 for the subject site.

Clause 4.4A 'Exceptions to floor space ratio – Zones R2 and R3' applies to land in the Zone R2 Low Density Residential and Zone R3 Medium Density Residential. The site is zoned R2 Low Density Residential. Clause 4.4A(2) is reproduced below:

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

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Land Use	Zone	Lot size	Maximum floor space ratio
Dual occupancies (attached)	Zone R2	>550m ² and <600m ²	0.65:1
		>600m ²	0.6:1
Dwelling houses. Semi-detached dwellings	Zone R2	>275m ² and <300m ²	0.65:1
		>300m ²	0.6:1
	Zone R3	>300m ² and <450m ²	0.75:1
		>450m ² and <600m ²	0.65:1
		>600m ²	0.6:1

The Dictionary within the Standard Instrument provides definitions for 'gross floor area' (see above) 'basement' and 'ground level (existing)' which can be used to calculate the maximum gross floor area of a building. These definitions are reproduced below:

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

ground level (existing) means the existing level of a site at any point.

When applied to the proposed development, the proposed alterations and additions at the ground floor level are included in the gross floor area ('GFA') calculation because the floor level FFL55.75 is elevated more than 1m above ground level (Figure 2) and consequently does not meet the basement definition.

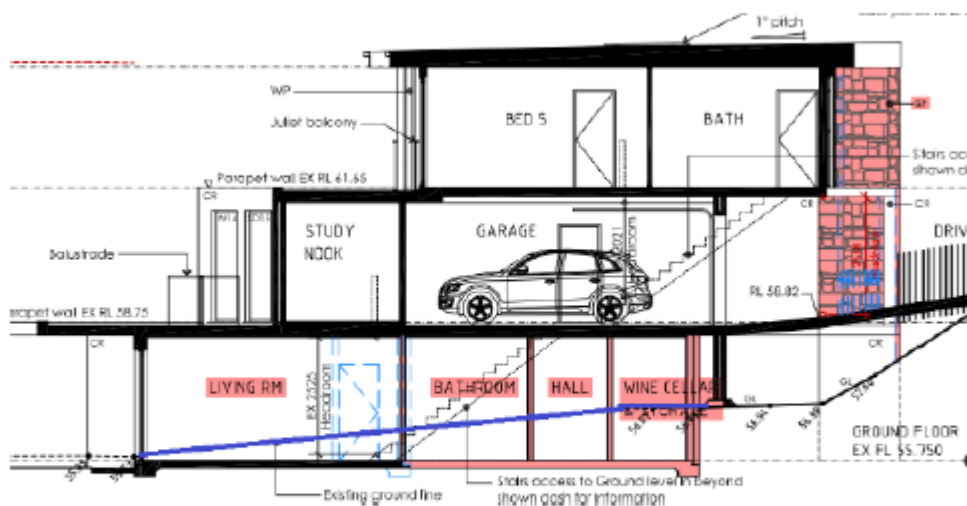


Figure 2: Section AA showing how the proposed alterations and additions are greater than 1m above ground which is not within a defined basement. The blue line represents the existing ground level and therefore all the proposed works contribute to the FSR contravention.

Source: Drawing No. DA02 Revision A by Edifice Design.

In accordance with the request of Council, the lift shaft at all levels has been included in the calculation.

The development also includes areas which are not exempt from the GFA calculation. These factors result in a GFA of 575.12m², contravening the FSR development standard by 29.26%.

The existing approved development has a floor area of 485.29m² (0.654:1) which is permitted under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* ('Codes SEPP'). The prescribed maximum floor area for the site is 485.375m² (0.655:1) under Part 3B Low Rise Housing Diversity Code, Division 2 'Development standards for certain dual occupancies and attached development' of the Codes SEPP.



The total proposed floor area for the development is 575.12m², resulting in an increase in floor area of 89.83m² from the approved CDC development. The development results in a 18.48% increase in the existing approved floor area. All the additional floor area added by the proposed development is at the lower ground level, where the additional bathroom, enlarged laundry and kitchen are proposed (Figure 4).

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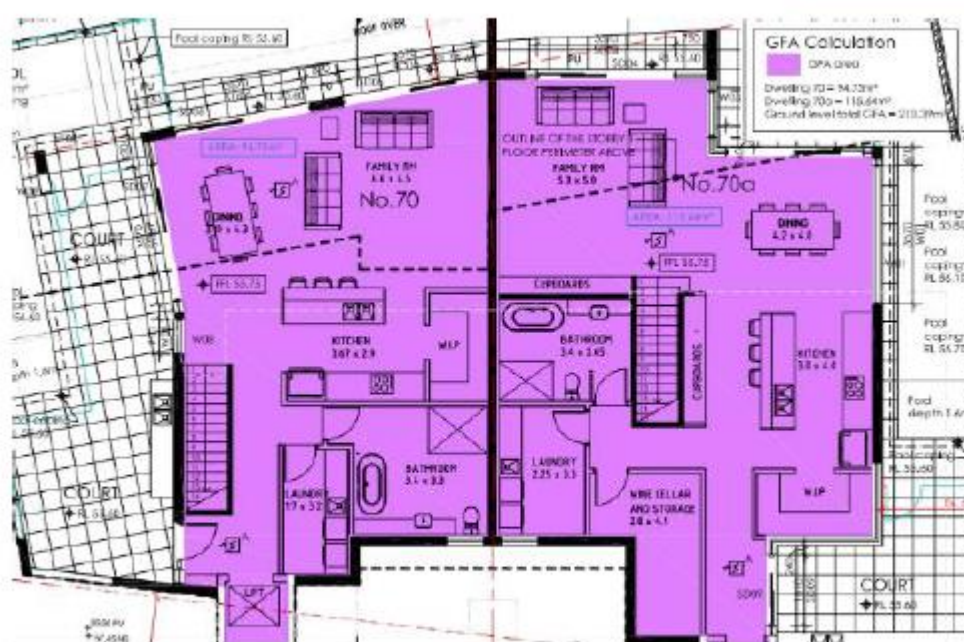


Figure 4 Proposed alterations and additions at Ground Floor, resulting in a gross floor area of 210.39m².
Source: Drawing No. DA11 Revision A by Edifice Design.

