

# Randwick Local Planning Panel (Electronic) Meeting

Thursday 12 June 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, 12 June 2025

### **Declarations of Pecuniary and Non-Pecuniary Interests**

#### **Development Application Reports**

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Meryl Bishop  
**DIRECTOR CITY PLANNING**

## Development Application Report No. D24/25

**Subject:** 2 Anzac Parade, Kensington (DA/1219/2024)

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### Executive Summary

<b>Proposal:</b>	Alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works.
<b>Ward:</b>	West Ward
<b>Applicant:</b>	E Baskin
<b>Owner:</b>	HSN Hospitality Pty Ltd
<b>Cost of works:</b>	\$5,097,400.00
<b>Reason for referral:</b>	The development contravenes the development standards for Car Parking and Landscaping by more than 10%.

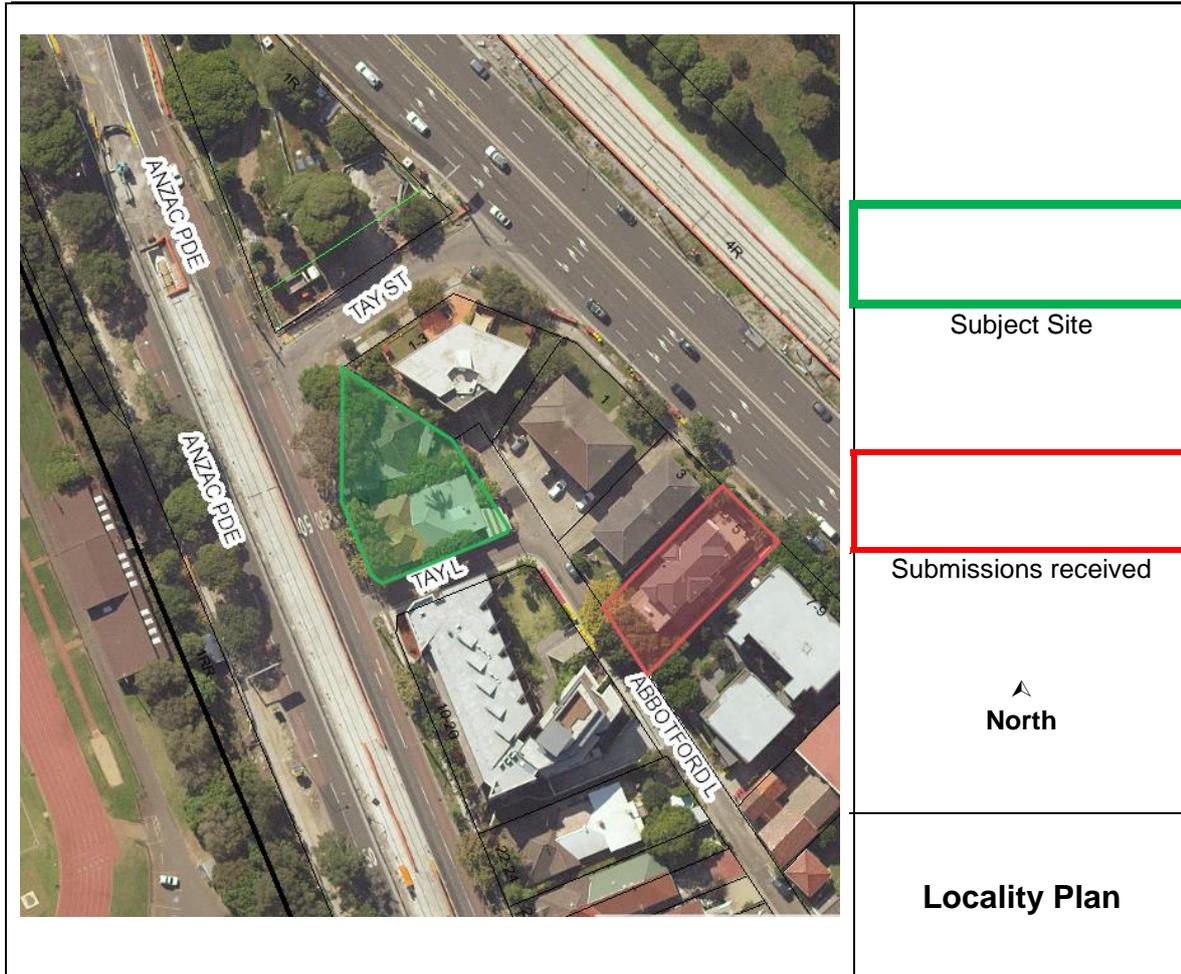
### Recommendation

- A. That the RLPP is satisfied that the applicant's written requests to vary the development standard relating to Car Parking, Landscaped Area and Lot Size development standards in Clause 68 (2)(e), Clause 68 (2)(f), and Clause 69 (1)(b)(ii) State Environmental Planning Policy (Housing) 2021 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. DA/1219/2024 for Alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works, at No. 2 Anzac Parade, Kensington, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/1219/2024 - 2 Anzac Parade, KENSINGTON NSW 2033 - 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 contravenes the development standards for Car Parking and Landscaping by more than 10%

\*The proposal also contravenes the development standard for Lot Size by less than 10%.

The proposal seeks development consent for alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works.

The key issues associated with the proposal relate to:

- Car Parking
- Landscaping
- Setbacks

Council reviewed the original proposal and issued a Request for Further Information on 11 March 2025. This raised the following areas for further consideration:

- Car parking
- Gross Floor Area
- Design Excellence Panel considerations
- Environmental Health considerations

- Landscaping
- Development Standards and Clause 4.6 Requirements.
- Clarifications regarding the following:
  - o Laundry facilities
  - o Affordable Housing
  - o Front setbacks

A response was received on 08 April 2025.

Council reviewed this revised documentation and issued a further request for information regarding:

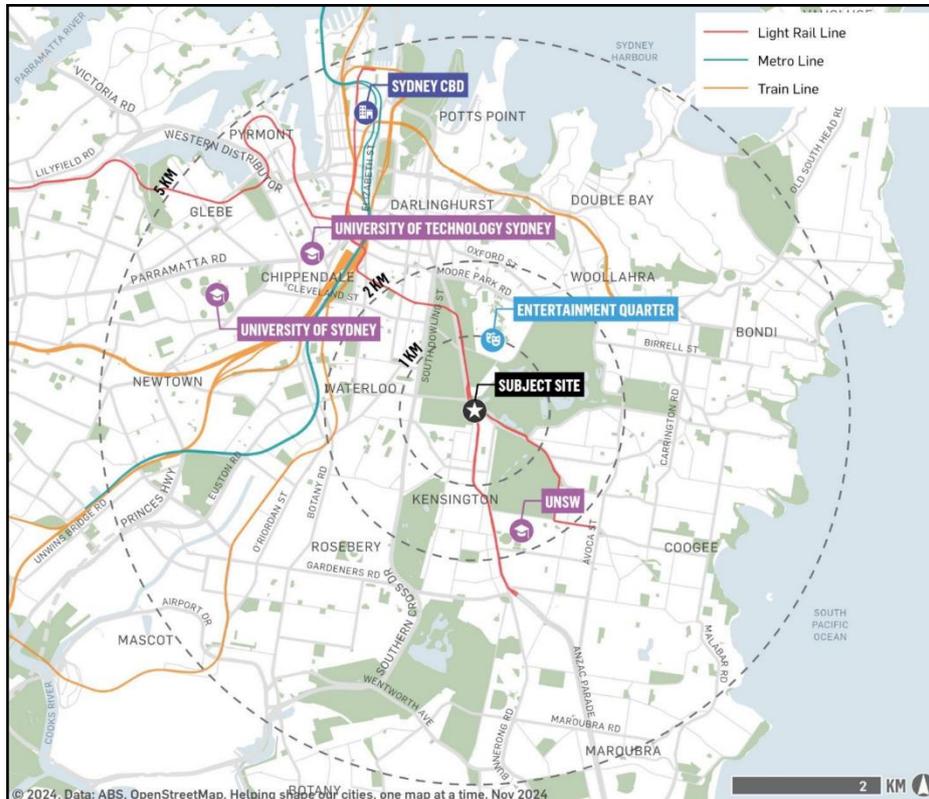
- The proposal must fully comply with the communal living requirement (Housing SEPP)
- The proposal must delete all reference to a change of use and the proposal must be for a mixed-use development, with the content of this application being for 2 levels of co-living, above the boarding house.

A formal response and revised documentation were received on 15 May 2025. this report conducts an assessment against the revised documentation.

Because the proposal is now for a mixed-use development (instead of a change of use for the entire development to co-living) and will simply be adding two levels to the development for the purpose whilst retaining the existing boarding house below, it is not applicable to consider the loss of affordable housing section of the Housing SEPP.

**2. Site Description and Locality**

The subject site is located at 2 Anzac Parade (previously identified as 2 – 8 Anzac Parade) and is legally described as Lot 21 in DP 1239513. The site is located at the northernmost point in the Randwick Local Government Area, the site is surrounded by public recreation spaces and active transport links, as shown in the figures below.



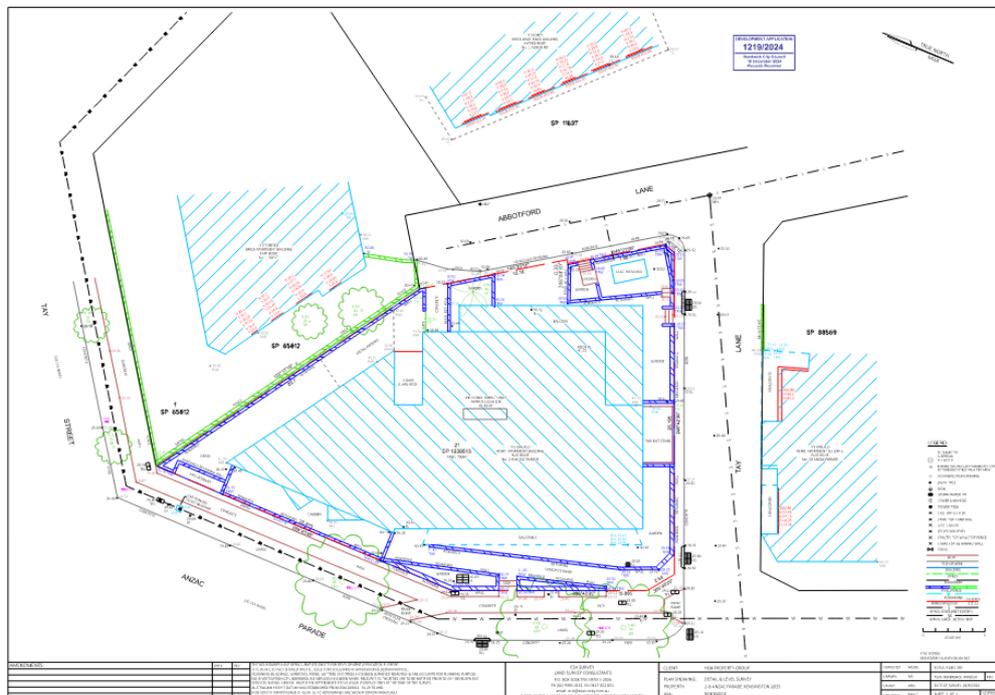
**Figure 1:** Location of the development site in relation to wider Sydney (Source: Applicant)

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**Figure 2:** Active transport surrounding the development site (Source: Applicant)

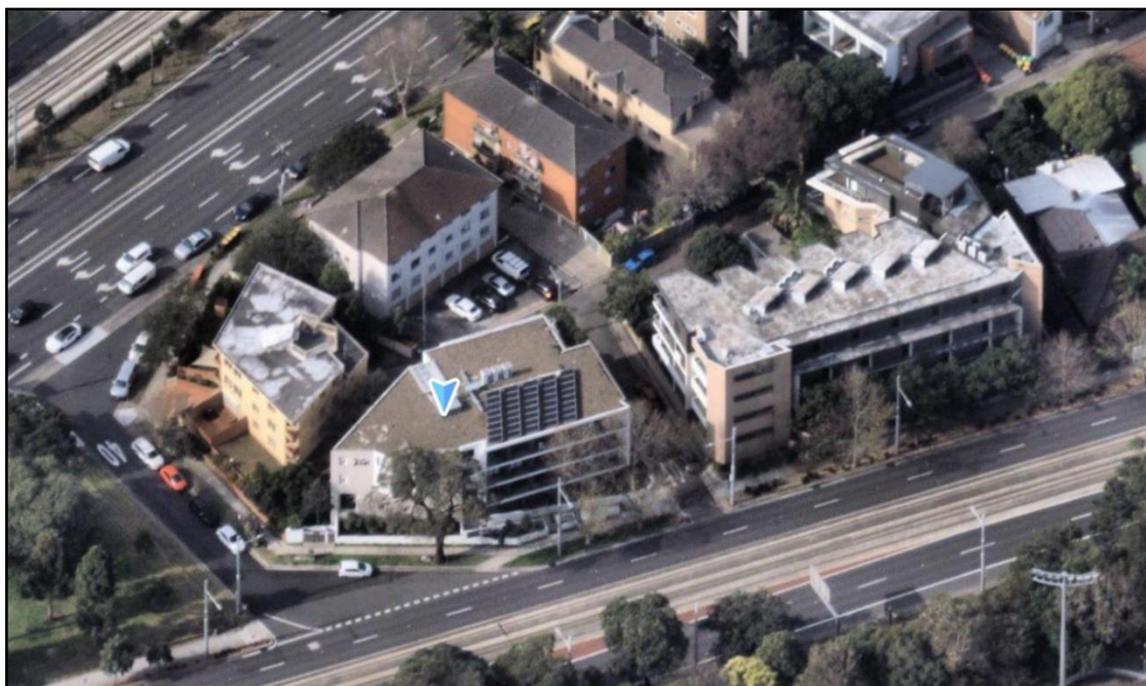
The site has an area of 790m<sup>2</sup> and is irregular in shape, as shown in the Survey below. The site is located on the eastern side of Anzac Parade (this frontage is split into three sections measuring 25.915m, 15.805, and 2.54m) the southern side of Tay Street (boundary length of 25.7m), the north side of Tay Lane (26.195m) and the western side of Abbotford Lane (12.16m).



**Figure 3:** Current Survey Plan for 2 Anzac Parade, Kensington (Source: Applicant)



**Figure 4:** Aerial Imagery of 2 Anzac Parade (Source: NearMap)



**Figure 5:** Eastern Oblique view of existing building at 2 Anzac Parade (Source: NearMap)

The topography of the site is relatively flat, and should be noted that the application scope includes minimal works at the ground level (limited to the planting of new trees and any structural works required). The existing structure will be mostly retained with an additional two levels built on top of the building.

The site is currently occupied by a 4-storey boarding house development which is rendered and has a flat roof, as shown in the Figures below.

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**Figure 6:** Existing development as viewed from Anzac Parade: 2 Anzac Parade, Kensington (Source: Council)



**Figure 7:** Anzac Parade Frontage of the development (Source: Council)



**Figure 8:** Development as seen from the western side of Anzac Parade (Source: Google Maps)

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**Figure 9:** Existing development as viewed from Tay Lane (Source: Council)



**Figure 10:** Existing Development as viewed from Abbotford Lane facing West (Source: Council)

Surrounding development comprises primarily of residential flat buildings. The site has a western frontage along Anzac Parade, upon which the light rail operates. Further to the west is the ES

Marks Athletics Stadium located within Moore Park. To the east is Alison Road that borders Centennial Park. Located to the north is the Tay Street Reserve.



**Figure 11:** 1 - 3 Tay Street, Kensington - as viewed from development site facing north (Source: Council)



**Figure 12:** 1 Alison Road as view from outside the development site, facing east (Source: Council)

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**Figure 13:** 1 Alison Road, to the East of the development site (Source: Council)



**Figure 14:** 10 - 20 Anzac Parade taken from Tay Lane (Source: Council)

### 3. Relevant history

[DA/335/2016] was approved by the Land and Environment Court of NSW on [16 May 2017] for Demolition of existing structures and construction of a new four storey boarding house development with 41 rooms, 9 car spaces and 8 motor cycle spaces (variation to height of buildings).

[DA/335/2016/A] was approved on 13 February 2020 for Modification to Land and Environment Court approval including deletion of basement level and relocation of bicycle parking to ground level, increase size of communal living area and add toilet, alter parking area, reconfigure waste/recycling bin store, extend south-east external wall, add balcony for rooms 3.01, 3.02 and 3.03 and reduce width of planter, alter manager's room and landscaping. Original approval: Demolition of existing structures and construction of a new four storey boarding house development with 41 rooms, 9 car spaces and 8 motor cycle spaces.

#### Comprehensive Planning Proposal

On 12 September 2021, the Draft Randwick Comprehensive Planning Proposal (CPP) was issued Gateway Determination by DPE. The CPP proposed changes to the planning controls for five (5) HIAs, including the Kensington North HIA. The subject site is located in the Kensington North HIA.

The CPP was placed on public exhibition from 31 May 2022 to 12 July 2022.

At the Extraordinary Council Meeting of 30 August 2022, Council resolved not to support the changes to the planning controls for the Kensington North HIA.

At the Council Meeting of 23 May 2023, and following correspondence from the then Department of Planning and Environment (DPE) in relation to potentially reinstating the Kensington North HIA, Council resolved to confirm its previous resolution to exclude the Kensington North HIA. The CPP was amended accordingly and was submitted to DPE for finalisation.

On 18 August 2023, DPE formally notified Amendment 9 of RLEP. Relevantly, the amended instrument modified the Height of Buildings and Floor Space Ratio maps to stipulate a maximum 23m building height and maximum 2:1 FSR for the Kensington North HIA.

In a letter dated 18 August 2023, DPE confirmed the reasons for reinstating changes to the planning controls for the Kensington North HIA, as follows:

*“The Department considers that there is sufficient merit to progress these HIAs, considering the suitability of these locations for uplift as demonstrated by the urban design studies undertaken by Council, and that these HIAs are a key initiative in the planning proposal to provide affordable and additional housing that could contribute to meeting the Council's housing targets.”*

On 01 September 2023, Amendment 9 of RLEP commenced.

At the Council Meeting of 19 September 2023, and in line with the increased height and FSR controls for the Kensington North HIA, Council resolved to adopt interim controls for the Kensington North HIA. The interim controls are provided in the Interim DCP dated 31 August 2023 (Interim DCP).

The Interim DCP is an interim policy and has not yet been formally exhibited for community and stakeholder consultation. Whilst the Interim DCP has no statutory recognition pursuant to the *Environmental Planning & Assessment Act 1979*, the intent of the policy is to be used as a development guide in line with the increased height and FSR controls under RLEP.

### 4. Proposal

Council is in receipt of a Development Application seeking consent for alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18

rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works.

The existing development was approved under DA/335/2016 (as modified) on 16 May 2017 by the Land and Environment Court of NSW for “*Demolition of existing structures and construction of a new four storey boarding house development with 41 rooms, 9 car spaces and 8 motor cycle spaces (variation to height of buildings).*”

A (final) Construction Certificate for DA/335/2016 was issued in May 2020 and the development has been occupied since.

The proposal seeks consent for:

#### Use

- The existing boarding house will continue to operate under its development consent DA/335/2016 (as modified)
- This development application adds two additional levels, which will operate as co-living development, in an overall mixed use development.

#### Preparations:

- Demolition of existing roof and site preparation works.
- Structural upgrades to facilitate the increase in height such as strengthening of the existing screw piles.

#### Construction:

- Construction of two additional levels for the use of co-living housing (contained in an overall mixed use development) containing:
  - o 18 co-living rooms.
  - o Communal (internal) living area space on level 5.
  - o Communal open space area with associated barbeque, seating and landscaping on level 5.
  - o Services including elevator access and stairwell access
- Modification to existing ground level car parking to incorporate bicycle storage area.

#### Landscaping

- Planting of new trees at ground level.

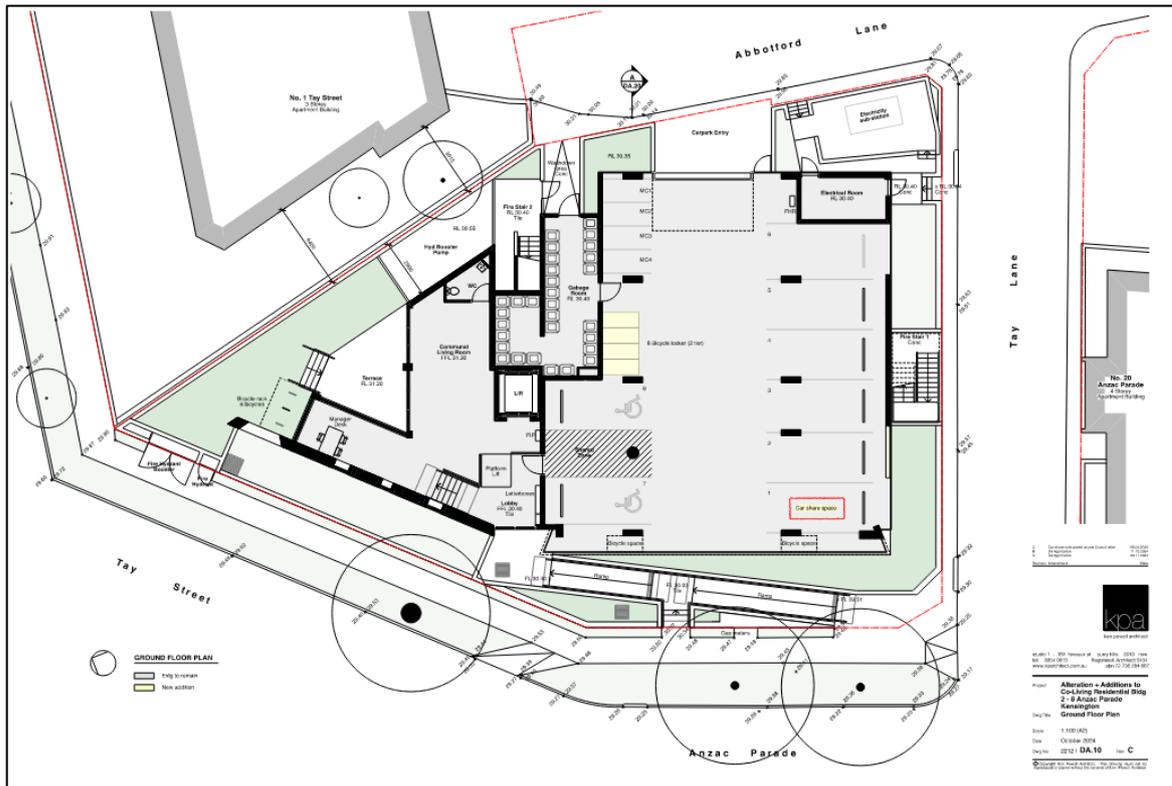


Figure 15: Proposed Ground Floor Plan for 2 Anzac Parade, Kensington (Source: Applicant)

There are no changes to levels 1 and 2.