The Floor Space Ratio development standard has been contravened for the following reasons:

- i) Existing Contravention - The existing approved development has a floor area of 485.29m² (0.654:1) and was issued pursuant to Clause 3B.10 of State Environmental Planning Policy Exempt and Complying 2008. The development approved on site is an attached dual occupancy under the Codes SEPP with an allowable GFA of 185.375m² + 300m² being 485.375m².

The approved development has a FSR of 0.654:1 which already contravenes the FSR standard under Clause 4.4A of RLEP 2012 which establishes a maximum FSR of 0.6:1 (444.9m²).

The existing development is enabled an additional 40.475m² gross floor area because of the Codes SEPP provisions. The proposed development seeks an increase in floor area of 89.83m². The extent of contravention is exacerbated by the different planning instruments in which consent is issued and being sought. The instruments also contain conflicting definitions of gross floor area.

- ii) Conflicting definitions – The RLEP 2012 and Codes SEPP have slightly different definitions of "gross floor area," which contributes to the complexity of the issue. The Standard Instrument definition is more inclusive, meaning it generally includes more areas within

the GFA calculation. While based on the Standard Instrument, the Codes SEPP introduces specific inclusions and exclusions that can significantly affect the GFA calculation. The approved development was issued under the Codes SEPP, and the intended alterations and additions are proposed and considered against the Standard Instrument definitions. The development further contravenes the development standard as a result.

- iii) Proposed additions - The proposed development adds further floor area, primarily by enclosing the ground floor to create usable space for a bathroom, laundry, and kitchen. This further contravenes the FSR development standard however does not result in any amenity impacts. The proposed additions are not arbitrary but are necessary to address existing design issues associated with accessible subfloor areas such as, water proofing of the southern wall, vermin control within the building, and to create a more functional and habitable space.

Further discussion in response to clause 4.6(3) of the RLEP 2012 is provided below.

Clause 4.6(3)(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

In *Wehbe V Pittwater Council (2007) NSW LEC 827*, Preston CJ set out the following five separate ways in which an objection (variation) may be well founded.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

[Emphasis added].

It is understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of the above points. In this instance – in addition to the reasons for the variation that are provided above – points 1 and 3 are investigated and satisfied for the proposed non-compliance.

The assessment against the objectives of the floor space ratio development standard under Clause 4.4 of the RLEP 2012 is provided below.

The objectives of clause 4.4 Floor space ratio are discussed as follows:

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

CPS response: The adjoining and surrounding development is characterised by detached dwelling houses which vary in design and eras but are predominantly two-storey buildings. The surrounding locality is largely characterised by low-density residential development. Based on the RLEP 2012, Local Housing Strategy 2020 and DCP 2013, the desired future character for South Coogee aims to balance development with the area's existing characteristics. Key elements include:

- South Coogee is intended to retain its low-scale village character with a mix of housing types, including single-storey dwellings and some medium-density developments.
- Preserving significant views to the coast and surrounding areas is a priority.
- Improving the quality of public spaces, such as parks and plazas, to create a more pedestrian-friendly environment.
- Encouraging sustainable building practices and reducing reliance on cars.

The development, while contravening the development standard by 73.44m² in GFA, thoughtfully incorporates design elements that respond to the desired future character of South Coogee.

The proposal maintains a compliant height of 8.495m, well below the 9.5m maximum allowed by Clause 4.3 of RLEP 2012. It also adheres to front and side setback requirements outlined in Part 3.3 of RDCP. While the proposed lift location to the south of the approved dwellings does result in minor encroachments, with minimum front setbacks of 5.58m and 5.46m, these do not significantly alter the predominant front setback pattern within the street. The development provides ample setbacks from the eastern (6.7m) and western (4.11m) side boundaries. Despite the FSR contravention, the overall scale remains consistent with DCP built form controls for low-density residential development. The design minimises the impact of the increased floor area by positioning the additional floor space at the ground floor level and articulation of the façade. This ensures the development maintains a sense of openness and avoids appearing overly dominant, achieving an acceptable scale and built form.

The approved dual occupancy (attached) dwelling (now semi-detached dwellings given the subdivision) is a permitted land use within the R2 Low Density Residential zone. This development contributes to a diverse mix of housing types in South Coogee, aligning with the desired future character. Currently, the area is characterised by single dwellings. The approved dual occupancy (semi-detached dwellings) introduces a much-needed "middle" housing option, increasing housing diversity and affordability.

The proposed additions complement the architectural style of the approved development and maintain a harmonious relationship with the streetscape. The use of brick for the new lift columns is consistent with existing materials and adds a symmetrical element to the facade. This design approach ensures the development preserves the village character of South Coogee.

The development incorporates sustainable features such as energy-efficient appliances, water-saving fixtures, and rainwater tanks. This contributes to the broader goal of reducing environmental impact and promoting sustainable living in South Coogee.

The proposed works convert the subfloor areas into usable GFA. This improves residential amenity, addresses drainage and waterproofing concerns, and enhances the safety and configuration of the dwellings. The development's location ensures it does not negatively impact significant views, public spaces, or nearby landmarks such as Latham Park and Maroubra Water Tower.