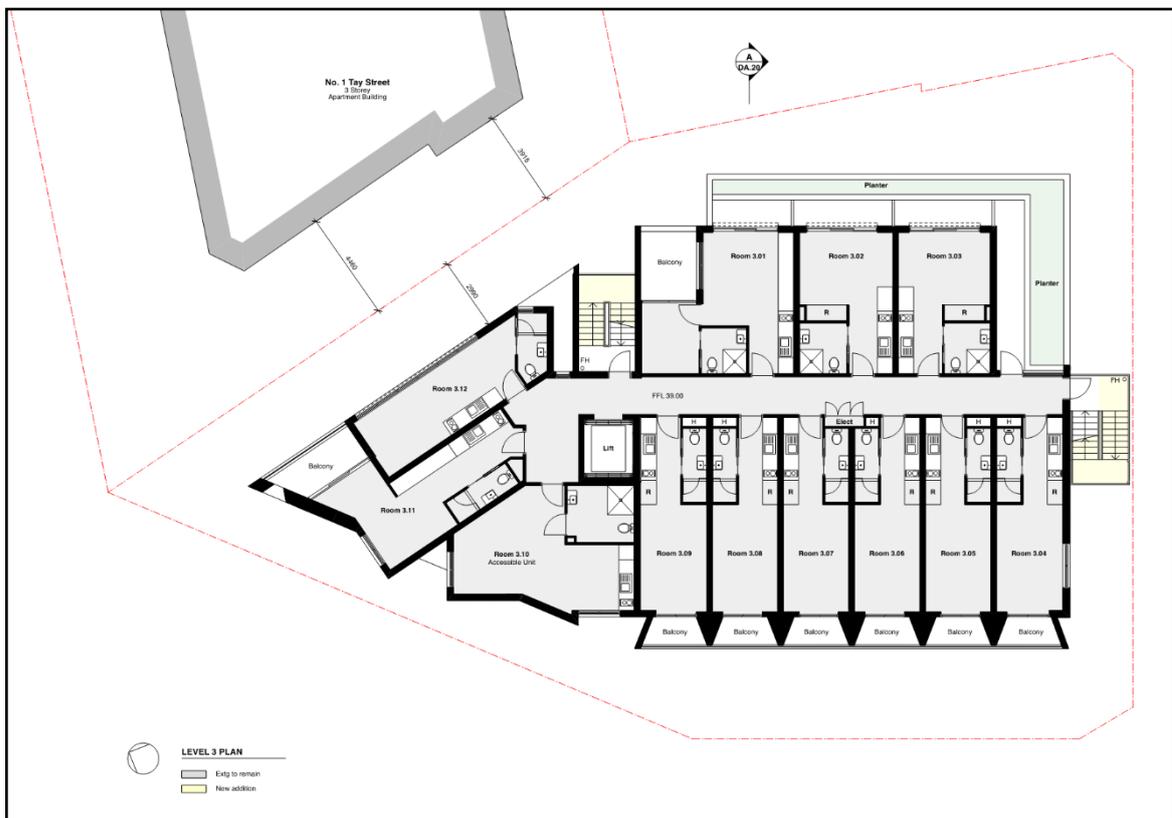


Figure 16: Proposed Level 3 Plan for 2 Anzac Parade, Kensington (Source: Applicant)

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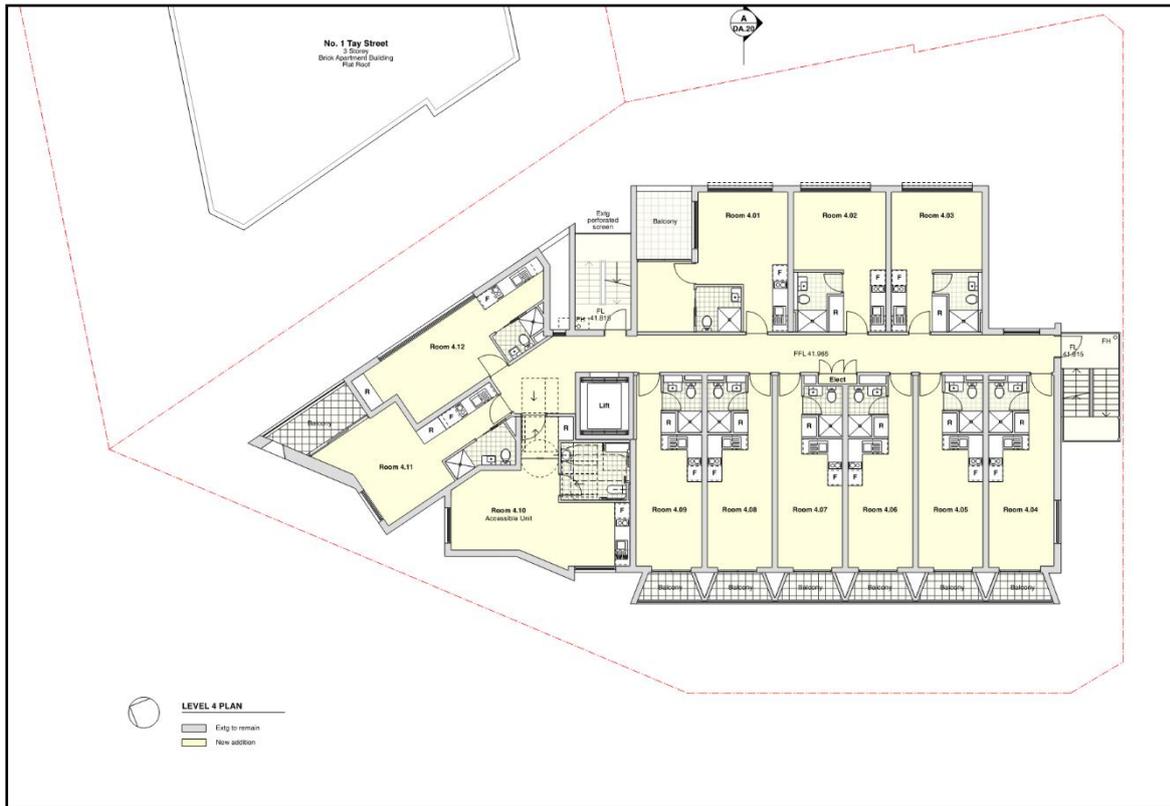


Figure 17: Proposed Level 4 Plan for 2 Anzac Parade, Kensington (Source: Applicant)

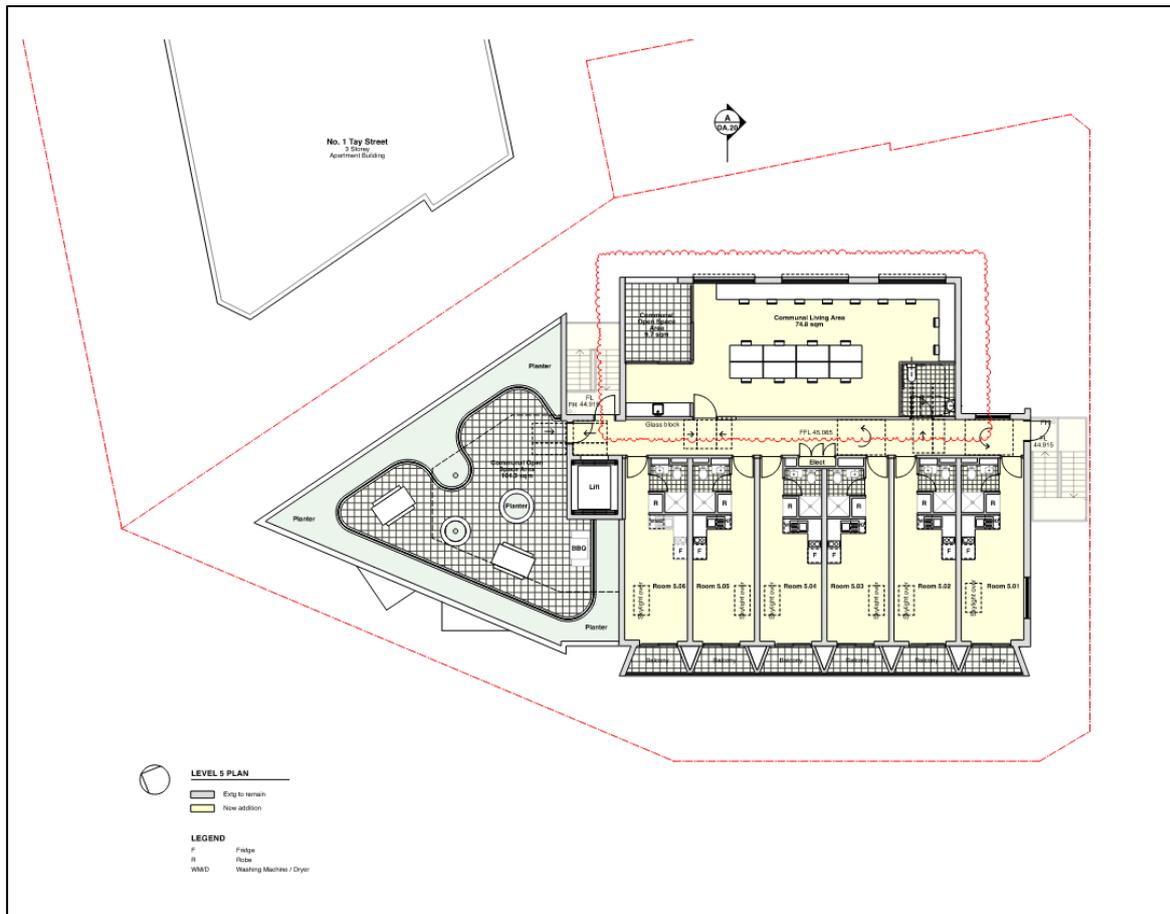


Figure 18: Proposed Level 5 Plan for 2 Anzac Parade, Kensington (Source: Applicant)

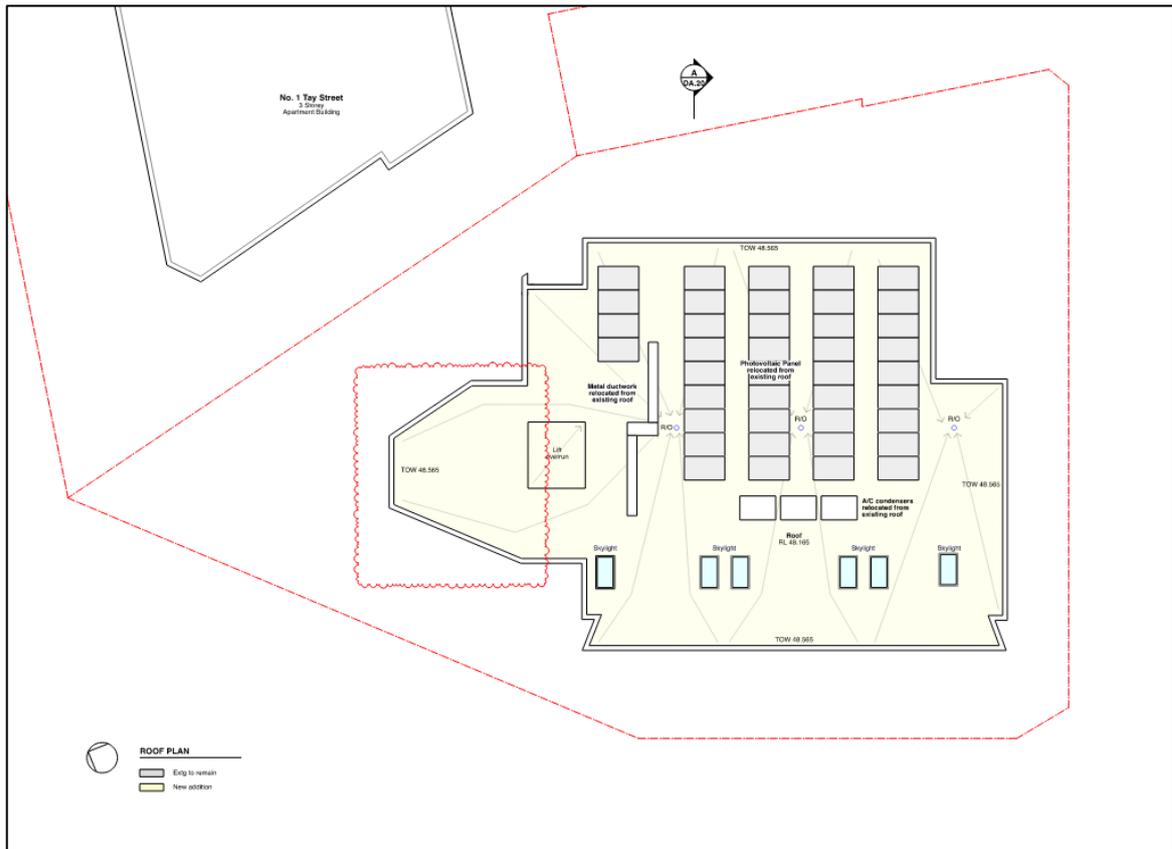


Figure 19: Proposed Roof Plan for 2 Anzac Parade, Kensington (Source: Applicant)

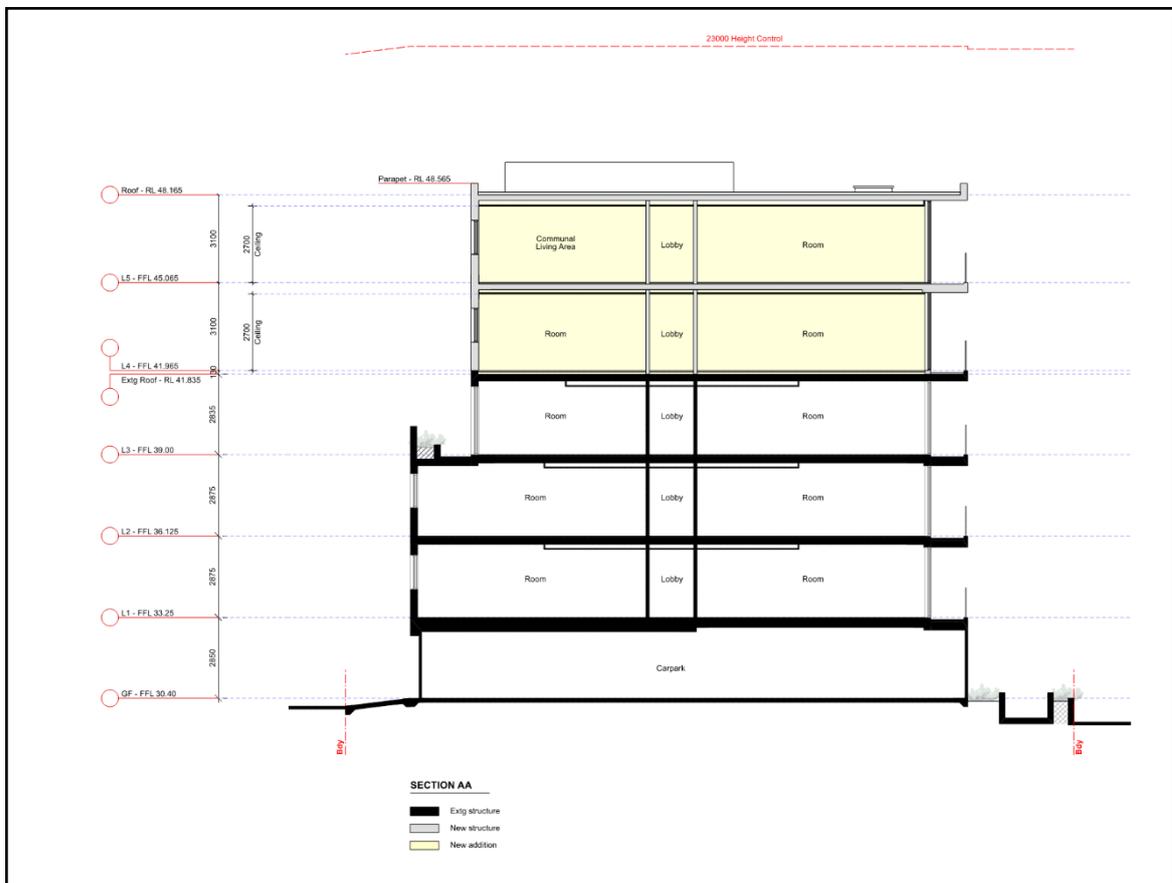
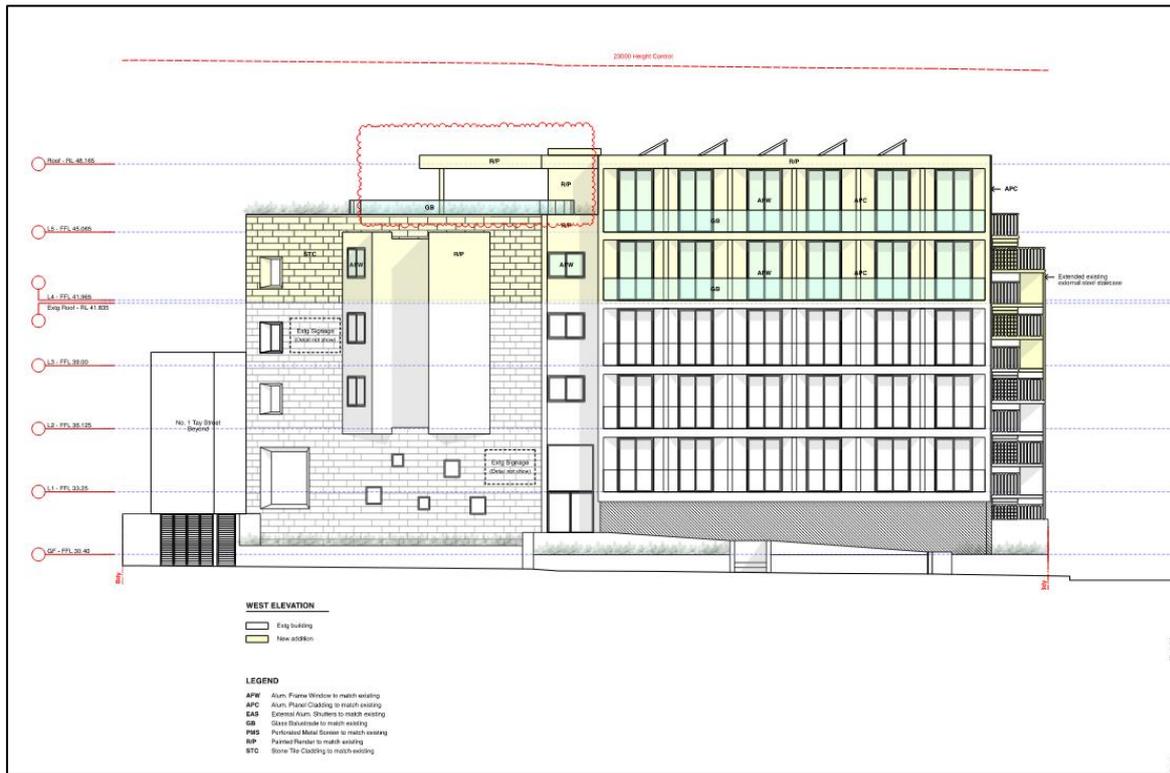
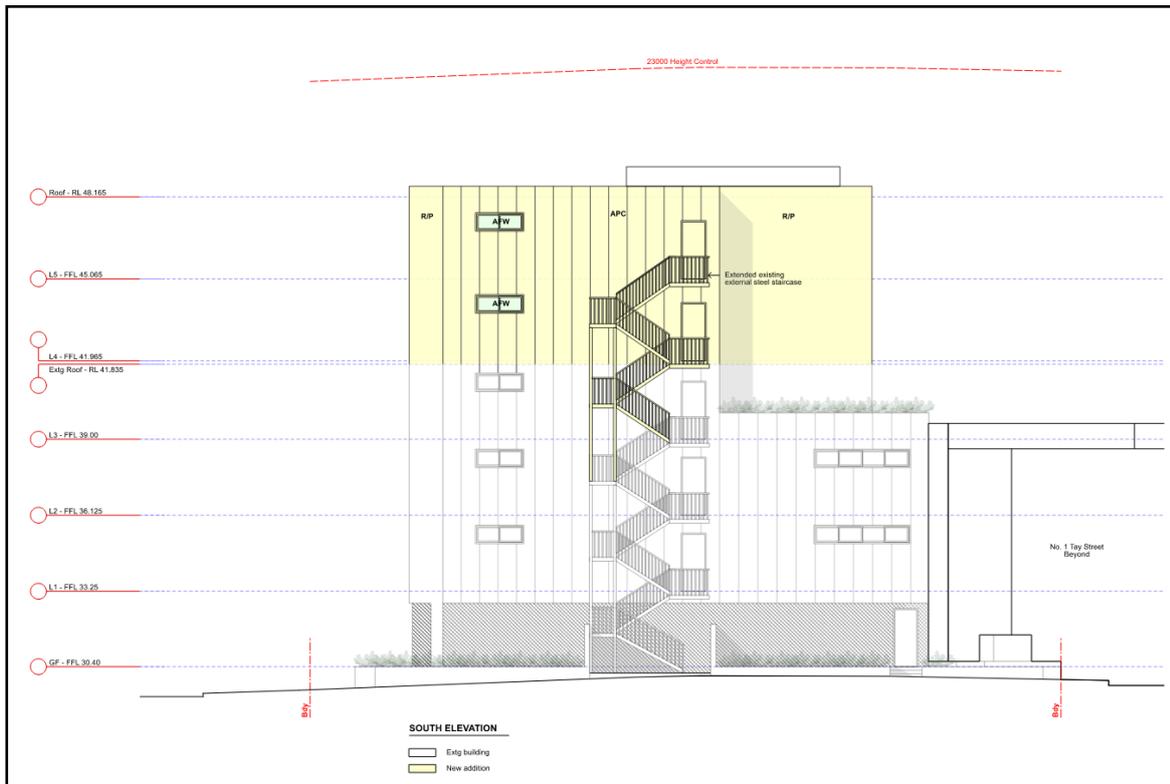