The development demonstrates a thoughtful approach to design that prioritises compatibility with the desired future character of South Coogee. By adhering to height and setback regulations, contributing to a diverse housing mix, and maintaining the village character, the development successfully integrates into the existing neighbourhood. While an FSR contravention exists, the design carefully mitigates its impact through its siting and location, ensuring the development remains consistent with the low-density residential nature of the area.

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

CPS response: The proposed additions achieve articulation through a combination of varied wall lengths and orientation, recessed entryways, and a deliberate change in materials including glazing, stone cladding elements, wall cladding and render. This breaks up the building mass and ensures visual interest. The development exceeds the BASIX requirements for environmental performance, as demonstrated by the incorporation of high-performance insulation, double-glazed windows, and a solar-oriented design that maximises passive heating and cooling. Furthermore, the inclusion of OSD and rainwater harvesting system actively minimises the development's environmental impact.

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

CPS response: Although not within a formal conservation area, the development recognises the established character of the neighbourhood, which is influenced by the presence of the nearby Quarry Reserves (L464 and L465 and I208) and the prevailing architectural styles in the area.

In accordance with Part 1.8.2 Consent Requirements of Part B2 Heritage of the RDCP, buildings within a heritage conservation area fall into one of two categories either being contributory buildings or non-contributory buildings. As the site is not located within a heritage conservation area, surrounding properties do not contain contributory buildings.

The proposed development's scale and design have been carefully considered to ensure compatibility with the established character. This is evident in the chosen materials such as the use of stone cladding and wall cladding, which echoes materials found in surrounding buildings; the low-rise profile, which respects the predominant building heights in the area; and the landscaped setbacks, which contribute to the leafy streetscape.

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The development complements the existing built form and contributes positively to the neighbourhood's character.



Figure 5 Extract of Heritage map of RLEP 2012. This site is identified in yellow. The site is not located within vicinity of any items of heritage. The site is not located within a heritage conservation area.

Source: <https://www.planningportal.nsw.gov.au/publications/environmental-planning-instruments/randwick-local-environmental-plan-2012>

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

CPS response: The development does not adversely impact the amenity of adjoining and neighbouring properties. The development achieves the objectives and controls of Part 5 Amenity of RDCP.

The proposed development carefully considers the potential impact on the amenity of neighbouring properties and incorporates several design strategies to mitigate any adverse effects. Firstly, the building's visual bulk is minimised through a combination of a stepped form, varied material palette, and generous setbacks from all boundaries. The 5.58m front setback, for example, exceeds the average setback of neighbouring properties on Johnstone Parade, ensuring the development does not dominate the streetscape. Furthermore, the building's height remains consistent with the prevailing neighbourhood character, and the articulation of the facade with setbacks and recesses further breaks up the massing.

Privacy concerns are addressed through increased side setbacks and specific design elements. Louvred windows along the eastern elevation are angled downwards to prevent direct sightlines into the neighbouring property while still allowing for ventilation. Similarly, the orientation of living spaces and balconies towards the rear boundary, away from neighbouring windows, further reduces any potential privacy impacts. This careful consideration of sightlines ensures that residents of the development and neighbouring properties can enjoy their homes without compromising privacy.

The development has been designed to minimise any overshadowing impacts on neighbouring properties. Shadow diagrams demonstrate that the proposed ground-level additions result in minimal loss of direct sunlight. For instance, the adjoining properties at 68 and 72 Johnston Parade are maintained with 3 hours of direct sunlight on 21 June. This ensures that neighbouring properties continue to enjoy adequate sunlight throughout the year.

The site itself does not offer significant views, the development has been carefully positioned to avoid obstructing any existing views from neighbouring properties. Furthermore, the design takes into account any important view corridors in the area, ensuring that these are preserved by virtue of the proposed side setbacks.

The development contravenes the prescribed FSR development standard. However, the potential impacts associated with the increased floor space have been carefully mitigated. By locating the additional floor space at ground level, where it is less visually prominent, and by incorporating design elements that break up the massing, the overall scale of the development remains compatible with the surrounding low-density residential context and does not adversely affect the amenity of adjoining properties.

Clause 4.6(3)(b) There are sufficient environmental planning grounds to justify contravening the development standard.

The environmental planning grounds to justify contravention of the development standard are detailed as follows:

Difference in Standard Instrument and Codes SEPP

The development seeks consent under the RLEP 2012, which utilises the Standard Instrument definition for GFA. This presents a critical distinction from the Codes SEPP, which, while adopting the Standard Instrument as a base, incorporates specific inclusions and exclusions. The Standard Instrument for example includes internal walls, mezzanines and habitable rooms in basements/attics. The proposed development cannot rely upon the specified exclusions which includes common vertical circulation, basements, plant rooms, car parking, low terraces and balconies and voids.

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Under the RLEP 2012, the proposed ground floor additions, specifically the kitchen, laundry, and bathroom, are unequivocally considered as part of the GFA. Randwick Council further interprets the inclusion of the lift well in accordance with decision in *Chami v Lane Cove Council* (2015), resulting in a further 16.17m² of floor area contained entirely within the void of the lift well. These additions contribute to an overall increase in the GFA by 89.83m², resulting in the further contravention of the development standard set by Clause 4.4A Floor Space Ratio of RLEP 2012.

If the proposed development were calculated in accordance with the decisions *Dwyer v Sutherland Shire Council* [2018] NSWLEC 1543 and *Connoisseur Investments Pty Ltd v Sutherland Shire Council* [2020], would result in an increase in floor area by 73.66m². The development would comprise a total GFA 558.95m², resulting in an FSR of 0.75:1. These decisions, would exclude the lift shaft at first and second floors being voids and the resultant GFA would be 16.17m² less.

While based on the Standard Instrument, the Codes SEPP introduces specific inclusions and exclusions that can significantly affect the GFA calculation. Only habitable rooms within a basement are included in GFA. The Codes SEPP, in Part 3B (Low Rise Housing Diversity Code), defines a **basement** as:

a space of a building that is wholly or partly below ground level (existing).

This is a much broader definition than the one in the Standard Instrument. It simply requires the space to be below ground level, either entirely or partially. It doesn't have the 1-metre rule that the Standard Instrument uses. The ground floor level of the dwellings would be defined as basements under the Codes SEPP.

Part 1.5 (Interpretation - General) of the Codes SEPP defines a habitable room as:

habitable room is a room used for normal domestic activities, other than a bathroom, laundry, toilet, pantry, walk-in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature that is not occupied frequently or for extended periods.

Whereas the Standard Instrument would not define the ground floor as a basement it does necessitate the inclusion of the ground floor areas within GFA due the external wall heights exceeding 1.4m and not meeting an exclusion.

The existing development was approved under the Codes SEPP, which allowed for a larger GFA. The development already exceeds the permissible FSR by 40.39m². Now, under the RLEP 2012 and its more inclusive definition, the proposed additions further increase the GFA, resulting in a further contravention.

While differing definitions of GFA between the Codes SEPP and the Standard Instrument may technically inflate the calculated floor area, the development's overall impact remains appropriate for the low-density residential zone. The proposed additions, though contributing to a contravention, do not significantly alter the building's envelope, form, or scale. Its relationship with adjoining properties remains respectful, ensuring no adverse impacts on amenity. Therefore, despite the technical contravention, the development's appropriate built form ensures it sits comfortably within its context and will not be perceived as overly dominant or out of character with the surrounding area.

Improved building construction and occupant health and safety

The approved development currently contravenes the FSR standard stipulated in Clause 4.4A of the RLEP 2012 by 40.39m². The proposed additions, which enclose the ground floor to the south with walls and windows to accommodate a bathroom and laundry, further exacerbate this contravention by increasing the GFA by 89.83m². However, this increase in FSR ultimately results in a better outcome for the building and its occupants, aligning with the objectives Section 1.3(g) and (h) and of the *Environmental Planning and Assessment Act 1979*.

The enclosure of the southern elevation, while increasing floor area, is necessary for several reasons. To accommodate the bathroom and laundry, the southern wall must be enclosed to allow for the installation of windows, improving natural light and ventilation within the ground floor. Crucially, this enclosure facilitates the proper waterproofing of the southern wall, which is essential given the site's downward slope in that direction. This waterproofing, mandated by the *Environmental Planning and Assessment Regulation 2021*, necessitates the wall enclosure to meet BCA and relevant Australian Standards, ensuring the building's structural integrity and longevity. By eliminating the previously open subfloor area, the risk of rising damp and vermin infestation is minimised, contributing to a healthier and safer living environment.

Therefore, while the proposed additions contribute to an FSR contravention, they are justified on the grounds of improved building construction and occupant health and safety. The enclosed southern elevation, with its enhanced waterproofing and ventilation, represents a significant improvement over the existing condition and promotes the proper construction and maintenance of the building as encouraged by Section 1.3(h) of the Act.

Essentially, the additional floor space is required to create a functional, enclosed space that allows for the necessary waterproofing, the installation of windows, and the integration of essential amenities like the bathroom and laundry. This ultimately results in a more habitable, durable, and compliant building.

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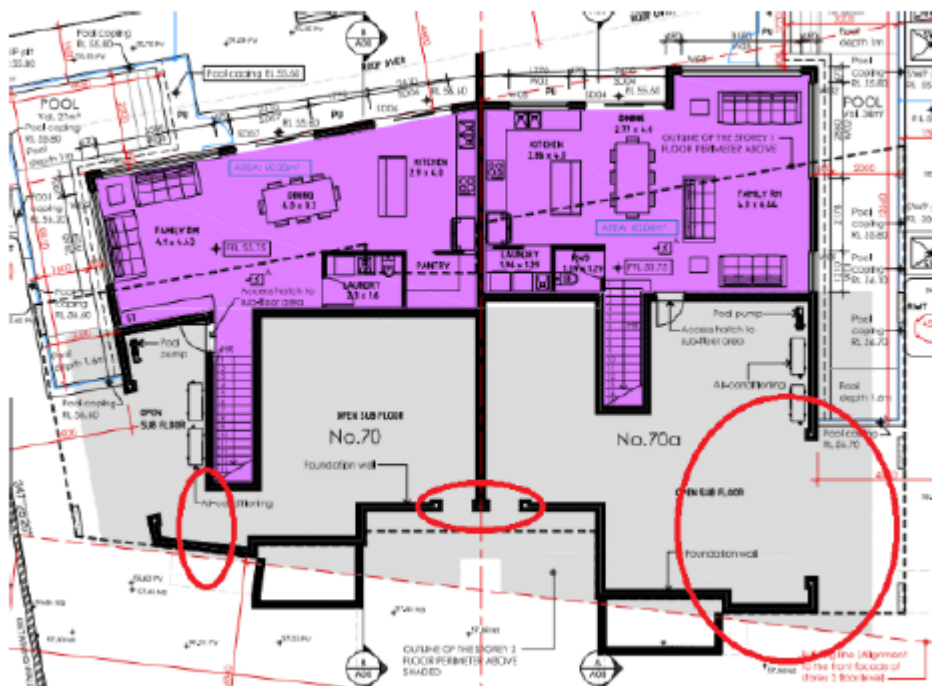


Figure 6 Approved ground floor plan under CDC-262960 dated 19 December 2024. The red circles indicate the additional external enclosing walls greater than 1.4m in height creating GFA.