Figure 20: Proposed Section for 2 Anzac Parade, Kensington (Source: Applicant)

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**Figure 21:** Western Elevation - Fronting Anzac Parade towards ES Marks for 2 Anzac Parade, Kensington (Source: Applicant)



**Figure 22:** Southern Elevation fronting Tay Lane for 2 Anzac Parade, Kensington (Source: Applicant)



**Figure 23:** Eastern Elevation fronting Abbotford Lane and 1-3 Tay Street (northeast) for 2 Anzac Parade, Kensington (Source: Applicant)

**5. Notification**

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

- 4/5 Alison Road, Kensington

Issue	Comment
Must provide sufficient parking	<p>The parking rates have been reviewed by Councils Development Engineer; their referral comments can be read in the referrals section of this report.</p> <p><i>The 4-space parking shortfall has now been compensated for by the provision of a single carshare space which will be provided on site within the existing carpark. The site is well situated where a carshare space could provide some benefit to the occupants and local community and is supported by Development Engineering. In similar past applications Development Engineering have accepted a credit of up to 5 spaces for a single carshare space, which would adequately address the 4 space shortfall in this instance.</i></p>

- Unknown address

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Issue	Comment
Privacy and quality of life from the additional levels. Loss of light and air. Negative effect on views.	The privacy impacts of the proposal have been carefully considered, with suitable measures applied to any windows facing neighbouring properties.  The windows facing east, have external aluminium shutters.  The overshadowing impacts have been carefully considered and comply with control requirements.
Structural integrity and safety concerns	The structural elements are appropriately addressed by conditions of development consent including: <ul style="list-style-type: none"> <li>- The works must be conducted in accordance with the BCA Access 2022 Indicative Compliance Report submitted with the application.</li> <li>- All works in accordance with the BCA.</li> <li>- Dilapidation reports conditioned</li> <li>- The works must be inspected during construction</li> <li>- Survey reports throughout construction.</li> <li>- Post Construction Structural Certificate.</li> </ul>
Environmental impact. Local wildlife, affect green spaces and increase pollution.	This proposal is generally fully compliant with the planning controls and any variation has been suitably justified and carefully reviewed.  The effects on local wildlife, green spaces are not a matter of consideration within the DA.  The building itself is not considered to unreasonably increase pollution beyond any standard residential accommodation in accordance with the site zoning.

**6. Relevant Environment Planning Instruments**

**6.1. SEPP (Sustainable Buildings) 2022**

A BASIX certificate is not required for this development

Schedule 7 Dictionary of the Environmental Planning and Assessment Regulations states that:

**BASIX building** means a building that contains at least 1 dwelling, but does not include the following—

- (a) hotel or motel accommodation,
- (b) a boarding house, hostel or co-living housing that—
  - (i) accommodates more than 12 residents, or
  - (ii) has a gross floor area exceeding 300 square metres.

Because this development is for a co-living development with more than 12 residents and/or has a GFA greater than 300m<sup>2</sup>, a BASIX Certificate is not required.

## 6.2. SEPP (Housing) 2021

### Section 45 – definitions

**low-rental residential building** means a building used, during the relevant period, as a residential flat building containing a low-rental dwelling or as a boarding house, and includes a building that—

- (a) *is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or*
- (b) *was used as a residential flat building containing a low-rental dwelling or as a boarding house, but the use has been changed unlawfully to another use, or*
- (c) *is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.*

The existing development was approved as a boarding house, prior to the land use definition changing to the above in 2021. **The existing development will continue to operate in accordance with DA/335/2016 (as modified).**

This subject application has been amended so that the upper two levels proposed will be used as a co-living development. Therefore, the development does not alter, change or reduce any of the existing accommodation on the site, but rather, add to the level of amenity currently afforded to the existing residents through the introduction of additional communal and outdoor living areas.

### Section 46 – Buildings to which Part applies

Pursuant to subsection (1) of section 46, Part 3 of the Housing SEPP applies to low-rental residential buildings on land in the Greater Sydney Region.

As stated above, there is no change to the existing approved use. The additions related to co-living are not subject to this clause.

### Section 47 – Reduction of availability of affordable housing

The criteria established under section 47 in determining whether to grant development consent for the altering or adding to the structure or fabric of the inside or outside of the building, or changing the use of the building to another use.

The proposal does not seek to change the existing residential accommodation established on the site. The proposal is for 2 levels of co-living accommodation and increased amenity, in terms of communal indoor living areas and communal outdoor spaces.

### Chapter 3 – Diverse Housing – Co-Living Housing

Chapter 3, Part 3 of the Housing SEPP relates to development for the purpose of co-living housing. An assessment of the proposal against the relevant standards is provided in the table below.

Section	Design Criteria	Proposal	Compliance
<b>Part 3: Co-living housing</b>			
<b>67</b>	<b>Co-living housing may be carried out on certain land with consent</b>		
	Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing is permitted under another environmental planning instrument, or development for the purposes of residential flat buildings or shop top housing is permitted	Residential Flat Buildings are permitted with development consent under RLEP 2012 in the R3 Zone. Co-living is therefore permitted with development consent on the land.	Complies.

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Section	Design Criteria	Proposal	Compliance
	under Chapter 5 or another environmental planning instrument.		
<b>68</b>	<b>Non-discretionary development standards—the Act, s 4.15</b>		
	(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—		
	(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	The maximum FSR is 2:1 under the RLEP 2012.  The maximum FSR with the 10% bonus is 2.2:1.  The site area is 790m <sup>2</sup> which permits a total GFA of 1738m <sup>2</sup> .  The proposed GFA is 1738m <sup>2</sup> .	Complies.
	(c) for co-living housing containing more than 6 private rooms— (i) a total of at least 30m <sup>2</sup> of communal living area plus at least a further 2m <sup>2</sup> for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area,	The existing boarding house development contains 39 rooms and 60m <sup>2</sup> of communal living space.  The proposal includes 18 additional private rooms, requiring a total of 132m <sup>2</sup> of communal living area.  The proposal provides an additional 72.5m <sup>2</sup> of communal living area with a dimension of 3m, which totals 132.5m <sup>2</sup> and complies with the requirement.	Complies.
	(d) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	The site area is 790m <sup>2</sup> and therefore the required communal open space is 158m <sup>2</sup> .  The existing boarding house development contains 66m <sup>2</sup> of communal open space.  The proposed additions add 104.3m <sup>2</sup> and 9.7m <sup>2</sup> as two additional communal open space areas.  Therefore, the total communal open space provided is 180m <sup>2</sup> .	Complies.
	(e) unless a relevant planning instrument specifies a lower number— (i) for development on land in an accessible area—0.2 parking spaces for each private room, or	The site is in an accessible area, being approx. 330m from ES Marks Light Rail Stop and	<b>Justified by Clause 4.6 variation.</b>

Section	Design Criteria	Proposal	Compliance
	<p>(ii) otherwise—0.5 parking spaces for each private room,</p>	<p>450m from the Moore Park bus interchange.</p> <p>The 18 rooms generate a requirement for 3.6 additional parking spaces.</p> <p>The existing car parking spaces is 8, therefore, based on the whole building, the requirement would be 11.4 spaces. An overall shortfall of 3.4 spaces.</p> <p>A traffic and assessment report has been provided and states that the proposal is appropriate in the context of the site.</p> <p>This has been reviewed by Council’s Development Engineer, who is satisfied with the amended plans showing one of the spaces being converted to carshare space. This gives a credit of 5 spaces.</p>	
	<p>(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,</p>	<p>For development in the HIA, the RCDCP 2013 requires sites in the R3 zone to provide a Gross Landscape Area of 50%.</p> <p>The existing development has approximately 236m<sup>2</sup> landscaped area.</p> <p>The proposal provides a total of 278m<sup>2</sup> of landscaped area.</p> <p>This is a variation of 29.6% to the development Standard.</p> <p>See the key issues section for further detail.</p>	<p><b>Justified by Clause 4.6 variation</b></p>
<p><b>69</b></p>	<p><b>Standards for co-living housing</b></p>		
	<p>(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—</p>		
	<p>(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m<sup>2</sup> and not less than—</p> <p>(i) for a private room intended to be used by a single occupant—12m<sup>2</sup>, or</p>	<p>All private rooms are to be single occupant. The minimum private room floor area is not less than 12m<sup>2</sup>, ranging from 12m<sup>2</sup> to 19.3m<sup>2</sup>.</p>	<p>Complies.</p>

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Section	Design Criteria	Proposal	Compliance
	(ii) otherwise—16m <sup>2</sup> , and		
	(b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m <sup>2</sup> , or (ii) for development on other land—800m <sup>2</sup> , and	The site is within the R3 Medium Density Residential land use zone. The lot area of the subject site is 790m <sup>2</sup> , a 10m <sup>2</sup> (1.27%) non-compliance.  See the clause 4.6 section for additional detail and justification.	<b>Suitably Justified in a Clause 4.6 Statement.</b>
	(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	The development will continue to incorporate an appropriate workspace within the ground floor communal living room area for the manager.	Complies.
	(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	The proposal provides adequate bathroom, laundry and kitchen facilities within each co-living room and the communal living areas for each occupant.	Complies.
	(g) each private room will be used by no more than 2 occupants, and	Private rooms will not be used by more than one occupant.	Complies.
	(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.	The proposal includes eight additional bicycle parking spaces.  The proposal contains 4 motorcycle spots.	Complies.
(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—			
	(a) the front, side and rear setbacks for the co-living housing are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or	The minimum setback requirements for multi-dwelling housing are as follows: <ul style="list-style-type: none"> <li>• Front Setback: 3m</li> <li>• Side Setback: 2m</li> <li>• Rear Setback: 5m</li> </ul> The existing development has setbacks of 2.5m to Anzac Parade, 3m to the Abbotford Lane and 1.5m to Tay Lane. As the proposal seeks to vertically extend the existing floors by an extra two storeys, the existing established site setbacks will be retained.  Please see the key issues section for further detail and justification.	Suitable variation to the front setback.

Section	Design Criteria	Proposal	Compliance
	<p>(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and</p>	<p>The proposal will incorporate two additional levels used as co-living housing with additional communal areas above the existing 4 level development. The proposal maintains the building separation to adjacent residential dwellings to the east (7.15m) and south (4.5m – to the centre of Tay Lane) for the proposed storeys five and six.</p> <p>The separation between developments has been appropriately considered in the design of both the existing and proposed developments and suitable privacy measures are implemented.</p> <p>See the key issues section for more information.</p>	<p>Suitable variation.</p>
	<p>(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and</p>	<p>The communal living area on Level 5 will receive at least 3 hours of direct solar access between 9am and 3pm during mid-winter.</p>	<p>Complies.</p>
	<p>(f) the design of the building will be compatible with—                      (i) the desirable elements of the character of the local area, or                      (ii) for precincts undergoing transition—the desired future character of the precinct.</p>	<p>As the proposal is a natural continuation of the existing development, the aligned design and materiality to the existing building will continue to exhibit desirable elements of the surrounding Kensington area. The proposal will deliver more architecturally designed, high-quality co-living development to the area.</p>	<p>Complies.</p>
<p><b>70</b></p>	<p><b>No Subdivision</b></p>		
	<p>Development consent must not be granted for the subdivision of co-living housing into separate lots.</p>	<p>No subdivision is proposed.</p>	<p>N/A.</p>

Design Excellence Advisory Panel (DEAP)

The Design Excellence Advisory Panel functions as design review panel for the purposes of Chapter 4 of the Housing SEPP.

The DA was referred to the Design Excellence Advisory Panel for advice concerning the design quality of the development. The panel advised that

*The panel is generally in support of the proposal subject to the following items being addressed or further communicated to council's satisfaction:*

- *Communal spaces be reviewed and revised where appropriate to improve usability*
- *Planting areas be reviewed and redesigned to ensure planting viability*
- *Overshadowing impacts be fully demonstrated*
- *Review design of shade pergola at roof*

The detailed comments provided by the DEAP are provided at the Referrals section of this report.

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

### **6.4. 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 only previously been used for residential purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving addition of two stories to an existing boarding house development) are such that any applicable provisions and requirements of the SEPP have been satisfactorily addressed.

### **6.5 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 Anzac Parade, which is a classified road. Council is satisfied that parking access is already provided at the site and will not change. This parking is off a secondary street.

Suitable conditions have been provided and included in this report from TfNSW.

Clause 2.48 of the Transport and Infrastructure SEPP applies to development comprising or involving any of the following:

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

The proposed development involves works above an electricity substation, which is located within the southeastern extent of the property, and as such, clause 2.48 is applicable. The application has been referred to Ausgrid (the relevant electricity supply authority) and a letter of consent has been provided.

#### Clause 2.99 of the T&I SEPP.

The proposed development is located within 25m of the Sydney Light Rail corridor and is likely to include ground penetration deeper than 2m, which requires concurrence from TfNSW in accordance with Clause 2.99 of the T&ISEPP.

Clause 2.99 of the T&ISEPP requires TfNSW to take into consideration:

- the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
- the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
- the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

Concurrence has been provided by TfNSW, subject to Council imposing the conditions provided by TfNSW. In accordance with this requirement, Council has adopted all conditions in TAB A (as written).

## **6.6 SEPP (Industry and Employment) 2021**

### Chapter 3 – Advertising and Signage

The signage proposed (business identification) is exempt from chapter 3 of the SEPP, as per section 3.7. Noting there are no new emplacements proposed within the new upper levels.

## **6.7 Randwick Local Environmental Plan 2012 (LEP)**

The site is zoned Residential R3 Medium Density under Randwick Local Environmental Plan 2012 and the proposal, being for the alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works, is permissible with Council's consent.

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

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Cl. 4.3 Height of Buildings	23m	19.4m.	Yes.
Cl. 4.4 Floor Space Ratio (Maximum)	2.2:1 (including 10% bonus) (1738m <sup>2</sup> )	2.2:1 (1738m <sup>2</sup> )	Yes.

### 6.7.1 Clause 4.6 Exceptions to Development standards

The non-compliances with development standards are discussed in Section 7 of this report.

### 6.7.2 Clause 6.8 – Airspace Operations

In accordance with clause 6.8 of RLEP 2012, the application was referred to the Sydney Airport Corporation. The comments can be seen in the referrals section of this report.

### 6.7.3 Clause 6.11: Design Excellence

Clause 6.11 of RLEP 2012 seeks to deliver the highest standard of architectural and urban design, and applies to the following development:

- (a) on a site that has an area of 10,000 square metres or greater, or
- (b) on land for which a development control plan is required to be prepared under clause 6.12, or
- (c) that is, or will be, at least 15 metres in height.

Noting that the proposed building height is greater than 15m, the consent authority must be satisfied that the proposed development exhibits design excellence.

Council is satisfied that the proposed development exhibits design excellence, as follows:

- The proposal comprises a high standard of architectural design, material, and detailing which are appropriate to the building type and location.
- The form and external appearance of the development will improve the quality and amenity of the public domain.
- The proposed development responds to the environmental and built characteristics of the site and achieves an acceptable relationship with other buildings on the same site and on neighbouring sites.
- The proposed building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security, resource, energy and water efficiency, renewable energy sources, and urban heat island effect mitigation.
- The proposed development will not detrimentally impact on view corridors or landmarks.

The proposal was referred to the Design Excellence Advisory Panel (DEAP). The full comments can be seen in the referrals section of this report. The applicant has made satisfactory changes to address the points raised by the DEAP.

**6.7.4 Clause 6.27 – Affordable Housing Contributions under RLEP 2012.**

Housing Investigation Areas – Affordable Housing Plan (20 June 2023) states for Kensington North Housing Investigation Area there is a 5% of **total floor area** affordable housing contribution.

The total floor area includes the existing development in as well as the new additions proposed under this development application. This is consistent with the applicants SEE, which included the entire development (but based this off GFA instead of TFA).

Councils Special Counsel also provided legal advice on this, noting:

*it is legitimate for Council to apply [the contribution] to the entirety of the property.*

*I note the draft Affordable Housing Plan states on page 11 that “A contribution is to be calculated based on the total floor area used for residential purposes of the residential component of the development..... There are to be no “savings” or “credit” for floor space that already exists on the site, even if the building is adapted ad reused.” The uplift does not seem to apply to the current or actual use, only to a development application seeking to rely on the uplift for those areas within the housing investigation plan.*

Section 2.7 identifies monetary contributions in lieu of affordable housing units (since affordable housing cannot be provided in this co-living development) This must be provided at a rate of \$718.75 per m2 (indexed as required). This it updated twice per year and can be found on Councils website.

Clause in RLEP 2012	Description	Cost
CL 6.27 Affordable housing contribution for other areas	<p>The proposal is within ‘Area 2’ which requires a 5% <b>total residential floor area</b> affordable housing contribution.</p> <p>This 5% contribution will apply to entirety of the building.</p> <p>The total floor area is 2041.89m<sup>2</sup> x (\$718.75) = \$1,467,608.44.</p>	<b>\$1,467,608.44.</b>

The applicant provided a figure of \$488.390.63 in their most recent SEE, dated 27 May 2025. This was based upon the additional two levels, being a supposed total floor area of 679.5m<sup>2</sup>. No floor plans were provided to demonstrate this quantum, and Council does not agree with this calculation.

The Figures demonstrating the Total Floor Area Calculations is shown below for clarity.