Source: Drawing No. DA13 Revision A by Edifice Design. Markup by CPS.

Minor FSR Contravention which promotes good design and amenity

The proposal in relation to the approved attached dual occupancy (semi-detached dwellings) at 70 Johnston Parade seeks approval for a FSR contravention of 15.6%, as permitted under Clause 4.4A of the RLEP. This contravention arises from two key modifications designed to enhance the property. Firstly, the western elevation will be extended by 2m in a southerly direction, creating an external enclosing wall. This addresses the current issue of an exposed subfloor area, which detracts from the visual appeal of the property and poses a potential residential safety hazard due to blind corners associated with the side access to the dwelling at 70 Johnston Parade. By enclosing this area, a more secure and aesthetically pleasing environment is created. Secondly, a single window will be added to the southern elevation, effectively enclosing this wall. The addition of the 2m western wall and addition of a single southern window results in an additional 34.45m² GFA. This seemingly minor alteration has a significant impact on both the internal and external environment. Internally, it facilitates a more functional and improved layout, creating a bathroom. Externally, it contributes to a more visually appealing streetscape by creating a sense of enclosure and improving the overall aesthetic of the property by eliminating undercroft areas.

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These two modifications work together to achieve a range of improvements. The enclosed space allows for a more efficient and practical internal layout, addressing the limitations of the existing configuration. This includes creating essential spaces that are currently lacking, such as a dedicated laundry area directly accessible to the courtyard. The new layout also enhances the flow between living areas, creating a more comfortable and enjoyable living environment. Increased privacy contributes to a greater sense of well-being for the occupants by provision of directly visible side entrance that is not enclosed.

The addition of an enclosing wall and door on the south-western elevation creates a direct link between the bathroom and the courtyard and pool area. This seamless connection promotes a lifestyle that embraces outdoor living, which is particularly valuable in our Sydney climate. Finally, the enclosed southern wall, with its new window, contributes to a more visually appealing streetscape. This modification, effectively eliminates a potential dark and unused space, improving both the safety and aesthetics of the property.

The addition of the lifts whilst increases the FSR, it significantly enhances liveability within the dwellings. This is achieved by improving accessibility for individuals with mobility impairments, parents with young children, and provides for a diverse and inclusive housing type. The benefits of improved accessibility and enhanced quality of life outweighs the slight increase of 8.41m² associated with the lifts.

The additional floor space at 70a Johnston Parade significantly enhances the home's functionality and liveability. By expanding the floor plan, the kitchen is relocated to the southeast corner, creating a more efficient workspace and allowing for a seamless flow between the kitchen and the extended living areas. This relocation unlocks the northern aspect for the primary living spaces, maximising natural light and solar access.

The expanded floor space allows for a side entrance and a direct connection to the swimming pool through a new courtyard. This enhances the home's indoor-outdoor flow and provides convenient access to recreational areas.

Importantly, the additional GFA is occupied by non-habitable rooms, such as the wine cellar and walk-in pantry, within the excavated areas of the home. This maximises usable living space above ground and ensures that prime areas are dedicated to comfortable living.

The expanded laundry area better accommodates the needs of a five-bedroom family home. This seemingly small change significantly improves the functionality and convenience of the dwelling for its occupants, by removing an exposed undercroft area and concealed space and providing waterproofing to the southern elevation.

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The FSR contravention, is a minor increase that yields substantial benefits. The additional floor area is not arbitrary; it is a direct result of the necessary works undertaken to address existing issues and enhance the property's functionality, liveability, and integration with its surroundings. The increased floor space is not merely about adding extra GFA; it's about creating a more functional, comfortable, and enjoyable living environment for the occupants. By optimising the layout, maximising natural light, and improving the flow between indoor and outdoor spaces, the additional floor space contributes significantly to the overall quality and amenity of the dwelling. The proposal promotes good design and amenity as outlined in Section 1.3(g) of the Act.

No intensification of land use

The proposed increase in FSR does not result in an intensification of the development, as it does not increase the number of dwellings or residents on the site. Instead, the additional GFA is solely dedicated to enhancing the amenity of the existing approved dwellings. This includes enlarging kitchens, bathrooms, and laundries, providing residents with more comfortable and functional living spaces.

Crucially, the proposed changes do not include the addition of bedrooms, granny flats, or any other modifications that would increase the number of residents. This ensures that the demand for parking, public open space, and other amenities remains consistent with the approved development and in line with the expectations of the R2 Low Density Residential zone in South Coogee.

No significant or unreasonable impacts on surrounding residences

As demonstrated both above and by the submitted information, the proposal will not significantly nor unreasonably affect nearby residences to the north, west or east of the subject site in terms of visual privacy, overshadowing, view loss, and visual amenity/outlook. Impacts associated with the proposal will therefore be extremely minor. The development promotes good design and amenity in accordance with Section 1.3(g) of the Act.

For the reasons outlined above, it is evident that there are substantive environmental planning grounds that demonstrate why strict application of the development standard is not appropriate for this proposal.

Appendix 3: DCP Compliance Table

Part C1: Low Density Residential (2023)

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning	Site = 741.5m 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)	44.58% (329.95m ²)	Yes
	<p>Site cover Calculation Site cover area Revised site cover = 329.95m² (44.58%)</p>		
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.	36.8% (272.64m ²) 147.57m ² (78.5%) of the front set back deep soil permeable surfaces.	Yes

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DCP Clause	Controls	Proposal	Compliance
<p>Deep soil permeable surface Calculation</p> <p>Deep soil area</p> <p>Total permeable area = 772.54m² (36.8%) unchanged</p> <p>Permeable area within front setback = 147.57m² (38.5%) unchanged</p> <p>LOT 30 DP 244947</p> <p>SCALE 1:150 at A3</p>			
2.6	Landscaping and tree canopy cover		
	<p>Minimum 25% canopy coverage</p> <p>Up to 300 sqm = 2 large trees</p> <p>301 to 450 sqm = 3 large trees</p> <p>451 to 600 sqm = 4 large trees</p> <p>i) Minimum 25% front setback area permeable surfaces</p> <p>ii) 60% native species</p>	<p>The control is not applicable as the site coverage is not changed by more than 10%.</p> <p>The approved Landscape Plan includes 2 x 8m trees within the rear setback and 2 x 5m trees within the front setback.</p>	Yes
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	<p>Up to 300 sqm = 5m x 5m</p> <p>301 to 450 sqm = 6m x 6m</p> <p>451 to 600 sqm = 7m x 7m</p> <p>601 sqm or above = 8m x 8m</p>	Each dwelling includes a private open space area with the minimum dimensions of 6m x 6m (including parts of the pools).	Yes
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.6:1	0.77:1	No
			Refer to Section 7 of this report.
3.2	Building height		
	Building height LEP 2012 = 9.5m	Proposed = 8.67m	Yes
	<p>i) Habitable space above 1st floor level must be integrated into roofline</p> <p>ii) Minimum ceiling height = 2.7m</p> <p>iii) Minimum floor height = 3.1m (except above</p>	The building has three (3) levels but presents to the street as a two (2) storey building	Yes

DCP Clause	Controls	Proposal	Compliance
	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. 	from the street, because of the topography of the land which slopes down to the rear of the site. The neighbouring dwelling at 68 Johnston Pde incorporates a similar design to manage the sloped land.	
3.3	Setbacks		
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites - Should align with setbacks of adjoining dwellings iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	The front setback of 6.84m is as approved under CDC and is generally consistent with the average setbacks of the adjoining dwellings on the northern side of Johnston Pde. The two (2) new lift columns encroach within the setback, providing minimum setbacks of 5.58m and 5.46m. This does not alter the predominant setback and is a minor element of the built form that does not disrupt the perceived setback pattern within the street.	Yes
3.3.2	Side setbacks i) New buildings and alterations and additions must comply with the following minimum side setbacks based on the primary frontage width: Existing primary frontage width of 12m and above: <ul style="list-style-type: none"> • Building height 0m to 4.5m = 1.2m • Building height >4.5m to 7m = 1.2m + [(building height – 4.5m) / 4] • Building height >7m = 1.8m + 2 x (building height – 7m) 	Amended ground floor building setbacks are compliant with the controls. Level 1 and 2 setbacks are unchanged and to remain as approved under CDC.	Yes
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - Reasonable view sharing (public and private) - Protect the privacy and solar access 	25% of allotment depth (21.824m) = 5.456m The minimum rear setback at ground level is 4.4m which is consistent with the CDC-approved development. The	No, acceptable on merit.

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DCP Clause	Controls	Proposal	Compliance
	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 <i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i> Refer to 6.3 and 7.4 for parking facilities and outbuildings.	non-compliance is acceptable as the ground level floor plan has been reconfigured to reduce the area of the building which has a 4.4m rear setback, allowing for a greater side setback between the approved dwelling and neighbouring properties to provide additional outdoor space and improve amenity, privacy and solar access.	
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design • balconies appropriately sized • Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension). 	The CDC approved building envelope and stepped built form will not change.	Yes
4.2	New semi-detached and dual occupancy (attached) dwellings		
	i) Architectural design must respect and enhance character of streetscape ii) Front facade designed to soften visual dominance of parking facilities: <ul style="list-style-type: none"> • Balconies above garages • Windows/ doorways on front elevation so garage entries are not sole façade elements • Recess garage entries below cantilevered elements iii) Predominant built form positioned towards shared boundary to reduce visual bulk iv) Main entrance recessed maximum 2m behind the front facade alignment v) Single car width garage to primary street vi) For corner allotment, each dwelling should independently address a street frontage vii) Maximise landscape planting and deep soil area viii) Incorporate PV rooftop solar and battery storage ix) Dwellings are encouraged to be 100% electric (no natural gas)	There will be no change to the overall height, bulk and scale of the CDC approved development.	Yes
4.6	Colours, Materials and Finishes		
	i) Schedule of materials and finishes. ii) Finishing is durable and non-reflective and	New work will complement the	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>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>	existing approved colour scheme and materiality.	
4.7	Earthworks		
	<p>i) Excavation and backfilling limited to 1m, unless gradient too steep</p> <p>ii) Minimum 900mm side and rear setback</p> <p>iii) Subterranean spaces must not be habitable</p> <p>iv) Step retaining walls.</p> <p>v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</p> <p>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</p> <p>vii) cut and fill for POS is terraced <i>where site has significant slope:</i></p> <p>viii) adopt a split-level design</p> <p>ix) Minimise height and extent of any exposed under-croft areas.</p>	<p>Additional ground level excavation is to a maximum extent of approximately 1.5m. The majority of excavation is less than 1m.</p> <p>The excavation is setback approximately 6m from the western side boundary and 6.7m from the eastern side boundary. The extent of earthwork would not result in any adverse impacts in terms of natural ground levels, streetscape, stormwater impacts or change the relationship with adjoining properties.</p>	No, acceptable on merit.
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>	The proposed development will receive adequate direct sunlight and amenity.	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</p>	Solar access and overshadowing are unchanged because of the proposed works which are largely contained within the ground level underneath the upper levels.	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>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. 		
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:</i> The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</p>	The proposed development maintains good level of daylight and natural ventilation to the habitable spaces of each dwelling.	Yes
5.3	Visual Privacy		
	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>Western Dwelling</p> <p>The proposal involves construction of outdoor terrace along the western and rear elevation of the dwelling. The western terrace will align with the approved pool with a setback of 1.6m to the western boundary. The FFL of the western terrace is RL55.6. The top of the retaining wall along the western boundary is at RL58.68 and 59.68. The terrace does not</p>	Yes