D24/25

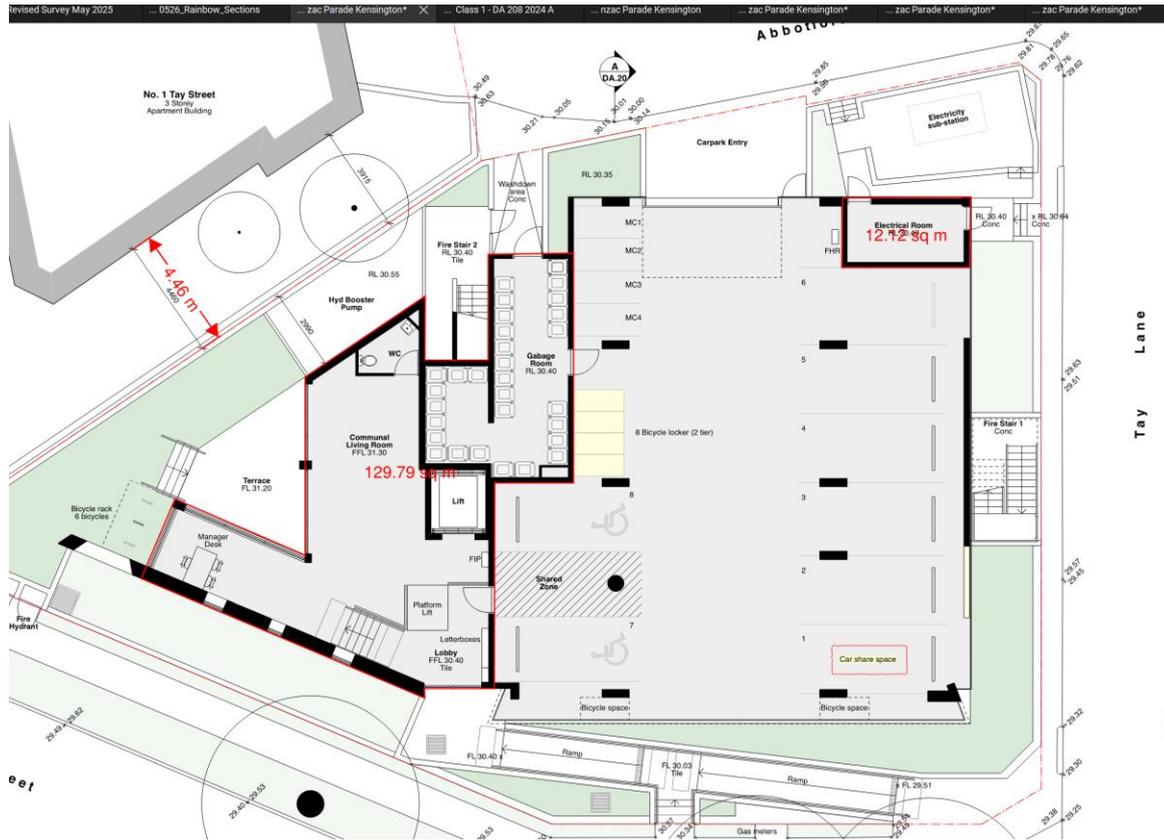


Figure 24: Total Floor Area for the Ground Floor Level (141.91m<sup>2</sup>)

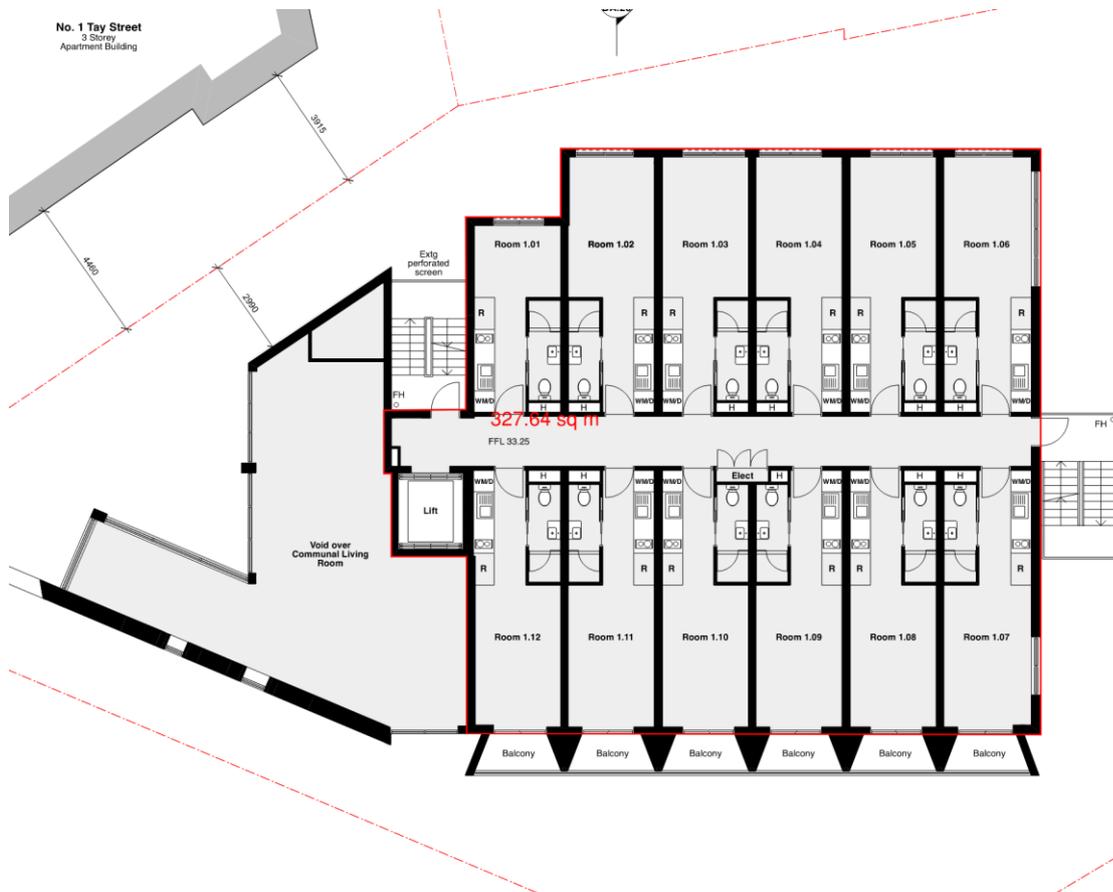


Figure 25: First Floor - Total Floor Area (327.64m<sup>2</sup>)

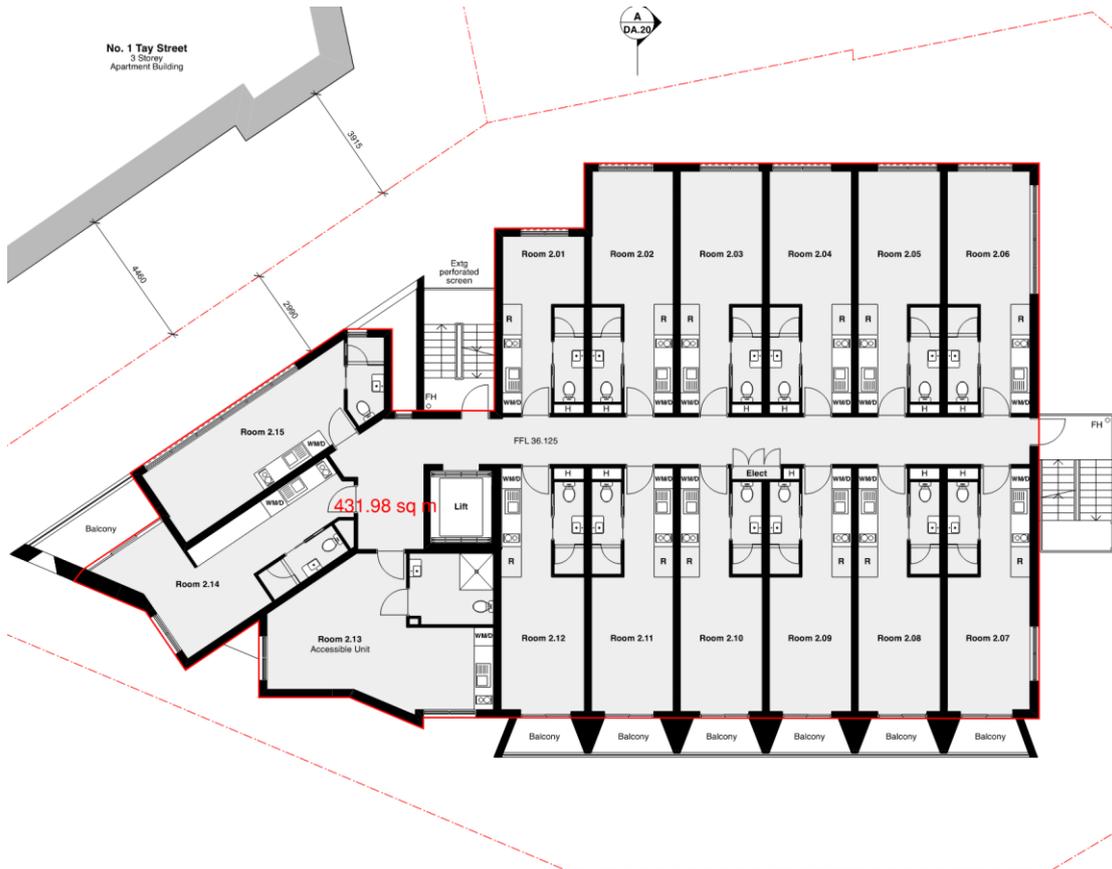


Figure 26: Second Floor - Total Floor Area (431.98m<sup>2</sup>)

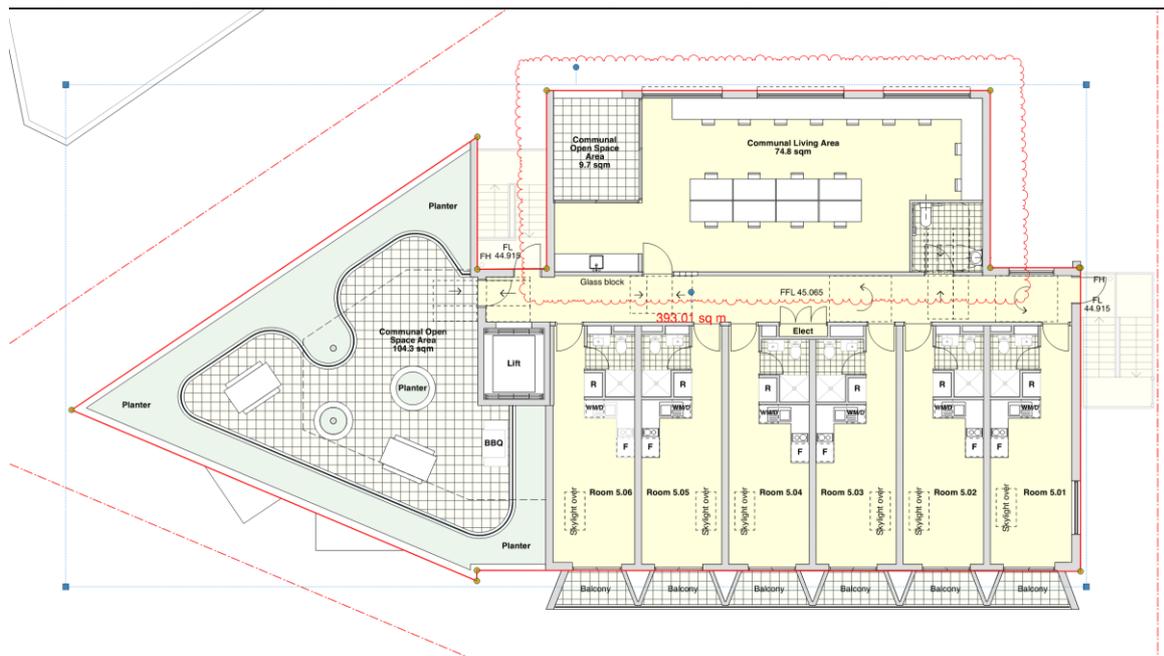


Figure 27: Third Floor - Total Floor Area (372.47m<sup>2</sup>)

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**Figure 28:** Fourth Floor - Total Floor Area (374.88m<sup>2</sup>)



**Figure 29:** Fifth Floor - Total Floor Area (393.01m<sup>2</sup>)

The total floor area has been measured in accordance with the definition in the Randwick Local Environmental Plan 2012 (Division 2, Affordable Housing, Section 6.25):

**6.25 Definitions**

(1) In this division—

*excluded development* means development for the purposes of residential accommodation that will—

- (a) result in the part of the building used for residential accommodation having a total floor area of less than 100m<sup>2</sup>, or
- (b) be used to provide affordable housing, public housing or group homes.

*total floor area* means the sum of the areas of each floor of a building within the outer face of external enclosing walls, including balconies, but excluding the following—

- (a) columns, fins, sun control devices, awnings and other elements, projections or works outside the general lines of the outer face of the external walls,
- (b) the parts of balconies in excess of the minimum area required for the balcony by the consent authority,
- (c) the area of the maximum amount of car parking permitted by the consent authority, including associated internal vehicular and pedestrian access to the car parking,
- (d) areas used for the loading and unloading of goods,
- (e) the part of the building that is excluded development.

(2) This division applies in relation to the total floor area of a building—

- (a) whether the floor area was in existence before, or is created after, the commencement of this division, and
- (b) whether or not the floor area replaces an existing floor area.

(3) To avoid doubt, the demolition of a building, or a change in the use of land, does not give rise to a claim for a refund of a contribution.

**Figure 30: Definition of Total Floor Area**

In accordance with the calculation, the total floor area in m<sup>2</sup> is multiplied by \$718.75.

This calculation is:

**(141.91m<sup>2</sup> + 327.64m<sup>2</sup> + 431.98m<sup>2</sup> + 372.47m<sup>2</sup> + 374.88m<sup>2</sup> + 393.01m<sup>2</sup>) \* 718.75 = \$1,467,608.44.**

A condition of consent has been included in the approval to ensure this contribution is paid.

**7 Clause 4.6 exception to a development standard**

The proposal seeks to vary the following development standards contained within RLEP and the Housing SEPP:

Clause	Development Standard	Proposal	Proposed variation	% variation
<b>Housing SEPP</b>				
Cl. 69 (1)(b) (2) Minimum Lot Size	800m <sup>2</sup>	790m <sup>2</sup>	10m <sup>2</sup>	1.25%
Cl. 68 (2)(e) – Car Parking	11 (11.4) Car Parking Spaces	8 spaces	3 (3.4) spaces	27.27%
Cl. 68 (2)(f) – Landscaping	395m <sup>2</sup>	236m <sup>2</sup>	117m <sup>2</sup>	29.6%

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.

Council required that the applicant provide Clause 4.6 Requests for variations to both Section 68 (non-discretionary development standards) and Section 69 (Standards for Co-living housing) in the Housing SEPP.

## 7.5 Exception to the Minimum Lot Size Development Standard (Housing SEPP) Cl. 69(1)(b)(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 minimum lot size development standard (Section 69 (1)(b)(ii) of the Housing SEPP) by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

There are no stated objectives pertaining to section 69(1)(b)(ii) of the Housing SEPP. The objectives of clause 4.1 Minimum lot size under Randwick Local Environmental Plan 2012 (RLEP 2012) are considered a suitable baseline for assessment in the context of the proposed minimum lot size variation. The objectives and proposal responses are provided below:

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

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

*The proposal does not include subdivision of the site and is below the minimum lot size by an indiscernible amount. The proposal seeks to add additional built form onto an existing development that currently operates as a co-living development. This addition is a natural extension of the existing building and has been designed to respond to the uplift in height and floor space ratio (FSR) that has occurred by way of the amendments to the Randwick LEP for the K2K corridor.*

*The proposal considers the privacy and amenity of the surrounding residential context while guarding and enhancing amenity for residents with the provision of additional communal areas and landscaping.*

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

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

*The existing lot size will facilitate the proposed alterations and additions without impact on natural or cultural features such as heritage items as there are non-immediately adjacent the site. The proposal will not result in the removal of any trees or further impinge on the views of surrounding residents.*

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

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

*The site is entirely suitable for the development given that the existing development has successfully operated since August 2020 and this DA is simply seeking to vertically extend that development, to reflect the changes in the planning controls to support greater density along the light rail link. Being suitably related to 'boarding house', the proposed*

*alterations and additions with regularisation of use to 'co-living housing' will continue site operations for a suitable and appropriate use despite the extremely minor non-compliance in minimum lot size.*

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

## **2. Has the applicant's written request 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 Minimum Lot Size development standard as follows:

*The circumstances for the proposal in consideration of minimum lot size are unique given consent is sought for alterations and additions to an existing co-living development. Under the base build DA (DA/335/2016), approved on 16 May 2017, the site had an area of 803.5m<sup>2</sup> and was not subject of a minimum lot size control under RLEP 2012 nor the 'boarding housing' provisions of the in-force State Environmental Planning Policy (Affordable Rental Housing) 2009.*

*The dedication of a portion of site area to widen Tay Lane, an outcome of the approved base build DA, reduced the site area by 13.5m<sup>2</sup> to 790m<sup>2</sup> and retrospectively made the site area less than that required minimum lot size under section 69(1)(b)(ii) of the Housing SEPP.*

*In consideration of the development history, the proposal seeks to construct two additional storeys of co-living accommodation, comprising 19 new rooms, a new communal living area and additional communal open space for use by all residents. The existing development has operated as co-living housing since its completion in August 2020. The proposal will not undermine the intent of the Housing SEPP lot size controls.*

*The proposal will continue to operate high-quality co-living spaces without occupying more of the site area through:*

- *Provision of additional communal living and open space areas for residents to enjoy.*
- *A design that naturally extends the existing building, maintaining the design language that has defined the gateway to Kensington since its initial construction.*
- *The appropriate densification of the site due to the Housing Investigation Area height of building and FSR increases facilitated by Randwick City Council. It is noted that the proposal is significantly below the 23m height of building control for the site.*
- *Adequate room amenity from a solar access, natural ventilation and acoustic perspective.*

*Therefore, given the proposal is for additional levels of co-living housing on an existing co-living development that will continue to provide amenity and appropriate design outcome for the site, there are sufficient environmental planning grounds to justify the extremely minor contravention to minimum lot size.*

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 Minimum Lot Size 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 Minimum Lot Size development standard.

## **7.6 Exception to the Car Parking Rate Development Standard (Housing SEPP) Cl. 68 (2)(e)**

The applicant's written justification for the departure from the Car Parking 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 Car Parking 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 Housing SEPP does not include specific objectives for the non-discretionary development standard outlining the required car parking requirement. Having regard to the principles of the Housing SEPP, it can be assumed however, that the underlying objectives or intent of the standard are:

- *To ensure that adequate car parking is provided on site to satisfy the parking demands of co-living housing.*
- *Promote alternate forms of transport to "make good use of existing and planned infrastructure and services".*

**Parking demands for Co-living Housing**

A Traffic and Parking Assessment Report (TPAR) was prepared by CJP Consulting Engineers and submitted with the Development Application (DA). The TPAR indicates that the existing development experiences consistently low car park usage, with only one space occupied at any given time. This is attributed to the additional costs associated with leasing a parking space, as well as the low car ownership rates among residents. These factors are not unexpected, given the student demographic and the site's close proximity to extensive public and active transport options, as well as shops, services, and tertiary education institutions.

As acknowledged by Randwick City Council in the Request for Information (RFI) dated 11 March 2025, one car share space is recognised as the equivalent of 5 resident spaces. The existing development includes 8 car spaces. By converting 1 car space to a car share space, the total car parking is equivalent to 12 spaces, which exceeds the requirement under the SEPP.

In addition, it is noted the proposal provides the additional alternative forms of parking including 4 motorcycle spaces and 16 bicycle parking spaces for use by residents and visitors thereby contributing to a broader range of transport options for the site.

The proposed car parking provision therefore complies with the minimum car parking requirements for the site, through the combination of 7 private car spaces and 1 shared car space.

**Promoting Alternate Forms of Transport**

As detailed in the TPAR, the proposal is in a highly accessible area, serviced by the Light Rail, regular bus services and an extensive bicycle lane network, as well as 4 GoGet carshare pods proximate to the site. In particular, the following public transport services operate in proximity of the site:

- Light Rail
  - ES Marks Light Rail Stop – 330m (or 4 minutes) walking distance and providing services between Circular Quay and Kingsford.
  - Royal Randwick Light Rail Stop – 600m (or 6 minutes) walking distance and providing services between Circular Quay and Randwick.

- Bus Stop
  - Anzac Parade – 160m (or 2 minutes) walking distance
  - Alison Road Bus Interchange – 450m (or 6 minutes) walking distance

The TPAR identifies that research suggests that developments located within 800m of a light rail stop and 400m of a bus stop, influence travel mode choice. As such, the proposed development offers excellent potential for future residents to utilise public transport for their trip to/from key points of interest.

In addition to the public transportation options nearby, the area also has excellent pedestrian connectivity, including well-maintained and safe footpaths leading to the aforementioned bus stops. The surrounding footpaths are of high quality, with adequate widths and pram ramps at most intersections to ensure accessibility.

According to the Randwick City Council's cycling and walking map:

- Anzac Parade and Alison Road feature dedicated off-road shared paths for both cyclists and pedestrians.
- Doncaster Avenue is a designated on-road cycle route.

These cycling routes connect to the broader network, offering access to key destinations such as the Randwick Shopping Centre, the University of New South Wales, Coogee Beach, and Sydney's CBD. As such, the site is well integrated into the bicycle network, with direct connections to cycle-friendly roads off Anzac Parade.

Having regard to the above, the proposal intends to capitalise on existing infrastructure and encourage the use of alternate forms of transport as outlined in the Green Travel Plan, Key initiatives include:

- Installation of public transport routes
- Installation of bicycle network maps
- Preparation of a Transport Access Guide
- Monitoring and review of Green Travel Plan

In summary, despite the non-compliance with the car parking requirement, the purpose of the standard can still be achieved as the proposal will adequately meet the parking demands for co-living housing and will promote sustainable forms of transport.

Assessing officer's comment: In conclusion, the applicant's written request has adequately demonstrated that compliance with the car parking 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 Car Parking development standard as follows:

- The development is consistent with the Objects of the Environmental Planning and Assessment Act 1979 by promoting the orderly and economic use and development of the land by maximising opportunities to provide housing diversity for the community within proximity of public transport, active transport infrastructure, and tertiary education.
- The circumstances of the proposal are unique given consent is sought for alterations and additions to an existing co-living development. It is considered a better outcome for the site to realise its development potential anticipated by the planning controls, rather than remain underdeveloped and fail to operate at its full capacity, thereby missing the opportunity to contribute to the much-needed housing supply in this strategic, transport orientated location.

- Strict compliance with the car parking standard would prejudice the development's ability to achieve the objects of the Environmental Planning and Assessment Act 1979 (EP&A Act) as outlined below:
  - The provision of 12 car parking spaces as recommended by the Housing SEPP cannot be accommodated within the existing ground floor car park and would require an additional above ground level to be constructed, where there is no demonstrated demand for such parking.
  - It will adversely impact the financial viability of the development and therefore the orderly and economic use and development of the land.
  - The increased car parking provision would likely need to be provided in lieu of much needed housing.
  - The excessive on-site parking would not promote alternate green modes of travel, including walking, cycling and public transport.
  - It is noted that the current car parking spaces within the site are under-used at present and there is a very low demand for car parking spaces from the occupants. The existing car parking arrangements and the provision of a new car share space is suitable for the nature and use of the site, having regard to the highly accessible location.

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

## Conclusion

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

### 7.4 Exception to the Landscaping Rate Development Standard (Housing SEPP) Cl. 68 (2)(f)

The applicant's written justification for the departure from the Landscaping 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 Landscaping development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case because the relevant objectives of the standard are still achieved.

The Housing SEPP does not include specific objectives for the non-discretionary development standard outlining the required landscaped area requirement. Having regard to the principles of the Housing SEPP, it can be assumed however, that the underlying objectives or intent of the standard is to ensure that adequate landscaping is available for residents to provide a reasonable level of amenity and to contribute to the enhancement of the locality.

The proposal seeks, among other objectives, to develop co-living housing that includes a variety of communal spaces complemented by landscaped areas designed to encourage resident interaction. This approach aims to create a high-quality living environment while enhancing the streetscape.

Given that the proposal involves alterations and additions, the ground-floor landscaping has already been maximised, with opportunities for landscaping extending along the site's frontages to Anzac Parade, Tay Street, Tay Lane, and Abbotsford Lane. Additionally, a landscaped communal open space exists along the northern property boundary at ground level, as well as landscaped planters on Level 3 of the existing building. The current landscaped area covers 236m<sup>2</sup>, which represents 29% of the total site area.