DCP Clause	Controls	Proposal	Compliance
		<p>pose a privacy risk as it will sit 3m below the top of the boundary wall.</p> <p>The proposed enlarged northern balcony to the western dwelling is off a secondary living area. A privacy screen should be installed along its northern edge to mitigate overlooking to the neighbour's pool to the north.</p> <p><i>Eastern Dwelling</i> The proposal involves construction of outdoor terrace along the eastern and rear elevation and pool of the dwelling. The eastern terrace will align with the approved pool with a setback of 1.51m to the eastern boundary. The top of the retaining wall along the eastern boundary is at RL57.47 and 59.68. The terrace does not pose a privacy risk as it will sit 3m below the top of the boundary wall.</p>	
5.4	Acoustic Privacy		
	<p>i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer. 	Acceptable	Yes
5.5	Safety and Security		
	<p>i) Dwelling main entry on front elevation (unless narrow site)</p> <p>ii) Street numbering at front near entry.</p> <p>iii) 1 habitable room window (glazed area min 2 sqm) overlooking the street or a public place.</p> <p>iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)</p>	Acceptable	Yes

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DCP Clause	Controls	Proposal	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.	The overall built form does not change, and no additional view impacts are expected.	Yes
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m; and - Consistent with pattern in the street; and - Landscaping provided in the front yard. v) Tandem parking may be considered vi) Avoid long driveways (impermeable surfaces)	No change is proposed to the CDC approved parking arrangements.	Yes
	Dual occupancies and new semi-detached dwellings		
	i) Single width garage or carport, including hard stand space in front. ii) Double garages permitted on dual street frontages or corner lots if consistent with predominant pattern. 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. 	No change is proposed to the CDC approved parking arrangements.	Yes
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	The front fencing is constructed of durable materials that are suitable for their purpose and capable of withstanding wear and tear	Yes
7.2	Front Fencing		

DCP Clause	Controls	Proposal	Compliance
	<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. 	The height of the front fencing is 1.8m and is comprised of rendered brick piers, with the upper 1.6m between the piers comprised of vertical fin blade fencing.	Yes
7.5	Swimming pools and Spas		
	<ul style="list-style-type: none"> i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) 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 	No change is proposed to the configuration of the pool and coping. However, the pool fencing will change to suit the proposed modified outdoor terraces. On that basis, standard pool conditions are included in the recommended development consent.	Yes

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DCP Clause	Controls	Proposal	Compliance
	enclosure and away from the neighbouring dwellings.		

Responsible officer: Thomas Mithen, Environmental Planner

File Reference: DA/63/2025

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Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/63/2025
Property:	70 Johnston Parade, SOUTH COOGEE NSW 2034
Proposal:	Alterations and additions to CDC-approved semi-detached dwellings including excavation of additional area along the southern half of the building to provide a larger ground level and additional rooms, relocation of the approved external walls on the northern, western and eastern elevations, altered door openings, re-configured layouts of ground floor, first floor and Level 2, fenestrations and balustrades in response to re-configured layouts, provision of additional outdoor space with new paved courtyard areas along the sides and rear of the building and increase in gross floor area, installation of new lift for each dwelling and changes to front fencing (Variation to Maximum Floor Space Ratio development standard).
Recommendation:	Approval

GENERAL CONDITIONS

Condition

1. Approved plans and documentation

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

Plan	Drawn by	Dated	Received by Council
Site Plan & Site Analysis DA01 Rev A	Ediface Design	20 December 2024	8 February 2025
Ground Level Floor Plan DA02 Rev A	Ediface Design	20 December 2024	8 February 2025
Storey 1 Floor Level DA03 Rev A	Ediface Design	20 December 2024	8 February 2025
Storey 2 Floor Plan DA04 Rev A	Ediface Design	20 December 2024	8 February 2025
Roof Plan DA05 Rev A	Ediface Design	20 December 2024	8 February 2025
South and East Elevations DA06 Rev A	Ediface Design	20 December 2024	8 February 2025
North and West Elevations DA07 Rev A	Ediface Design	20 December 2024	8 February 2025
Section A-A & B-B DA08 Rev A	Ediface Design	20 December 2024	8 February 2025
Front Fence Elevation and Details DA09 Rev A	Ediface Design	20 December 2024	8 February 2025

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Condition			
External Materials and Finishes DA10 Rev A	Ediface Design	20 December 2024	8 February 2025
BASIX Certificate No.	Dated	Received by Council	
A1778808	19 December 2024	6 February 2025	
A1778810	19 December 2024	6 February 2025	

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. A privacy screen having a height of 1.6m (measured above FFL) shall be provided to northern edge of the proposed modified balcony adjacent to the lounge room at the first floor level.
- Privacy screen/s must be constructed with either:
- Translucent or obscured glazing (The use of film applied to the clear glass pane is unacceptable);
 - Fixed lattice/slats with individual openings not more than 30mm wide;
 - Fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately to prevent overlooking into the private open space or windows of the adjacent dwellings.
- Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.
- Existing CDC approvals**
This consent must be carried in conjunction with the approvals under CDC/441/2024 and CDC/13/2025 including the associated modifications.
3. Condition Reason: To ensure this consent complement with the approvals issued under separate CDCs.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
4.	Consent Requirements The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation. Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.
5.	External Colours, Materials & Finishes 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. Details of the proposed colours, materials and textures (i.e. a schedule and