The proposal aims to significantly enhance the landscaping on the site through the introduction of a Level 5 landscaped terrace. This terrace covers a total area of 104.3m<sup>2</sup>, with 42m<sup>2</sup> dedicated to landscaped planter boxes, accounting for 5.3% of the total site area. The planters are designed to provide shade, greenery, and soften the built form. The landscaping incorporates a mix of plant species, selected to suit the aspect, soil, and micro-climate conditions, making them a key element in enhancing the amenity of the space.

While the site does not meet the RCDCP landscaped open space area requirement, it does exceed the communal open space control outlined in the Housing SEPP, which is considered a key indicator of appropriate amenity for residents. Furthermore, the site benefits from close proximity to an abundance of open spaces, including Tay Street Reserve, Moore Park, Centennial Park, Fearnley Grounds, Robertson Road Fields, ES Marks Athletics Field, and the Sydney Cricket Ground.

Given the existing built form and the fact that the proposal is limited to alterations and additions, it is not feasible to achieve a significantly larger landscaping area on the site. Enforcing such controls would require fundamental changes to the site's planning and could prevent future development without a complete site redevelopment.

In summary, despite a minor non-compliance with the landscaped area standard, the intent of the standard has been met. The landscaping quality and diversity have been maximized within the constraints of the site, providing a suitable level of amenity for residents while enhancing the streetscape character.

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

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

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

- The development achieves the underlying objective or purpose of the development standard as the proposal seeks to enhance landscaping within the constraints of the site, by complementing the existing landscape provisions with a Level 5 landscaped terrace, which meets the intent of the Housing SEPP by ensuring suitable resident amenity and streetscape enhancement is achieved.
- The proposed development is for alterations and additions to an existing co-living development. At present, the landscaped area is generally limited to the ground plane and level 3 planters. The proposal significantly enhances the current offering through the provision of a new landscaped terrace at level 5., which will be equipped with BBQ facilities, seating and the like, which provides for a much higher level of amenity than what is currently afforded to the residents.
- The proposal exceeds the communal open space control outlined in the Housing SEPP, which is considered a key indicator of appropriate amenity for residents. Furthermore, the site benefits from close proximity to an abundance of open spaces, including Tay Street Reserve, Moore Park, Centennial Park, Fearnley Grounds, Robertson Road Fields, ES Marks Athletics Field, and the Sydney Cricket Ground.
- Given the existing built form on the site, it is not feasible to achieve a significantly larger landscaping area on the site. Enforcing such controls would require fundamental changes to the site's planning and could prevent future development without a complete site redevelopment.
- The development is consistent with the objectives of the R3 Medium Density zone.

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 landscaping development standard.

Council notes, that the applicant has not included some areas of "landscaped open space" as per the definition in the C2 – Medium Density DCP.

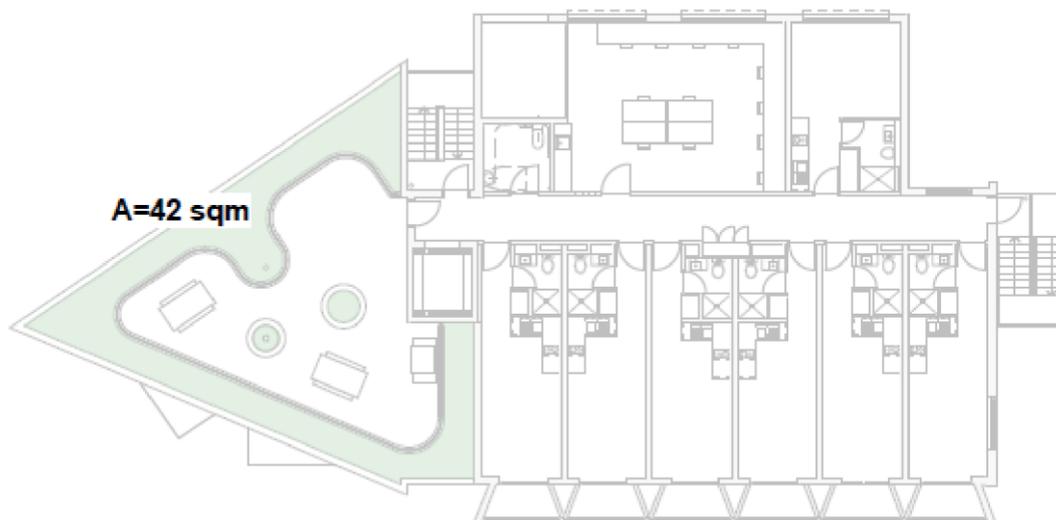
iii) The following items are considered to constitute landscaped open space:

- (a) "Landscaped area" as defined in RLEP (including areas of deep soil planting)
- (b) Outdoor recreation areas including communal open space (not located on the roof)
- (c) Unroofed swimming pools
- (d) Clothes drying areas
- (e) Barbecue areas and ancillary structures
- (f) Footpaths
- (g) Landscaped podium areas (not more than 1.5m above ground level existing) and water tanks at ground level
- (h) Paved areas
- (i) Areas covered by shading structures that are located at ground level and substantially open on the side elevations without wall enclosure, such as cabanas, pergolas, canopies and the like but excluding verandas, balconies and decks (see clause iv) below .

iv) Landscaped open space area excludes:

- (a) Areas used for parking
- (b) Driveways
- (c) Balconies
- (d) Rooftop gardens
- (e) Areas used for garbage or recycling material
- (f) Areas occupied by storage sheds and the like

**Figure 31:** Definition of Landscaped Open Space (Source: RDCP 2013)



**Figure 32:** Level 5 Plan - showing areas of landscaping included by the applicant (Source: Applicant)

As per this definition, more of the communal open spaces on level 5 could have been included in the calculations. An email was sent to the applicant on 25 May 2025 asking them to consider this definition and update the Clause 4.6 variation.

The applicants calculations have been used in the approval, however, council notes that the additional areas not included in the calculation provide additional justification for the variation under Clause 4.6.

**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 Landscaping development standard.

**8 Development control plans and policies**

**8.1 Randwick Comprehensive DCP 2013**

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

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

**8.1.1 Part B3: Ecologically Sustainable Development**

Council is satisfied that the proposed development meets the relevant ESD requirements in accordance with Part B3 of RDCP 2013.

**8.1.2 Part B4: Landscaping and Biodiversity**

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013. Refer to detailed assessment by Council’s Landscape Officer at Referrals section of this report.

**8.1.3 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 detailed assessment by Council’s Landscape Officer at Referrals section of this report.

**8.1.4 Part B6: Recycling and Waste Management**

Council is satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**8.1.5 Part B7: Transport, Traffic, Parking and Access**

Council is satisfied that the proposed development meets the parking requirements in accordance with Part B7 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**8.1.6 Part B8: Water Management**

Council is satisfied that the proposed development meets the water management requirements in accordance with Part B8 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**8.1.7 Part B9: Management Plan**

A Plan of Management has been submitted by the applicant, adequately addressing all elements outlined in Section B9 of the RDCP. A relevant condition has been included to ensure that the Plan of Management is to be adhered to throughout the operation of the premises.

**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 environmental impacts of the proposed development on the natural and built environment have been addressed in this report.

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Section 4.15 'Matters for Consideration'	Comments
the natural and built environment and social and economic impacts in the locality	The proposed development is consistent with the dominant character 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	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

### 9.1 Discussion of key issues

#### Gross Floor Area

The revised documentation has demonstrated compliance with the Floor Space Ratio Development Standard.

#### Car parking shortfall

Part E7 (Housing investigation areas) of the Randwick Development Control Plan specifies that that zero parking is required for student co-living accommodation. The submitted traffic report has adopted this clause as being the relevant planning instrument to justify the lack of additional parking.

Development Engineering did not support this view for the following reasons;

- Part E7 is an interim policy and has no statutory recognition pursuant to the EP&A Act 1979.
- Nowhere in the SEE or the traffic report does it state the 18 rooms will be solely dedicated for students. As the proposed co-living appears to be more aimed at key workers there is no guarantee it will be occupied by students at all.
- If not occupied for students, then parking is to be provide at the rate of 0.2 spaces per room as specified in the Housing SEPP resulting in the requirement of 4 parking spaces for the 18 additional rooms.
- As this has not been provided and no justification has been provided for the variation, the non-provision of the 4 spaces is not supported by Council.

The above reasons were communicated with the applicant in a RFI, and **it was considered by Council’s Development Engineer that the shortfall can be addressed by the provision of a carshare space (a credit of up to 5 spaces for a single carshare space).**

The carshare space can be provided and managed by the co-living managers to be exclusively used by the occupants. Alternatively, the space can be made available to a commercial carshare operator (eg GoGet), in which case the space would have to be made available to the public as well.

The applicant has proposed one car sharing space in the amended plans. A Clause 4.6 variation request has also been received and is supported. Overall, the variation to the parking rate is supported by Council.

### Landscaping provision

The original proposal did not include a Clause 4.6 Variaton Request for the non-compliance with Clause 68 (2)(f) of the SEPP (Housing) 2021. The variation to the development standard is 30%, providing 236m<sup>2</sup> instead of 395m<sup>2</sup>. The Clause 4.6 request was requested by Council in addition to other changes in the landscaping, including:

- Increase the size of the planting areas on the rooftop terrace.
- Investigate new tree planting on Tay lane.

Amended plans were received on 08 April 2025, as shown in the Figures below. These were received by Council's Landscape Officer, who supports the amended plans, subject to the conditions provided. The amended plans include two new trees at the ground floor level.

The Landscape Officer referral comments can be read in the relevant section of this report, see a key extract below:

*while strict numerical compliance with Council's DCP controls for Landscape Area has not been achieved, this is due to this proposal comprising alterations and additions rather than a whole new building, with the existing footprint, structures, essential services and similar preventing any opportunities where this could be increased further.*

Additionally, the Clause 4.6 Request indentifies the suitable reasons for a variation:

*The proposal aims to significantly enhance the landscaping on the site through the introduction of a Level 5 landscaped terrace. This terrace covers a total area of 104.3m<sup>2</sup>, with 42m<sup>2</sup> dedicated to landscaped planter boxes, accounting for 5.3% of the total site area. The planters are designed to provide shade, greenery, and soften the built form. The landscaping incorporates a mix of plant species, selected to suit the aspect, soil, and micro-climate conditions, making them a key element in enhancing the amenity of the space.*

*While the site does not meet the RCDCP landscaped open space area requirement, it does exceed the communal open space control outlined in the Housing SEPP, which is considered a key indicator of appropriate amenity for residents. Furthermore, the site benefits from close proximity to an abundance of open spaces, including Tay Street Reserve, Moore Park, Centennial Park, Fearnley Grounds, Robertson Road Fields, ES Marks Athletics Field, and the Sydney Cricket Ground.*

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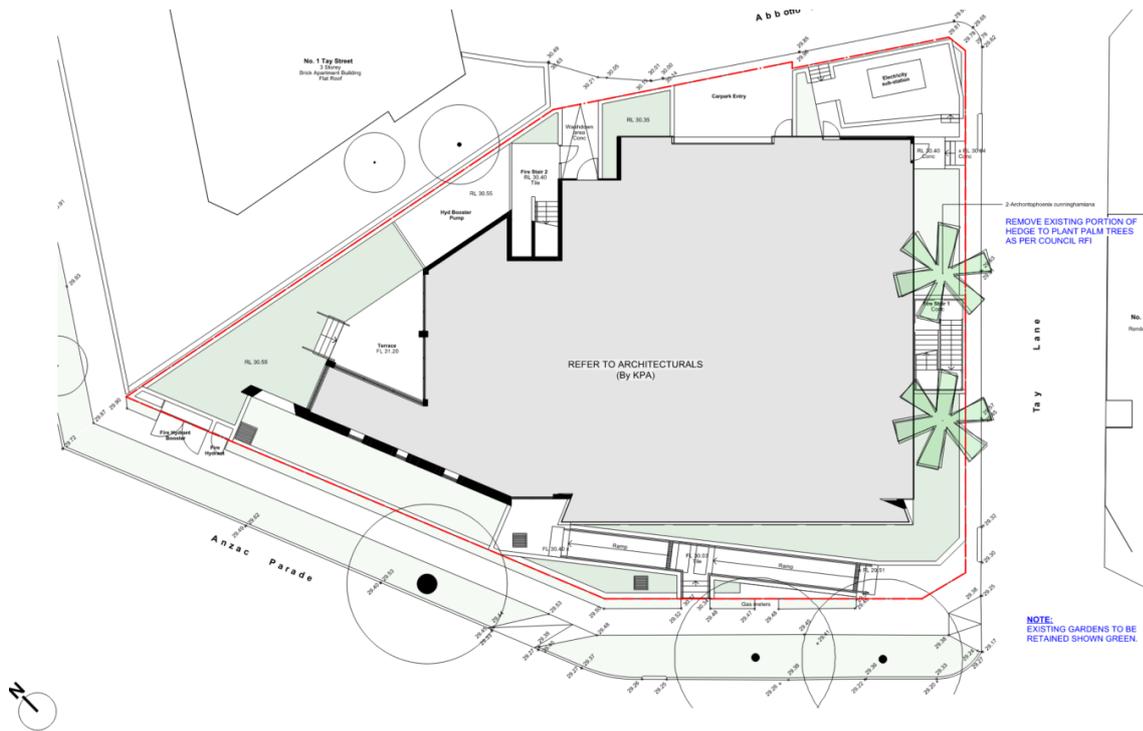


Figure 33: Ground Floor Landscape Plan (Source: Applicant)

**Kensington Rooftop**  
2-8 Anzac Parade, Kensington

Architects  
Ken Powell Architect



**PLANTING SCHEDULE**

Latin Name	Common Name	Quantity	Pot Size	Spread	Height
Ajuga 'Alba'	Ajuga 'Alba'	15	140mm	750	200
Archontophoenix cunninghamiana	Bangalow Palm	2	100lt	5000	10000
Baeckea imbricata	Heath Myrtle	21	200mm	700	950
Blechnum cartilagineum	Crista Fern, Water Fern	10	200mm	750	1300
Crassula 'Max Cook'	Crassula	30	300mm	700	850
Crassula ovata 'Gollum'	Crassula Gollum	1	100lt	990	900
Doryanthes excelsa	Gymea Lily	7	100lt	1600	2000
Lomandra 'Evergreen Baby'	Lomandra 'Evergreen Baby'	79	140mm	700	350
Viola hederacea	Native Violet	10	140mm	655	350

TOTAL = 127/175 NATIVE PLANTS (73%)

Figure 34: Terrace Landscape Plan (Source: Applicant)

Building separation

The proposed building separation must be considered in accordance with the Apartment Design Guide (ADG). This proposal is unique because there is an existing co-living development on the site and the recent changes in planning controls have allowed an uplift on a recently constructed development.

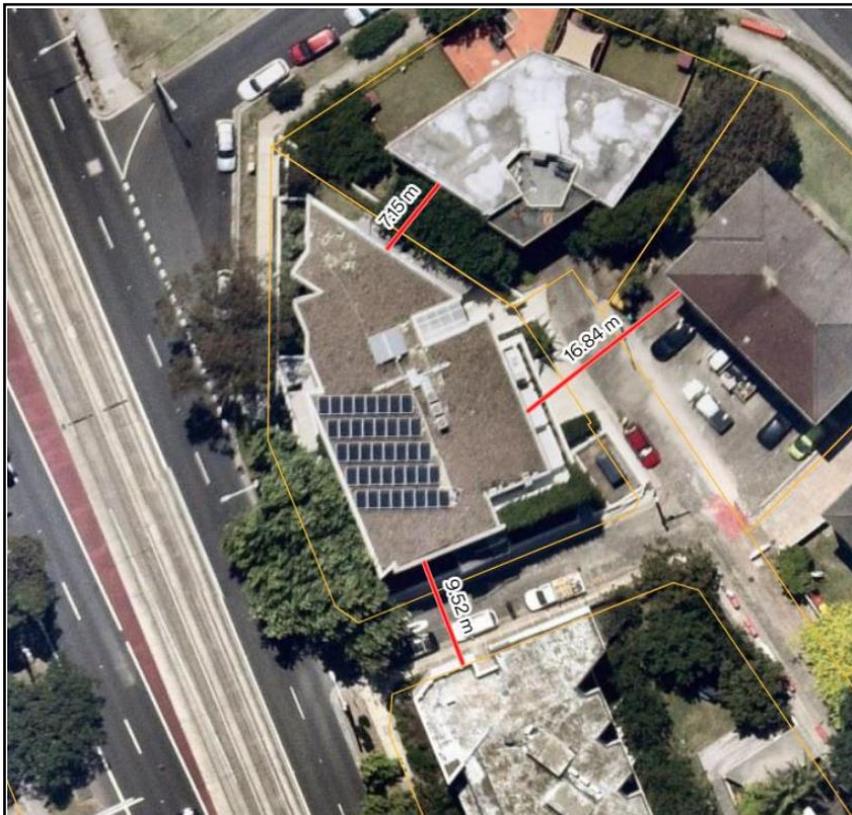
Council considers it is unfeasible to demolish the existing building and redevelop the site as a whole. The proposed design relies on the existing building footprint and envelope, seeking to vertically extend this.

The design is mindful of proximity to adjoining properties, providing additional privacy and mitigation measures where appropriate.

The relevant building separation controls under the ADG are:

- 18m between habitable rooms/balconies
- 12m between habitable and non-habitable rooms
- 9m between non-habitable rooms

The figure below demonstrates the existing building separation.

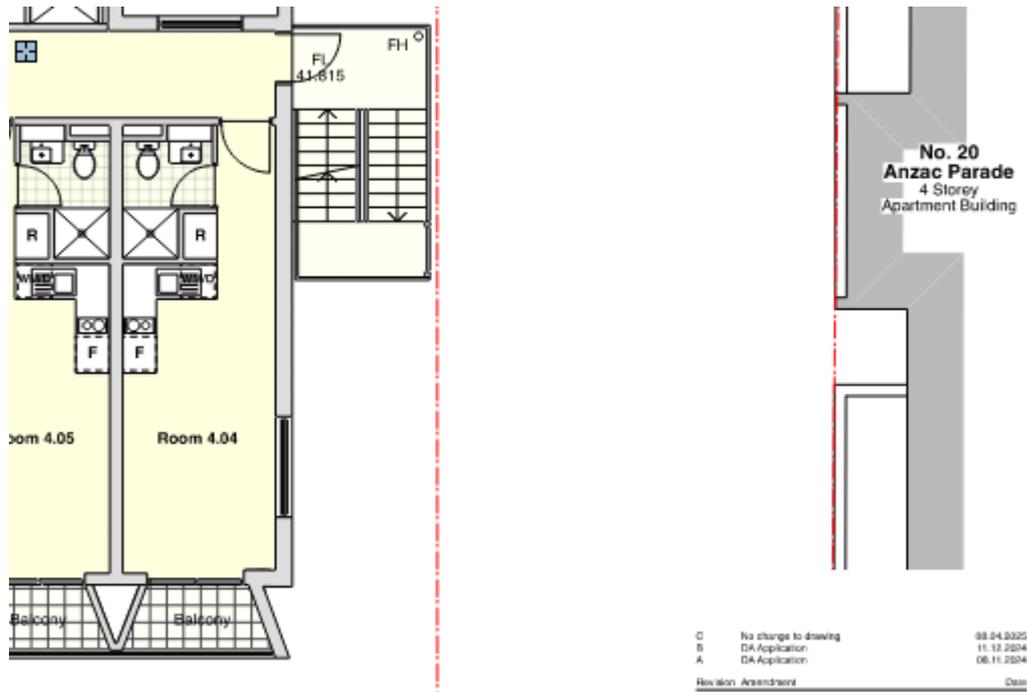


**Figure 35:** Proposed Building separation (Source: Applicant)

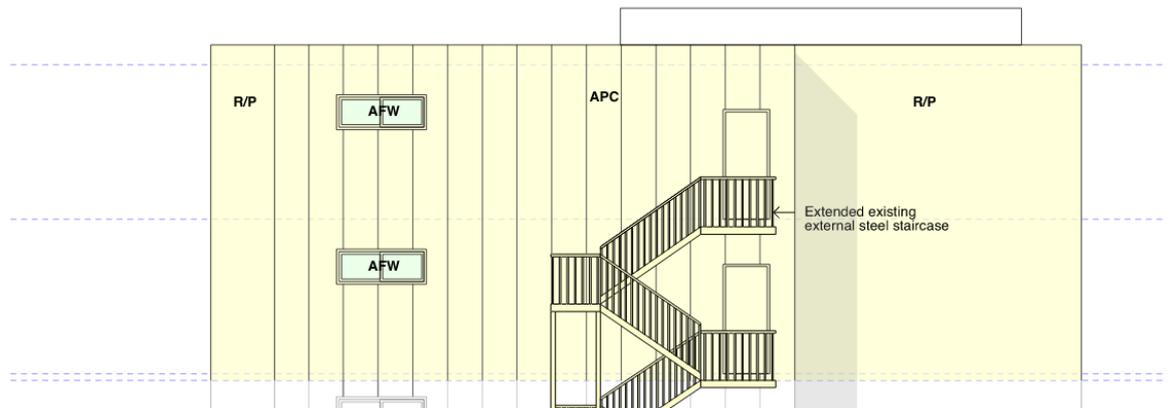
It is noted that only three of the new rooms (4.12, 4.04 and 5.02) will have an interface with the adjacent properties.

Room 4.04 and 5.02 have high-sill windows to the south elevation for natural ventilation and daylight access. These windows are not the principal windows for the rooms but are secondary windows, with the primary elevation being to the west.

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**Figure 36:** Room 4.04 showing the Balcony to the west and that the window facing 20 Anzac Parade is a secondary window and will have a sill height of 1.6m



**Figure 37:** High sill windows facing South (Source: Applicant)

Privacy screening via Aluminium Panel Cladding will be incorporated for room 4.12 as the habitable room with direct interface with 3 Tay Street. This is consistent with what has been incorporated at lower levels, this screening will assist mitigate potential future privacy issues with development of 3 Tay Street as envisioned under Part E7 of RCDCP 2013 . At present, there are large trees which are located along the sites boundary providing additional privacy. See images below for mitigating circumstances for room 4.12.



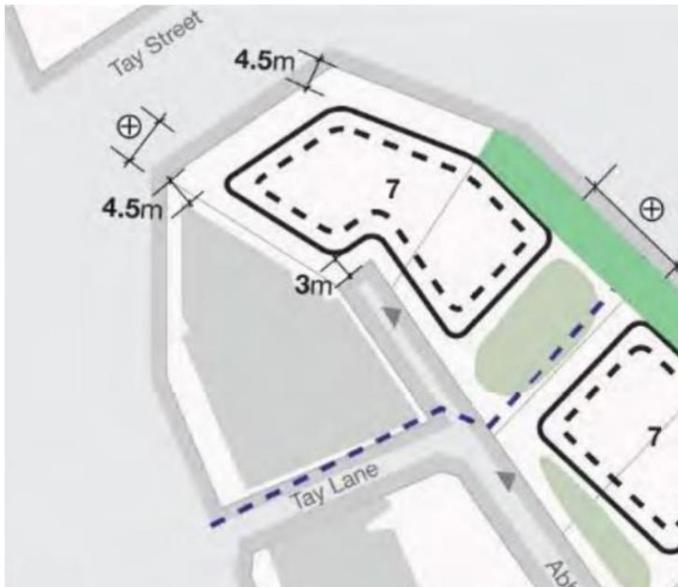
**Figure 38:** Historical image (2019) of Southwestern frontage of 1-3 Tay Street, demonstrating the interface and noting the trees are now mature.



**Figure 39:** Existing windows with aluminium screens preventing privacy concerns (this will be applied to the room proposed above)

Rooms addressing Abbotford Lane and Tay Lane are not anticipated to result in adverse or unacceptable impacts beyond that which has already been contemplated for the site, given the additional separation provided by the interceding roads.

It is also noted that Council’s DCP nominates setbacks below that of the ADG for adjacent sites (refer figure below) so there is an assumed acceptance that privacy can be dealt with through appropriate design measures, such as those provided for within the development.



**Figure 40:** Kensington North DCP Block Plan (Source: RCC)

Front setback

Part C2 (Medium Density) of the RDCP sets out the following front setback controls:

*The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street.*

*Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.*

The proposal is for a vertical extension of the existing development and does not expand the existing footprint. The addition is consistent with the setback below, approved under DA/335/2016.

Across much of Anzac Parade on the development site the setback is greater than 3m. The unique configuration of the block results in a frontage along two facades. The façade along the western section (parallel to Anzac Parade) fully complies with the front setback control. The proposed numerical non-compliance is limited to the northwestern façade, fronting Tay Street and Anzac Parade, as shown in the Figures below.



**Figure 41:** Demonstrating what a 3m setback requires and which sections already comply (Source: Applicant)

Design measures were explored by the applicant to understand what changes are required for a fully compliant design.

Option 1 – remove the triangular projections, as shown below:



**Figure 42:** Montage of the proposal, removing the triangular projections (Source: Applicant)

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**Figure 43:** Demonstrating the changes required to meet the numerical front setback (Source: Applicant)

Option 2 – setback level 4 by approx. 0.5m from the front façade of the levels below.



**Figure 44:** Montage of setting back level 4 by 0.5m (Source: Applicant)

Notwithstanding the above revisions are not considered to enhance the appearance, as shown in the Figure above noting that it would solely relate to the deletion of minor projecting elements that improve the articulation of the facade. There are also additional engineering costs and requirements for the stormwater impacts of introducing a podium feature, with the setback shown above.

Overall, the setbacks are considered appropriate on merit as they align with the established setbacks of the existing development. The strict adherence with the numerical control is

unnecessary and doesn't provide improved environmental benefits as shown above. The non-compliance is minor, being limited to a partial area of one level.

### 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:

**Commercial Development** means development for any of the following purposes:

- (a) amusement centre,
- (b) animal boarding or training establishment,
- (c) centre-based child care facility,
- (d) co-living housing,**
- (e) commercial premises (being business premises, office premises or retail premises),
- (f) entertainment facility,
- (g) function centre,
- (h) highway service centre,
- (i) marina,
- (j) medical centre,
- (k) registered clubs,
- (l) restricted premises,
- (m) service station,
- (n) sex services premises,
- (o) tourist and visitor accommodation, other than bed and breakfast accommodation and farm stay accommodation,
- (p) veterinary hospital,
- (q) wholesale supplies.

**residential accommodation** has the same meaning as in the Standard Instrument, but does not include co-living housing.

**Figure 45:** Clarification that Residential Accommodation does not include co-living housing (Source: HPC Order 2024).

As shown above, the proposed co-living is identified as commercial development and therefore, the following calculation applies.

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## What are the contributions rates?

The Housing and Productivity Contributions base rates in each region and the types of development they apply to are set out in the table below (see clause 7 of the order).

Table 1: Housing and Productivity Contributions base rates as they applied on 1 October 2023

Greater Sydney		
Development class	Amount	Unit
Residential subdivision	\$12,000	new dwelling lot
Medium or high-density residential development	\$10,000	new dwelling
Commercial development	\$30	square metre of new GFA
Industrial development	\$15	square metre of new GFA

**Figure 46:** The applicable contribution rate is the commercial development row (Source: HPC Guide, July 2024).

The additional Gross Floor Area is:

- Level 4 – 343m<sup>2</sup>
- Level 5 – 245.2m<sup>2</sup>

**= 588.2m<sup>2</sup> x \$32.13 = \$18,900.42.**

### Desired Future Character

The Draft Part E7 Housing Investigation Areas DCP ('the Interim DCP') is an interim policy and has not yet been formally exhibited for community and stakeholder consultation. Whilst the Interim DCP has no statutory recognition pursuant to the *Environmental Planning & Assessment Act 1979*, the intent of the policy is to be used as a development guide in line with the increased height and FSR controls under RLEP.

## 10 Conclusion

That the application for *alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works.* be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that:
  - It provides for the housing needs of the community within a medium density residential environment.
  - It provides a variety of housing types within a medium density residential environment.

- It enabled other land uses that provide facilities or services to meet the day to day needs of residents.
- It recognises the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- It protects the amenity of residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape

## Appendix 1: Referrals

### 1. External referral comments:

#### 1.1. Sydney Airport



Reg No.: 25/0252  
Your Reference: DA/1219/2024  
To: RANDWICK CITY COUNCIL & NSW PLANNING  
PORTAL

Monday, 31 March 2025

#### Notice to Proponent of Property Development

Dear Sir / Madam,

Application for approval of a controlled activity pursuant to:

*s.183 Airports Act - Notification of decision under Reg 15A (2) of the Airports (Protection of Airspace) Reg's 1996*

Proposed Activity: PROPERTY DEVELOPMENT  
Location: 2 ANZAC PARADE KENSINGTON  
Proponent: RANDWICK CITY COUNCIL & NSW  
PLANNING PORTAL  
Date: 26/03/2025

Sydney Airport received the above application from you.

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 45.72 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 50.00 metres Australian Height Datum (AHD).

In my capacity as Manager, Airfield Spatial & Technical Planning and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 50.00 metres AHD.

The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.

---

Sydney Airport

Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 45.72 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

**Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.**

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

Information required by Sydney Airport prior to any approval is set out in Attachment A.

"Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).

The height of the prescribed airspace at this location is 90.00 metres above AHD.

#### **Planning for Aircraft Noise and Public Safety Zones:**

Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

## 1.2. Transport for NSW

### Transport for NSW



Mr Joseph Edmonds  
Senior Environmental Planning Officer  
Randwick City Council  
30 Frances Street  
Randwick NSW 2031

Dear Mr Edmonds

#### **Development Application for 2 Anzac Parade, Kensington (DA/1219/2024) Concurrence Letter**

Thank you for your correspondence via the ePlanning portal (ref: CNR-78324) on 29 January 2025, requesting Transport for NSW (TfNSW) to provide concurrence, pursuant to the provisions of the State Environmental Planning Policy (Transport & Infrastructure) 2021 (T&ISEPP).

#### **Protection of Sydney Light Rail (SLR) Corridor**

The proposed development is located within 25m of the Sydney Light Rail corridor and is likely to include ground penetration deeper than 2m, which requires concurrence from TfNSW in accordance with Clause 2.99 of the T&ISEPP. Clause 2.99 of the T&ISEPP requires TfNSW to take into consideration:

- (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
  - i. the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
  - ii. the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

TfNSW has undertaken an assessment of the information provided in accordance with the provisions outlined in the T&ISEPP and has decided to grant concurrence to the development proposed in development application DA/1219/2024. This concurrence is subject to Council imposing the conditions provided in **TAB A**.

Should Council choose not to impose the conditions provided in **TAB A** (as written), then concurrence from TfNSW has not been granted to the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 8.12 of the Environmental Planning and Assessment Act 1979, which requires Council to give notice of that appeal to a concurrence authority. TfNSW therefore requests that Council comply with this requirement should such an event occur.

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Transport for NSW  
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OFFICIAL

### 1.3. Ausgrid

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**This letter is Ausgrid's response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.**

Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Ausgrid's Network Standards can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

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

[www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

Should you have any enquiries, please contact Ausgrid at [Development@ausgrid.com.au](mailto:Development@ausgrid.com.au)

Regards,  
Ausgrid Development Team

D24/25

## 1.4. Design Excellence Advisory Panel

### PANEL COMMENTS

#### 1. Context and Neighbourhood Character

*The proposal is to add two additional floors to the existing using materials and expression consistent with the current building. In this sense it maintains character.*

*The panels suggests the shadow impacts to the southern neighbour be clearly measured prior to approval*

#### 2. Built Form and Scale

*The proposal reduces scale at the northern end of the building creating communal open space which is positive*

*The five story expression to the east and western facades does not seem to create undue impact and is consistent with the existing expression.*

#### 3. Density

*The increase in density also creates increase in communal amenity through study and outdoor amenity spaces*

#### 4. Sustainability

*As a part of replacing the solar panels bio-solar which integrates rooftop planting would provide increased plant coverage for the site where it is currently not achieving the requirements.*

#### 5. Landscape

*The additional landscape shown at the communal rooftop area seems to propose some planting areas with insufficient planting capacity. These should be reconsidered or clearly demonstrated as effective.*

#### 6. Amenity

*The new internal and external communal amenity spaces are supported. However it would be good to re-examine these spaces to ensure that they can be easily furnished, avoid conflict between open spaces and bathroom windows, are visible from inside and outside, provide a combination of spaces that are not all affected by circulation. And where the balcony is located better shape this space to provide opportunities for natural ventilated work areas and / or allows more ventilation and light to the circulation space.*

#### 7. Safety

*No further comments*

#### 8. Housing Diversity and Social Interaction

*No further comments*

#### 9. Aesthetics

*The proposal extends the existing building by two levels and maintains the existing materiality and expression. As such it is consistent with previously approved aesthetics.*

*The new awning over the outdoor communal space is a positive amenity however could be better integrated into the roof form.*

## SUMMARY AND RECOMMENDATIONS

The panel is generally in support of the proposal subject to the following items being addressed or further communicated to council's satisfaction:

- Communal spaces be reviewed and revised where appropriate to improve usability
- Planting areas be reviewed and redesigned to ensure planting viability
- Overshadowing impacts be fully demonstrated
- Review design of shade pergola at roof

## 2. Internal referral comments:

### 2.1. Environmental Health

#### **Documents Reviewed:**

- Environmental Health Request for information Referral -1 Trim document D05567618.
- Acoustic report prepared by Acoustic Logic Report no 20250404RWA RW Trim Document -D05680669.
- Air quality assessment report was prepared by Sydney Environmental Group dated 2 April 2025 Trim Document D05680668.

#### **Noise Impacts**

A review of the acoustic report has been undertaken, the report confirms the proposed addition of two storeys will comply with the relevant noise criteria. However the report does not include recommendations for plan of management for noise for the outdoor common areas. In this regard conditions will be included to address noise impacts from the communal area. Conditions will also include recommendations for an acoustic report at cc stage when mechanical ventilation equipment has been determined.

#### **Air quality impacts**

An air quality impact report has been provided and confirms that the adjoining roads will not have an impact on air quality of the additional residential units. No further information is required at this time.

### 2.2. Development Engineer

#### **General Comments**

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

#### **Drainage Comments**

Stormwater runoff from the redeveloped portion of the site shall be discharged to the existing stormwater system that drains to Anzac Parade in general accordance with the Stormwater plans by ITM design sheets 1-4 Rev A dated 18-10-2024

#### **Transport for NSW Comments**

The applicant is advised that Anzac Parade/ is classified as a state road at this location and consequently a referral to Transport for NSW may be required.

The assessing officer is to refer the application back to Development Engineering once RMS comments have been received to ensure consistency with Engineering conditions.

#### **Parking Comments**

*The parking issues raised in previous email from Development Engineering dated 5/03/2025 (Ref D05636580) have now been satisfactorily addressed.*

*The 4-space parking shortfall has now been compensated for by the provision of a single carshare space which will be provided on site within the existing carpark. The site is well situated where a carshare space could provide some benefit to the occupants and local community and is supported by Development Engineering. In similar past applications Development Engineering have accepted a credit of up to 5 spaces for a single carshare space, which would adequately address the 4 space shortfall in this instance.*

*The carshare space can be provided & managed by the boarding house managers to be exclusively used by the occupants of the boarding house or alternatively may be made available to a commercial carshare operator (eg Goget), in which case the space would be made available to the general public as well. Either option would be acceptable to Development Engineering. As these details have not been provided yet, a suitable condition has been included in this report to allow for both options and ensure the carshare space is provided.*

### **Waste Management Comments**

*The application is not proposing any enlargement of the existing waste storage area on the ground floor which is currently indicated on the submitted plans to accommodate about 30 x 240L bins. In order to address the extra waste generated by the additional 19 rooms, a private waste contractor is proposed to collect the waste once a week in addition to the weekly Council collection being a total of two collections per week.*

*The applicant's adopted waste generation rate appears to be based on the bin rate specified in Part B6 of the DCP for boarding rooms with their own kitchens being 1 x 240L bin per 2 units for garbage and 1 x 240L bin per 2 units for recycling.*

*This is identical to the bin rate for residential apartments and from Development Engineering's perspective may overestimate the waste generated. Council's Waste Management Guidelines do specify a different waste generation rate for boarding houses based on per occupant being;*

- 9L/occupant/day for garbage
- 3L/occupant/day for recycling.

*The 9L per occupant rate has since been revised down to 7-8L per occupant per day to take into account some diversion for FOGO.*

*Based on data provide by Council's Waste Management depart FOGO is to be provided at the rate of 1 x 240L FOGO buns per 15 rooms.*

*Under the above rates and assuming Councils standard collection frequencies the waste generated by the development has been revised & the development would actually only require the following*

- 12 x 240L bins for garbage (assuming standard weekly collection)
- 11 x 240L bins for recycling (assuming standard fortnightly collection)
- 4 x 240L bins for FOGO (assuming standard weekly collection)

### **Total = 27 x 240L Bins**

*As the existing waste bin rom is able to accommodate 30 x 240L bins then adopting the above rate would mean there may no need to have an additional private collection each week.*

*Waste is currently presented to Abbotford Lane and this is proposed to continue with the proposed development. Notwithstanding the above, an additional private collection each week may still provide some benefit from an amenity perspective as it will reduce the amount of bins being presented to the laneway on collection days.*

*The waste management plans submitted with the application shall not be approved as part of this development consent. An amended Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste.*

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

### **2.3. Landscape Officer**

On Council's Tay Street verge, close to the corner of Anzac Parade and just to the north of the existing pram ramp is a large and mature, 15m tall *Eucalyptus nicholii* (Willow Leafed Peppermint) of good health and condition that is automatically protected by the DCP due to its location on public property.

It has a presence in the streetscape due to a combination of its size and prominent position at this busy intersection, and as it also assists with integration of the existing multi-story building into the surrounding area, needs to remain as part of any proposal.

Its crown was previously lifted above the road and footpath, as well as away from the existing 4 story building as part of the previous development consent (DA/335/2016), and while there are no works in close proximity at ground level in this area that would pose a direct threat, secondary impacts such as potential damage by trucks, machinery, deliveries and similar do need to be considered, and as the eastern aspect of its crown also encroaches close to/partially above the building, minor clearance pruning may be needed to avoid interference with the two new floors, scaffolding and similar.

On this basis, relevant protection measures (including a bond) have been imposed, together with those that require any further pruning only be undertaken by Council, wholly at the applicant's cost, with the same also applying to the two mature *Platanus x hybrida* (Plane Trees) that are further to its south, within the Anzac Parade verge, towards the corner of Tay Lane.

There is no established vegetation within this development site at all, with the only planting comprising recently installed lower, decorative type species within planter boxes around the Anzac Parade frontage, then screening hedges and juvenile palms fronting Tay Lane and Abbotford Lane, all of which were provided as part of the previously approved scheme (DA/335/2016), but as none of them even meet the minimum dimensions for formal protection by the DCP, no comments are made regarding their status.

In accordance with Council's RFI, these current Landscape Plans (rev F) have now been amended so that the bench seats that were previously shown around the perimeter of the Level 5 Outdoor Communal Open Space have been deleted, which then allows the planter boxes here to be expanded out wider to accommodate an increase in plant material, which is now considered to be a more acceptable treatment.

Lastly, in order to maximise benefit from the only areas of deep soil at this site, being within the raised planters around the perimeter of the Ground Floor Level fronting Tay Lane & Abbotford Lane, the plans also indicate that parts of the existing low hedging will be replaced in some areas with feature palms as these can attain a greater height at maturity and will be more in scale with the building, with it noted that these palms did also form part of the original landscape scheme for DA/335/2016, and these will assist with presentation of the rear of the building, is supported.

Despite Council's RFI of 11/03/25 requesting new canopy trees for these planters, there is insufficient space both above and below ground here due to the restrictions created by the masonry walls and actual building, as well as the likelihood that they would encroach over the laneways and affect solar access by blocking the upper storey windows, so the palms described above are deemed to be a more suitable solution for this situation.

Both the SEE and Clause 4.6 submission detail that while strict numerical compliance with Council's DCP controls for Landscape Area has not been achieved, this is due to this proposal comprising alterations and additions rather than a whole new building, with the existing footprint, structures, essential services and similar preventing any opportunities where this could be increased further.

While the applicant was also requested to investigate the potential for a bio-solar scheme combined with additional planting at the rooftop level, the applicant has responded at section 5, point 2 of their Clause 4.6 – Variation Request – Landscape Requirements, that this would not be feasible given the significant costs associated with retro-fitting, and the fact that the rooftop will contain numerous facilities and utilities such as stormwater, PV panels, ductwork, AC units, skylights, a lift overrun and similar, and as this proposal involves 'co-living' rather than a traditional strata scheme which factors in ongoing maintenance costs and requirements, this means it would create an additional burden on the operator, so is not recommended in this case.

## 2.4. Building and Compliance

### **Comments:**

*The building comprises the following classification:*

*Building classification*

*Class 3 (boarding House)*

*Class 7b Carpark*

*Rise in storeys six (6)*

*Type of construction Type A*

*The 'BCA and Access 2022 Indicative Compliance Report' that have been submitted with this application are 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 BCA Compliance 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.*

## 2.5. Strategic Planning

The following assessment was provided on the original application. Much of these concerns have been addressed in amended plans:

- *The proposed design includes approximately 17.5sqm of increased landscape area via planter boxes on Level 5. As a percentage, this landscape area is effectively 2.8% of the proposed 614.5sqm GFA increase. While it is agreed that requiring full compliance with the DCP provisions for an alteration and addition would be 'onerous and unnecessary', it is challenging to see how providing only 2.8% of the total floor area increase in landscaping is appropriate against the objectives of the DCP.*

- *Further, the design does not result in any increase in deep soil permeable areas nor tree canopy. When compared to the approved landscape plans (provided via DA/335/2016) that indicate 35% landscaped area at ground, the built outcome has been substantially reduced, with the positioning of the electrical substation, additional hardstand areas and a metal canopy (approved via DA/335/2016/A). In addition, three out of four palm trees that are included on the approved plan set along Abbotford Lane have not been planted on the site nor has the planter box on level 2 fronting Anzac Parade (DA/335/2016/A).*
- *With regards to landscaping area associated with the alterations and additions, well proven solutions such as planting on structure and roof top planting should be incorporated into the design to result in increased landscaping.*
- *With regards to deep soil and tree canopy, enforcement of tree plantings and the planter box required under previous approvals is strongly recommended as a starting position. While the SEE states that additional tree planting at ground will 'prohibit future development', it is recommended that existing ground floor areas (which are true deep soil) such as those along Tay Lane be investigated for new tree canopy planting.*

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

Car Parking

D24/25



**CLAUSE 4.6 – VARIATION REQUEST – CAR PARKING**

**State Environmental Planning Policy (Housing) 2021 – Request to Vary Clause 68(2)(e)**

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Address: 2 Anzac Parade, Kensington

Date: 27 May 2025

Prepared for: HSN Property Group Pty Ltd

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**INTRODUCTION**

This clause 4.6 Variation Request (**Request**) has been prepared by Urbis Ltd (**Urbis**) and accompanies the Development Application (DA) for a co-living development at 2 Anzac Parade, Kensington (**the site**).

This request seeks to vary the car parking non-discretionary standard prescribed for co-living development under clause 68(2)(e) of the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*. This Request is made pursuant to the mechanisms in clause 4.6 of the *Randwick Local Environmental Plan 2012 (RLEP 2012)*.

Since this is a non-discretionary development standard, this request has been submitted as a precautionary measure.