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| | brochure/s or sample board) are to be submitted to and approved by the Certifier prior to issuing a construction certificate for the development. |
| | Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development. |
| 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 \$462,000 the following applicable monetary levy must be paid to Council: \$4,620.00</p> <p>The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> $IDC = ODC \times CP2/CP1$ <p>Where:</p> <p>IDC = the indexed development cost</p> <p>ODC = the original development cost determined by the Council</p> <p>CP2 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment</p> <p>CP1 = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.</p> <p>Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p> |
| 7. | <p>Long Service Levy Payments</p> <p>Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the Building and Construction Industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with Section 6.8 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p> |
| 8. | <p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> |

Condition

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

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

Sydney Water's Tap in™ in online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

Condition Reason: To ensure the development satisfies Sydney Water requirements.

9. **Building Code of Australia**

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

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

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

10. **BASIX Requirements**

In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.

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

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

Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.

11. **Excavation, Earthworks and Support of Adjoining Land**

A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:

- when undertaking excavation or building work within the zone of influence

Condition
<p>of the footings of a dwelling or other building that is located on the adjoining land;</p> <ul style="list-style-type: none"> • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development.

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.

Condition Reason: To ensure adjoining land is adequately supported.

12. **Stormwater Drainage**

A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-

- Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);
- The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
- Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;
- External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
- Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.
- A certificate or statement from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

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

13. **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

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| | <p>until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p> |
| 14. | <p>Swimming Pool Safety</p> <p>Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"> • Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation. • Pool plant and equipment must be enclosed in a sound absorbing enclosure or installed with a building to minimise noise emissions or result in a noise nuisance. • Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems. • Paving and ground surfaces adjacent to swimming pools are to be graded and so as to ensure that any pool overflow water is drained away from buildings and adjoining premises, so as not to result in a nuisance or damage to premises. <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p> |

BEFORE BUILDING WORK COMMENCES

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| 15. | <p>Building Certification & Associated Requirements</p> <p>The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <ul style="list-style-type: none"> b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and |

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| | <p>d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and</p> <p>e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</p> <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p> |
| 16. | <p>Home Building Act 1989
In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with.</p> <p>Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council.</p> <p>Condition reason: Prescribed condition under section 69 & 71 of the Environmental Planning and Assessment Regulation 2021.</p> |
| 17. | <p>Dilapidation Reports
A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:</p> <ul style="list-style-type: none"> • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises; • demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary); • excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and • as may be required by the Principal Certifier for the development. <p>The dilapidation report shall include details of the current condition and status of any dwelling, or other structures located upon the adjoining premises and shall include relevant photographs of the structures.</p> <p>The dilapidation report must be submitted to the Principal Certifier, the Council and the owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p> |
| 18. | <p>Construction Site Management Plan</p> |

	Condition
	<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>
19.	<p>Construction Site Management Plan</p> <p>A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
20.	<p>Construction Noise & Vibration Management Plan</p> <p>Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies.</p> <p>A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
21.	<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</p>

Condition

Principal Certifier prior to the commencement of any works.

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

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

DURING BUILDING WORK

Condition

22. Site Signage

It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and
- c) stating that unauthorised entry to the work site is prohibited.

The sign must be—

- a) maintained while the building work is being carried out, and
- b) removed when the work has been completed.

This section does not apply in relation to—

- a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

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

23. 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

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

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| | <p>f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.</p> <p>g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</p> <p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p> |
| | <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p> |
| 26. | <p>Excavations and Support of Adjoining Land</p> <p>The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.</p> <p>Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p> |
| 27. | <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> |
| 28. | <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</p> |

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is to be forwarded to the Council.

Condition Reason: To ensure compliance with approved plans.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

29. 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.

30. 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.

31. 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) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
- (b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a *Pre-paid Works Application Form*, prior to issuing an occupation certificate, together with payment of the relevant fees.
- (c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
- (d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of 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

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	Council's approval.
32.	<p>Street and/or Sub-Address Numbering</p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p> <p>If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
33.	<p>Swimming Pool Safety</p> <p>Swimming Pools [and Spa Pools] are to be provided with a child-resistant barrier (i.e. fence, in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools).</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
34.	<p>Swimming Pool Safety</p> <p>A 'warning notice' must be installed in a prominent position in the immediate vicinity of a Swimming Pool [or Spa Pool], in accordance with the provisions of the <i>Swimming Pools Regulation 2018</i>, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.</p> <p>Condition reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area prior to use.</p>
35.	<p>Swimming Pool Safety</p> <p>The owner of the premises must 'register' their Swimming Pool [or Spa Pool] on the NSW Swimming Pool Register, in accordance with the <i>Swimming Pools Act 1992</i>. The Swimming Pool Register is administered by the NSW Government and registration on the Swimming Pool Register may be made on-line via their website www.swimmingpoolregister.nsw.gov.au.</p> <p>Registration must be made prior to the issue of an Occupation Certificate for the pool and a copy of the NSW Swimming Pool Certificate of Registration must be forwarded to the Principal Certifier and Council accordingly.</p> <p>Condition reason: To ensure registration of the swimming pool/spa in accordance with relevant legislation.</p>

OCCUPATION AND ONGOING USE

Condition	
36.	<p>External Lighting</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p>

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Condition	
	Condition reason: To protect the amenity of the surrounding area and residents.
37.	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.
38.	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.
39.	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.