**SITE AND PROPOSED DEVELOPMENT**

**1. Site Description**

The key features of the site are summarised in the following table.

Table 1: Site & Surrounding Area Description

Feature	Description
Street Address	2 Anzac Parade, Kensington
Legal Description	Lot 21 DP 1239513
Site Area	790m <sup>2</sup>
Easements and Restrictions	The site does not contain any encumbrances.
Existing Development	Four storey co-living housing development managed by UKO Group Services.
Adjacent land uses North	Public open space including the Tay Street Reserve (local heritage item), Moore Park and Robertson Road Fields are immediately proximate to the site. Sydney Cricket Ground is in the wider northern context.
Adjacent land uses East	Residential development is immediately east of the site, with Centennial Park proximate to the site across Alison Road.
Adjacent land uses South	Residential uses immediately adjoin the site with the ES Marks light rail stop and the Kensington town centre being proximate to the site.

Clause 4.6 Variation - Car Parking\_Revised (1).docx

Feature	Description
Adjacent land uses West	Immediately west is Anzac Parade followed by the ES Marks Athletics Field and a portion of the Moore Park Golf Course. Further west is the Moore Park Supa Centre.
Public Transport	The site is approximately 330m from the ES Marks light rail stop and approximately 450m from the Moore Park Busway Interchange. Both public transport hubs provide sustainable travel options to the Sydney CBD, UNSW and Kingsford.

Figure 1: Site Aerial



Source: Urbis, 2024

Figure 2: Survey Plan



Source: Roger Stephen Boxall

Figure 3: Surrounding Context



Picture 1: Abbotford Land facing the site

Source: Google Maps



Picture 2: View South along Anzac Parade

Source: Google Maps



Picture 3: Tay Street Reserve

Source: Google Maps



Picture 4: ES Marks Light Rail Stop

Source: Google Maps

## 2. Proposed Development

A summary of the key features and details of the proposed development (including land use and works) is as follows:

- Demolition of existing roof and site preparation works.
- Structural upgrades to facilitate the increase in height such as strengthening of the existing screw piles.
  - Note: Design of the structure upgrades will be confirmed at detailed design phase.
- Construction of two additional levels of co-living housing containing:
  - 18 co-living rooms.
  - Additional communal living area space.
  - Additional communal open space area with associated barbeque and seating.
  - Services including elevator access and stairwell access.
- Modification to existing ground level car parking to incorporate bicycle storage area and a car share space.

## PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

### 3. What is the planning instrument you are seeking to vary?

State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

### 4. What is the site's zoning?

The site is zoned R3 Medium Density Residential under the *Randwick Local Environmental Plan 2012* (RLEP 2012).

### 5. What is the development standard to be varied?

Car parking rate as prescribed under clause 68(2)(e) of the Housing SEPP as follows:

**68 Non-discretionary development standards—the Act, s 4.15**

**(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—**

**(e) unless a relevant planning instrument specifies lower number—**

**(i) for development on land in an accessible area—0.2 parking spaces for each private room, or**

**(ii) otherwise—0.5 parking spaces for each private room,**

### 6. Type of development standard?

Clause 68(2)(e) is a numerical control.

### 7. What is the numeric value of the development standard in the environmental planning instrument?

The site is in an accessible area provided its proximity to the ES Marks light rail station (approx. 330m), Royal Randwick light rail station (approx. 600m) and a bus stop along Anzac Parade (approx. 160m). The Housing SEPP prescribes that the number of car parking spaces to be provided for development on land in an accessible area is 0.2 spaces for each private room, unless a relevant planning instrument specifies lower number.

A "relevant planning instrument" is defined in the Housing SEPP Dictionary as meaning "an environmental planning instrument, other than this Policy, or a development control plan, if any, that applies to the land on which the development will be carried out".

The Randwick Comprehensive Development Control Plan 2013 (RCDCP) does not specify car parking rates for 'co-living' but does specify a rate for 'boarding houses' and 'student accommodation' of 1 car space per 5 bedrooms and 1 space per resident caretaker. Applying this rate results in similar level of parking compared to the Housing SEPP but is not less than. On this basis, the Housing SEPP rate is the applicable rate to be applied to the development.

Therefore, the Housing SEPP specifies that if car parking is provided at a rate of 0.2 parking spaces per private room, compliance with this standard prevents the consent authority from imposing more onerous requirements.

### 8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

The proposed development is for 18 co-living rooms, generating a requirement of 3.6 car spaces.

The existing development includes 8 car spaces. The proposal does not include additional car parking spaces but proposes to introduce one car share parking space. Therefore, the onsite parking rate will remain

at 8 car spaces including one car share space. Council has advised that one car share space is equivalent to 5 car parking spaces, therefore, in effect achieving the requirement generate by the proposed development.

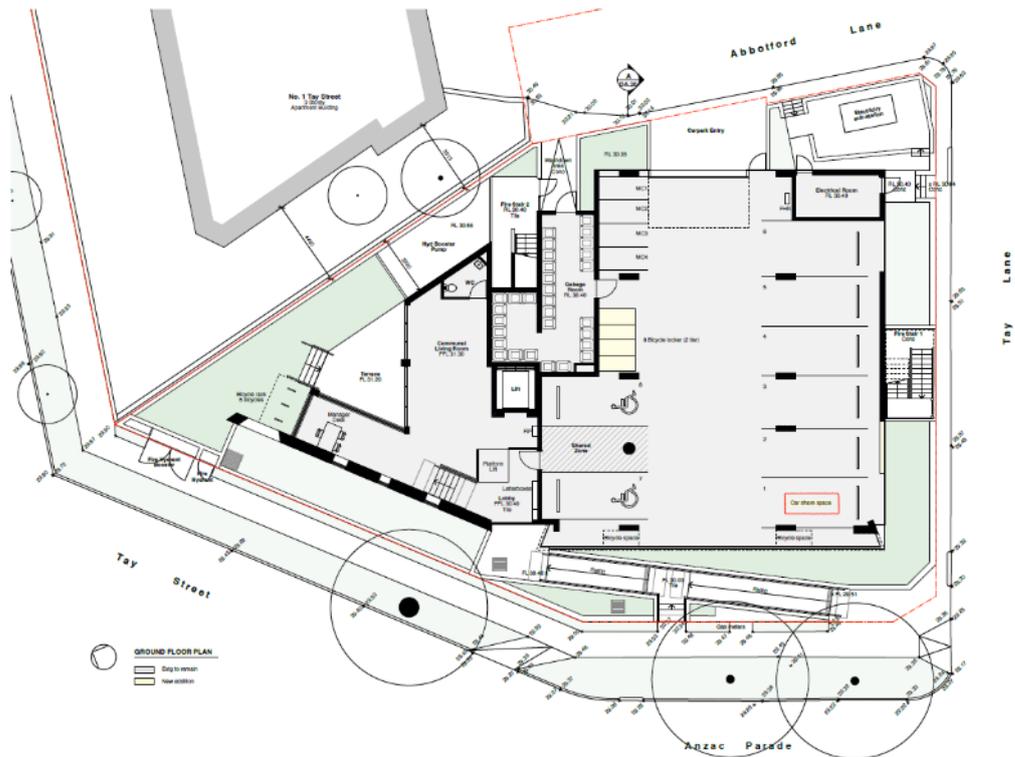
On a whole of site bases, the existing and proposed development provides 57 rooms equating to 11.4 spaces (or 11 spaces).

The car parking is provided as 7 private car spaces and 1 car share space (which is equal to 5 spaces). In total the proposal therefore provides 12 car spaces which complies with the minimum car parking requirement.

As a precautionary, Council has requested a clause 4.6 variation to Clause 68(2)(e) of the Housing SEPP. If all car spaces were deemed single spaces (and no car share was provided) there would be a shortfall of 3 parking spaces which results in a 27% variation to the non-discretionary standard.

**9. Visual representation of the proposed variation**

Figure 4 Ground Floor Car Parking Plan



Source: KPA Architects

## JUSTIFICATION FOR THE PROPOSED VARIATION

### 10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

Key Questions	Response
<p>a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</p>	<p>The Housing SEPP does not include specific objectives for the non-discretionary development standard outlining the required car parking requirement. Having regard to the principles of the Housing SEPP, it can be assumed however, that the underlying objectives or intent of the standard are:</p> <ul style="list-style-type: none"> <li>▪ To ensure that adequate car parking is provided on site to satisfy the parking demands of co-living housing.</li> <li>▪ Promote alternate forms of transport to <i>"make good use of existing and planned infrastructure and services"</i>.</li> </ul> <p><b>Parking Demands for Co-Living Housing</b></p> <p>A Traffic and Parking Assessment Report (TPAR) was prepared by CJP Consulting Engineers and submitted with the Development Application (DA). The TPAR indicates that the existing development experiences consistently low car park usage, with only one space occupied at any given time. This is attributed to the additional costs associated with leasing a parking space, as well as the low car ownership rates among residents. These factors are not unexpected, given the student demographic and the site's close proximity to extensive public and active transport options, as well as shops, services, and tertiary education institutions.</p> <p>As acknowledged by Randwick City Council in the Request for Information (RFI) dated 11 March 2025, one car share space is recognised as the equivalent of 5 resident spaces.</p> <p>The existing development includes 8 car spaces. By converting 1 car space to a car share space, the total car parking is equivalent to 12 spaces, which exceeds the requirement under the SEPP.</p> <p>In addition, it is noted the proposal provides the additional alternative forms of parking including 4 motorcycle spaces and 16 bicycle parking spaces for use by residents and visitors thereby contributing to a broader range of transport options for the site.</p> <p>The proposed car parking provision therefore complies with the minimum car parking requirements for the site, through the combination of 7 private car spaces and 1 shared car space.</p> <p><b>Promoting Alternate Forms of Transport</b></p> <p>As detailed in the TPAR, the proposal is in a highly accessible area, serviced by the Light Rail, regular bus services and an extensive bicycle lane network, as well as 4 GoGet carshare pods proximate to the site. In particular, the following public transport services operate in proximity of the site:</p> <ul style="list-style-type: none"> <li>▪ Light Rail             <ul style="list-style-type: none"> <li>– ES Marks Light Rail Stop – 330m (or 4 minutes) walking distance and providing services between Circular Quay and Kingsford.</li> <li>– Royal Randwick Light Rail Stop – 600m (or 6 minutes) walking distance and providing services between Circular Quay and Randwick.</li> </ul> </li> <li>▪ Bus Stop             <ul style="list-style-type: none"> <li>– Anzac Parade – 160m (or 2 minutes) walking distance</li> <li>– Alison Road Bus Interchange – 450m (or 6 minutes) walking distance</li> </ul> </li> </ul>

Key Questions	Response
	<p>The TPAR identifies that research suggests that developments located within 800m of a light rail stop and 400m of a bus stop, influence travel mode choice. As such, the proposed development offers excellent potential for future residents to utilise public transport for their trip to/from key points of interest.</p> <p>In addition to the public transportation options nearby, the area also has excellent pedestrian connectivity, including well-maintained and safe footpaths leading to the aforementioned bus stops. The surrounding footpaths are of high quality, with adequate widths and pram ramps at most intersections to ensure accessibility.</p> <p>According to the Randwick City Council's cycling and walking map:</p> <ul style="list-style-type: none"> <li>▪ Anzac Parade and Alison Road feature dedicated off-road shared paths for both cyclists and pedestrians.</li> <li>▪ Doncaster Avenue is a designated on-road cycle route.</li> </ul> <p>These cycling routes connect to the broader network, offering access to key destinations such as the Randwick Shopping Centre, the University of New South Wales, Coogee Beach, and Sydney's CBD. As such, the site is well integrated into the bicycle network, with direct connections to cycle-friendly roads off Anzac Parade.</p> <p>Having regard to the above, the proposal intends to capitalise on existing infrastructure and encourage the use of alternate forms of transport as outlined in the Green Travel Plan (refer Appendix C). Key initiatives include:</p> <ul style="list-style-type: none"> <li>▪ Installation of public transport routes</li> <li>▪ Installation of bicycle network maps</li> <li>▪ Preparation of a Transport Access Guide</li> <li>▪ Monitoring and review of Green Travel Plan</li> </ul> <p>In summary, despite the non-compliance with the car parking requirement, the purpose of the standard can still be achieved as the proposal will adequately meet the parking demands for co-living housing and will promote sustainable forms of transport.</p>
<p>b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</p>	<p>Not relied upon.</p>
<p>c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)</p>	<p>Not relied upon.</p>
<p>(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?</p>	<p>Not relied upon.</p>
<p>e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?</p>	<p>Not relied upon.</p>

## 11. Are there sufficient environmental planning grounds to justify contravening the development standard?

There are sufficient environmental planning grounds to justify the proposed variation to the development standard, including the following:

- The development is consistent with the Objects of the *Environmental Planning and Assessment Act 1979* by promoting the orderly and economic use and development of the land by maximising opportunities to provide housing diversity for the community within proximity of public transport, active transport infrastructure, and tertiary education.
- The circumstances of the proposal are unique given consent is sought for alterations and additions to an existing co-living development. It is considered a better outcome for the site to realise its development potential anticipated by the planning controls, rather than remain underdeveloped and fail to operate at its full capacity, thereby missing the opportunity to contribute to the much-needed housing supply in this strategic, transport orientated location.
- Strict compliance with the car parking standard would prejudice the development's ability to achieve the objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as outlined below:
  - The provision of 12 car parking spaces as recommended by the Housing SEPP cannot be accommodated within the existing ground floor car park and would require an additional above ground level to be constructed, where there is no demonstrated demand for such parking.
  - It will adversely impact the financial viability of the development and therefore the orderly and economic use and development of the land.
  - The increased car parking provision would likely need to be provided in lieu of much needed housing.
  - The excessive on-site parking would not promote alternate green modes of travel, including walking, cycling and public transport.
  - It is noted that the current car parking spaces within the site are under-used at present and there is a very low demand for car parking spaces from the occupants. The existing car parking arrangements and the provision of a new car share space is suitable for the nature and use of the site, having regard to the highly accessible location.
- The development is consistent with the objectives of the R3 Medium Density zone as set out in **Section 12**.

In conclusion, there are sufficient environmental planning grounds to justify contravening the development standard.

## 12. Is there any other relevant information relating to justifying a variation of the development standard?

### Alignment with Zone Objectives

The site is zoned R3 Medium Density Residential and the objectives are:

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

The proposal is consistent with the land use objectives of the R3 Medium Density zone and the proposed variation to the car parking non-discretionary development standard does not hinder the proposal's ability to satisfy the objectives as:

- The proposal contributes to much needed housing needs of the community by increasing the amount of dwellings in a medium density and highly accessible location, with appropriate car parking that meet the needs of residents.
- Contributes to diversity of housing choice, by providing co-living housing opportunities within a highly accessible area in proximity to public and active transport options, as well as shops, services, and tertiary education institutions.
- Responds to the unique opportunity to accommodate additional housing without resulting in environmental and amenity impacts of surrounding residents.
- Results in a design that naturally extends the existing building, maintaining the design language that has defined the gateway to Kensington since its initial construction. Provision additional car parking in an above ground arrangement is likely to result in negative urban design outcomes and streetscape impacts.
- Contributes to housing affordability through the introduction of co-living housing type that maximises the site's potential to accommodate much needed housing in a Council identified Housing Investigation Area (HIA).

#### **Public Benefit**

There would be no public benefit in maintaining the development standard in this case, as:

- Maintaining the standard would not deliver additional diverse co-living accommodation, and as such there would continue to be additional strain on the private rental housing market in the locality.
- The excessive parking required by the Housing SEPP would not promote alternate green modes of travel, including walking, cycling and public transport.
- Having regard to the above, there is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

Landscaping



# CLAUSE 4.6 – VARIATION REQUEST – LANDSCAPING REQUIREMENTS

State Environmental Planning Policy (Housing) 2021 – Request to Vary Clause 68(2)(f)

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Address: 2 Anzac Parade, Kensington  
 Date: 27 May 2025  
 Prepared for: HSN Property Group Pty Ltd

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## INTRODUCTION

This clause 4.6 Variation Request (**Request**) has been prepared by Urbis Ltd (**Urbis**) and accompanies the Development Application (DA) for a co-living development at 2 Anzac Parade, Kensington (**the site**).

This request seeks to vary the minimum landscaping requirements non-discretionary standard prescribed for co-living development under clause 68(2)(c) of the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*. This Request is made pursuant to the mechanisms in clause 4.6 of the *Randwick Local Environmental Plan 2012 (RLEP 2012)*.

Since this is a non-discretionary development standard, this request has been submitted as a precautionary measure.

## SITE AND PROPOSED DEVELOPMENT

### 1. Site Description

The key features of the site are summarised in the following table.

Table 1: Site & Surrounding Area Description

Feature	Description
Street Address	2 Anzac Parade, Kensington
Legal Description	Lot 21 DP 1239513
Site Area	790m <sup>2</sup>
Easements and Restrictions	The site does not contain any encumbrances.
Existing Development	Four storey co-living housing development managed by UKO Group Services.
Adjacent land uses North	Public open space including the Tay Street Reserve (local heritage item), Moore Park and Robertson Road Fields are immediately proximate to the site. Sydney Cricket Ground is in the wider northern context.
Adjacent land uses East	Residential development is immediately east of the site, with Centennial Park proximate to the site across Alison Road.

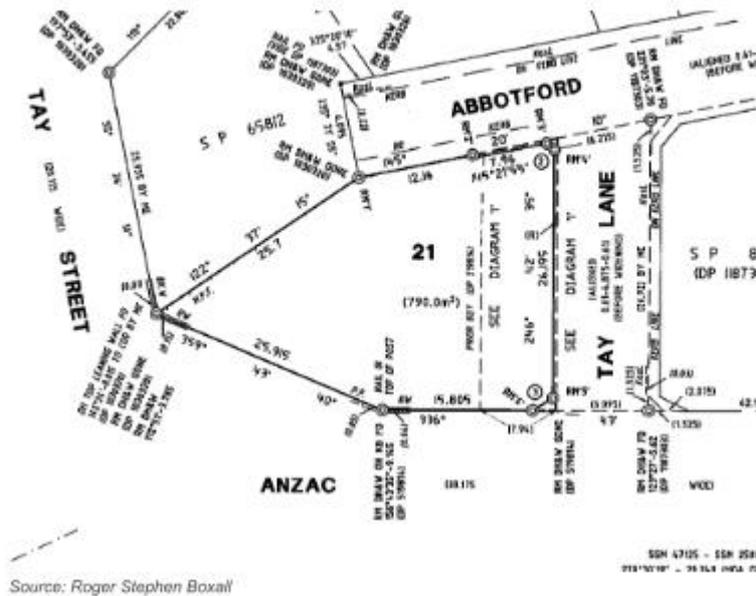
Feature	Description
Adjacent land uses South	Residential uses immediately adjoin the site with the ES Marks light rail stop and the Kensington town centre being proximate to the site.
Adjacent land uses West	Immediately west is Anzac Parade followed by the ES Marks Athletics Field and a portion of the Moore Park Golf Course. Further west is the Moore Park Supa Centre.
Public Transport	The site is approximately 330m from the ES Marks light rail stop and approximately 450m from the Moore Park Busway Interchange. Both public transport hubs provide sustainable travel options to the Sydney CBD, UNSW and Kingsford.

Figure 1: Site Aerial



Source: Urbis, 2024

Figure 2: Survey Plan



Source: Roger Stephen Boxall

Figure 3: Surrounding Context



Picture 1: Abbotford Land facing the site

Source: Google Maps



Picture 2: View South along Anzac Parade

Source: Google Maps



Picture 3: Tay Street Reserve

Source: Google Maps



Picture 4: ES Marks Light Rail Stop

Source: Google Maps

## 2. Proposed Development

A summary of the key features and details of the proposed development (including land use and works) is as follows:

- Demolition of existing roof and site preparation works.
- Structural upgrades to facilitate the increase in height such as strengthening of the existing screw piles.
  - Note: Design of the structure upgrades will be confirmed at detailed design phase.
- Construction of two additional levels of co-living housing containing:
  - 18 co-living rooms.
  - Additional communal living area space.
  - Additional communal open space area with associated barbeque and seating.
  - Services including elevator access and stairwell access.
- Modification to existing ground level car parking to incorporate bicycle storage area and a car share space.

## PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION

### 3. What is the planning instrument you are seeking to vary?

*State Environmental Planning Policy (Housing) 2021 (Housing SEPP).*

### 4. What is the site's zoning?

The site is zoned R3 Medium Density Residential under the *Randwick Local Environmental Plan 2012 (RLEP 2012)*.

### 5. What is the development standard to be varied?

Minimum landscaping requirements for multi dwelling housing is prescribed under clause 68(2)(f) of the Housing SEPP as follows:

**68 Non-discretionary development standards—the Act, s 4.15**

**(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—**

*(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,*

### 6. Type of development standard?

Clause 68(2)(f) is a numerical control.

### 7. What is the numeric value of the development standard in the environmental planning instrument?

The Housing SEPP stipulates that if the minimum landscaping requirements for multi dwelling housing comply with the requirements set under a relevant planning instrument then this prevents the consent authority from imposing more onerous standards.

A "relevant planning instrument" is defined in the Housing SEPP Dictionary as meaning "*an environmental planning instrument, other than this Policy, or a development control plan, if any, that applies to the land on which the development will be carried out*".

The Randwick Comprehensive Development Control Plan 2013 (RCDCP) requires 50% of the site area to be landscaped open space.

### 8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?

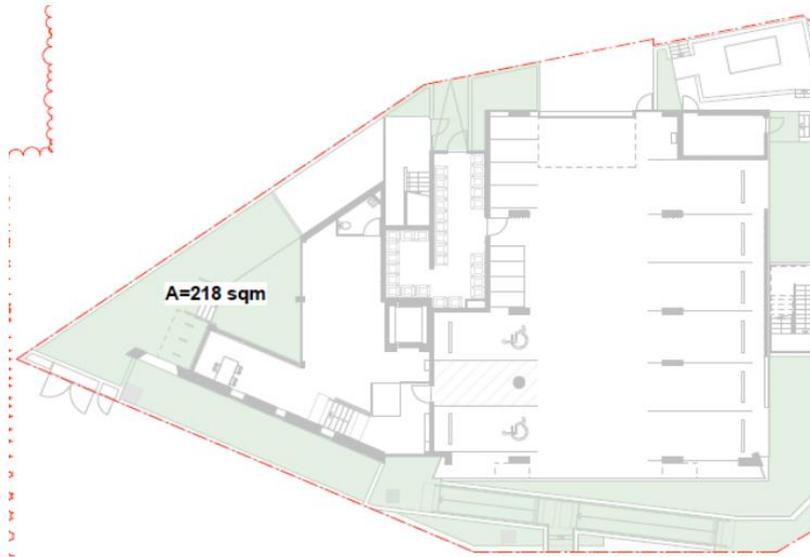
The site area of 790m<sup>2</sup> generates a requirement for 395m<sup>2</sup> of landscaped area.

The proposal results in the provision of 218m<sup>2</sup> of landscaped area at ground level and level 3 along with 42m<sup>2</sup> of landscaped area at level 5 which results in a total landscaped area provision of 278m<sup>2</sup>. This represents 35% of the site and significantly improves upon the existing landscaped nature of the site.

This Request therefore seeks an exemption from application of Clause 68(2)(f) of the Housing SEPP for the shortfall of 117m<sup>2</sup> of landscaped area which results in a 29.6% variation to the non-discretionary standard.

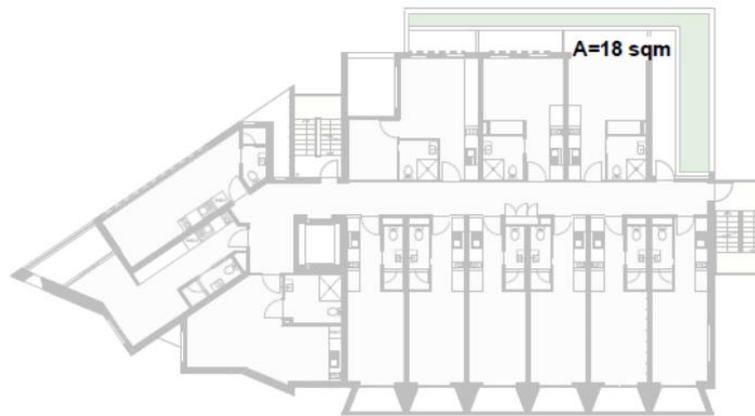
### 9. Visual representation of the proposed variation

Figure 4 Ground Floor Plan showing landscaped areas



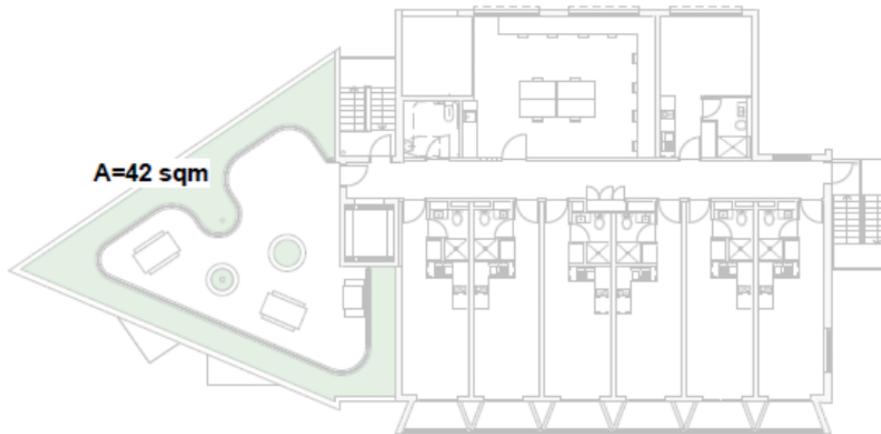
Source: KPA Architects

Figure 5 Level 3 Plan showing landscaped areas



Source: KPA Architects

Figure 6 Level 5 Plan showing landscaped areas



Source: KPA Architects

**JUSTIFICATION FOR THE PROPOSED VARIATION**

**10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?**

Key Questions	Response
<p>a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</p>	<p>The Housing SEPP does not include specific objectives for the non-discretionary development standard outlining the required landscaped area requirement. Having regard to the principles of the Housing SEPP, it can be assumed however, that the underlying objectives or intent of the standard is to ensure that adequate landscaping is available for residents to provide a reasonable level of amenity and to contribute to the enhancement of the locality.</p> <p>The proposal seeks, among other objectives, to develop co-living housing that includes a variety of communal spaces complemented by landscaped areas designed to encourage resident interaction. This approach aims to create a high-quality living environment while enhancing the streetscape.</p> <p>Given that the proposal involves alterations and additions, the ground-floor landscaping has already been maximized, with opportunities for landscaping extending along the site's frontages to Anzac Parade, Tay Street, Tay Lane, and Abbotsford Lane. Additionally, a landscaped communal open space exists along the northern property boundary at ground level, as well as landscaped planters on Level 3 of the existing building. The current landscaped area covers 236m<sup>2</sup>, which represents 29% of the total site area.</p> <p>The proposal aims to significantly enhance the landscaping on the site through the introduction of a Level 5 landscaped terrace. This terrace covers a total area of 104.3m<sup>2</sup>, with 42m<sup>2</sup> dedicated to landscaped planter boxes, accounting for 5.3% of the total site area. The planters are designed to provide shade, greenery, and soften the built form. The landscaping incorporates a mix of plant species, selected to suit the</p>

Key Questions	Response
	<p>aspect, soil, and micro-climate conditions, making them a key element in enhancing the amenity of the space.</p> <p>While the site does not meet the RCDCP landscaped open space area requirement, it does exceed the communal open space control outlined in the Housing SEPP, which is considered a key indicator of appropriate amenity for residents. Furthermore, the site benefits from close proximity to an abundance of open spaces, including Tay Street Reserve, Moore Park, Centennial Park, Fearnley Grounds, Robertson Road Fields, ES Marks Athletics Field, and the Sydney Cricket Ground.</p> <p>Given the existing built form and the fact that the proposal is limited to alterations and additions, it is not feasible to achieve a significantly larger landscaping area on the site. Enforcing such controls would require fundamental changes to the site's planning and could prevent future development without a complete site redevelopment.</p> <p>In summary, despite a minor non-compliance with the landscaped area standard, the intent of the standard has been met. The landscaping quality and diversity have been maximized within the constraints of the site, providing a suitable level of amenity for residents while enhancing the streetscape character.</p>
b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)	Not relied upon.
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	Not relied upon.
(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	Not relied upon.
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	Not relied upon.

**11. Are there sufficient environmental planning grounds to justify contravening the development standard?**

There are sufficient environmental planning grounds to justify the proposed variation to the development standard, including the following:

- The development achieves the underlying objective or purpose of the development standard as the proposal seeks to enhance landscaping within the constraints of the site, by complementing the existing landscape provisions with a Level 5 landscaped terrace, which meets the intent of the Housing SEPP by ensuring suitable resident amenity and streetscape enhancement is achieved.
- The proposed development is for alterations and additions to an existing co-living development. At present, the landscaped area is generally limited to the ground plane and level 3 planters. The proposal significantly enhances the current offering through the provision of a new landscaped terrace at level 5., which will be equipped with BBQ facilities, seating and the like, which provides for a much higher level of amenity than what is currently afforded to the residents.
- The proposal exceeds the communal open space control outlined in the Housing SEPP, which is considered a key indicator of appropriate amenity for residents. Furthermore, the site benefits from close

proximity to an abundance of open spaces, including Tay Street Reserve, Moore Park, Centennial Park, Fearnley Grounds, Robertson Road Fields, ES Marks Athletics Field, and the Sydney Cricket Ground.

- Given the existing built form on the site, it is not feasible to achieve a significantly larger landscaping area on the site. Enforcing such controls would require fundamental changes to the site's planning and could prevent future development without a complete site redevelopment.
- The development is consistent with the objectives of the R3 Medium Density zone as set out in **Section 12**.

In conclusion, there are sufficient environmental planning grounds to justify the non-compliance with the minimum landscaped area requirement, and as such, strict compliance with the development standard is not considered necessary.

## **12. Is there any other relevant information relating to justifying a variation of the development standard?**

### **Alignment with Zone Objectives**

The site is zoned R3 Medium Density Residential and the objectives are:

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

The proposal is consistent with the land use objectives of the R3 Medium Density zone and the proposed variation to the landscaped area non-discretionary development standard does not hinder the proposal's ability to satisfy the objectives as:

- The proposal contributes to much needed housing for the community by increasing the amount of dwellings in a medium density and highly accessible location, with an appropriate provision of landscaping and open space that meet the needs of residents.
- Contributes to diversity of housing choice, by providing co-living housing opportunities within a highly accessible area in proximity to public and active transport options, as well as shops, services, and tertiary education institutions.
- Responds to the unique opportunity to accommodate additional housing without resulting in environmental and amenity impacts of surrounding residents.
- Results in a design that naturally extends the existing building, maintaining the design language that has defined the gateway to Kensington since its initial construction. This includes the introduction of a sympathetic communal open space landscaped terrace at level 5 that maintains the established building envelope at the levels below.
- Contributes to housing affordability through the introduction of co-living housing type that maximises the site's potential to accommodate much needed housing in a Council identified Housing Investigation Area (HIA).

**Public Benefit**

Maintaining the development standard in this case would not provide any public benefit, as it would prevent the development from proceeding, thereby hindering the increase in landscaped open space and co-living rooms. This would, in turn, exacerbate the pressure on the private rental housing market in the area.

Having regard to the above, there is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

Lot size



**URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:**

Director Andrew Harvey  
 Associate Director Sophy Purton  
 Consultant Matthew Holt, Jasmine Foster  
 Project Code P%52925  
 Report Number FINAL – 27 May 2025



## Acknowledgement of Country

Urbis acknowledges the Traditional Custodians of the lands we operate on.

We recognise that First Nations sovereignty was never ceded and respect First Nations peoples continuing connection to these lands, waterways and ecosystems for over 60,000 years.

We pay our respects to First Nations Elders, past and present.

The river is the symbol of the Dreaming and the journey of life. The circles and lines represent people meeting and connections across time and space. When we are working in different places, we can still be connected and work towards the same goal.

Title: Sacred River Dreaming  
 Artist Hayley Pigram  
 Darug Nation  
 Sydney, NSW

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

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[urbis.com.au](http://urbis.com.au)

## REQUEST TO VARY CLAUSE 69 IN STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Address: 2 Anzac Parade, Kensington

Date: 27 May 2025

### SITE AND PROPOSED DEVELOPMENT

#### 1. Site & Surrounding Area Description

The key features of the site are summarised in the following table.

Table 1: Site & Surrounding Area Description

Feature	Description
Street Address	2 Anzac Parade, Kensington
Legal Description	Lot 21 DP 1239513
Site Area	790m <sup>2</sup>
Easements and Restrictions	The site does not contain any encumbrances.
Existing Development	Four storey co-living housing development managed by UKO Group Services.
Adjacent land uses North	Public open space including the Tay Street Reserve (local heritage item), Moore Park and Robertson Road Fields are immediately proximate to the site. Sydney Cricket Ground is in the wider northern context.
Adjacent land uses East	Residential development is immediately east of the site, with Centennial Park proximate to the site across Alison Road.
Adjacent land uses South	Residential uses immediately adjoin the site with the ES Marks light rail stop and the Kensington town centre being proximate to the site.
Adjacent land uses West	Immediately west is Anzac Parade followed by the ES Marks Athletics Field and a portion of the Moore Park Golf Course. Further west is the Moore Park Supa Centre.
Public Transport	The site is approximately 330m from the ES Marks light rail stop and approximately 450m from the Moore Park Busway Interchange. Both public transport hubs provide sustainable travel options to the Sydney CBD, UNSW and Kingsford.

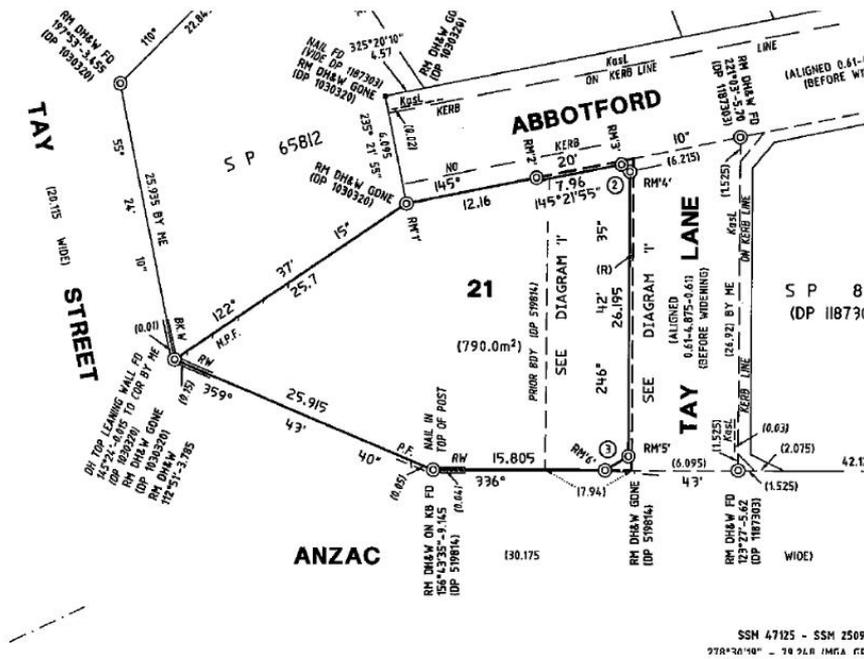
D24/25

Figure 1: Site Aerial



Source: Urbis, 2024

Figure 2: Survey Plan



Source: Roger Stephen Boxall

2 DISCLAIMER

URBIS  
FINAL CLAUSE 4.6 VARIATION REQUEST (MINIMUM LOT SIZE) - 2 ANZAC  
PARADE, KENSINGTON\_AMENDED.DOCX

Figure 3: Surrounding Context



Picture 1: Abbotford Land facing the site

Source: Google Maps



Picture 2: View South along Anzac Parade

Source: Google Maps



Picture 3: Tay Street Reserve

Source: Google Maps



Picture 4: ES Marks Light Rail Stop

Source: Google Maps

## 2. Proposed Development

A summary of the key features and details of the proposed development (including land use and works) is as follows:

- Demolition of existing roof and site preparation works.
- Structural upgrades to facilitate the increase in height such as strengthening of the existing screw piles.
  - Note: Design of the structure upgrades will be confirmed at detailed design phase.
- Construction of two additional levels of co-living housing containing:
  - 18 additional co-living rooms.
  - Additional communal living area space.
  - Additional communal open space area with associated barbeque and seating.
  - Services including elevator access and stairwell access.
- Modification to existing ground level car parking to incorporate bicycle storage area.

**PLANNING INSTRUMENT, DEVELOPMENT STANDARD AND PROPOSED VARIATION**

**3. What is the planning instrument you are seeking to vary?**

The development application seeks to vary State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

**4. What is the site’s zoning?**

R3 Medium Density Residential.

**5. What is the development standard to be varied?**

Section 69 Standards for co-living housing under the Housing SEPP.

Section 69(1)(b)(ii) applies to the site as it is ‘on other land’ and not zoned R2 Low Density Residential. The minimum lot size control for co-living housing on the site therefore, is as follows:

*(b) the minimum lot size for the co-living housing is not less than—*

...

*(ii) for development on other land—800m<sup>2</sup>, and*

**6. Type of development standard?**

Numeric.

**7. What is the numeric value of the development standard in the environmental planning instrument?**

Minimum lot size for co-living development on the site, provided its R3 Medium Density Residential zoning, is 800m<sup>2</sup>.

**8. What is the difference between the existing and proposed numeric values? What is the percentage variation (between the proposal and the environmental planning instrument)?**

The site has a total area of 790m<sup>2</sup> (refer to Figure 2). The proposed variation is 10m<sup>2</sup> representing a 1.25% variation from the 800m<sup>2</sup> minimum lot size development standard under the Housing SEPP.

## JUSTIFICATION FOR THE PROPOSED VARIATION

### 9. How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

Key Questions	Response
<p>a) Are the objectives of the development standard achieved notwithstanding the non-compliance?</p>	<p>There are no stated objectives pertaining to section 69(1)(b)(ii) of the Housing SEPP. The objectives of clause 4.1 Minimum lot size under <i>Randwick Local Environmental Plan 2012 (RLEP 2012)</i> are considered a suitable baseline for assessment in the context of the proposed minimum lot size variation. The objectives and proposal responses are provided below:</p> <p><b>(a) to minimise any likely adverse impact of subdivision and development on the amenity of neighbouring properties,</b></p> <p>The proposal does not include subdivision of the site and is below the minimum lot size by an indiscernible amount. The proposal seeks to add additional built form onto an existing development that currently operates as a boarding house under the former definition. This addition is a natural extension of the existing building and has been designed to respond to the uplift in height and floor space ratio (FSR) that has occurred by way of the amendments to the Randwick LEP for the K2K corridor.</p> <p>The proposal considers the privacy and amenity of the surrounding residential context while guarding and enhancing amenity for residents with the provision of additional communal areas and landscaping.</p> <p><b>(b) to ensure that lot sizes allow development to be sited to protect natural or cultural features, including heritage items, and to retain special features such as trees and views,</b></p> <p>The existing lot size will facilitate the proposed alterations and additions without impact on natural or cultural features such as heritage items as there are non-immediately adjacent the site. The proposal will not result in the removal of any trees or further impinge on the views of surrounding residents.</p> <p><b>(c) to ensure that lot sizes are able to accommodate development that is suitable for its purpose.</b></p> <p>The site is entirely suitable for the development given that the existing development has successfully operated since August 2020 and this DA is simply seeking to vertically extend that development, to reflect the changes in the planning controls to support greater density along the light rail link. The 'co-living housing' will continue the existing site operations and remain suitable for the site despite the extremely minor non-compliance in minimum lot size.</p>
<p>b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)</p>	<p>The minimum lot size objectives from RLEP 2012, considered suitably applicable as noted above, seek to prevent the utilisation of undersized lots from being overdeveloped into poor amenity development, resulting in potentially unmitigated impact on views, heritage items or the natural environment both within the site and on the surrounding context.</p> <p>The proposal is for alterations and additions of two levels to an existing co-living housing development. The extremely minor non-compliance in</p>

Key Questions	Response
	minimum lot size does not prohibit the existing development from operating as best-in-class co-living housing. The proposal seeks to extend these existing operations, maintaining the amenity and the design outcomes of the original development within the existing allotment. As such, the provisions for minimum lot size are not strictly relevant for the proposed alterations and additions.
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	N/A
(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	N/A
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	N/A

**10. Are there sufficient environmental planning grounds to justify contravening the development standard?**

The circumstances for the proposal in consideration of minimum lot size are unique given consent is sought for alterations and additions to an existing co-living development. Under the base build DA (DA/335/2016), approved on 16 May 2017, the site had an area of 803.5m<sup>2</sup> and was not subject of a minimum lot size control under RLEP 2012 nor the 'boarding housing' provisions of the in-force *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

The dedication of a portion of site area to widen Tay Lane, an outcome of the approved base build DA, reduced the site area by 13.5m<sup>2</sup> to 790m<sup>2</sup> and retrospectively made the site area less than that required minimum lot size under section 69(1)(b)(ii) of the Housing SEPP.

In consideration of the development history, the proposal seeks to construct two additional storeys of co-living accommodation, comprising 18 new rooms, a new communal living area and additional communal open space for use by all residents. The existing development has operated as co-living housing since its completion in August 2020. The proposal will not undermine the intent of the Housing SEPP lot size controls. The proposal will continue to operate high-quality co-living spaces without occupying more of the site area through:

- Provision of additional communal living and open space areas for residents to enjoy.
- A design that naturally extends the existing building, maintaining the design language that has defined the gateway to Kensington since its initial construction.
- The appropriate densification of the site due to the Housing Investigation Area height of building and FSR increases facilitated by Randwick City Council. It is noted that the proposal is significantly below the 23m height of building control for the site.
- Adequate room amenity from a solar access, natural ventilation and acoustic perspective.

Therefore, given the proposal is for additional levels of co-living housing on an existing development that will continue to provide amenity and appropriate design outcome for the site, there are sufficient environmental planning grounds to justify the extremely minor contravention to minimum lot size.

**11. Is there any other relevant information relating to justifying a variation of the development standard? (If required)**

N/A

## DISCLAIMER

This report is dated 27 May 2025 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of HSN PROPERTY GROUP PTY LTD (**Instructing Party**) for the purpose of Clause 4.6 Variation Request (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

**Appendix 3: DCP Compliance Table**

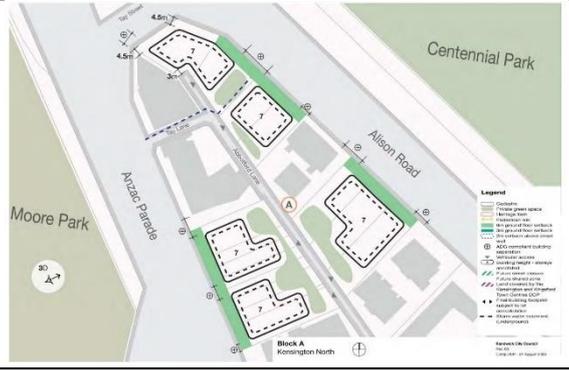
**10.1 3.1 Part E7: Housing Investigation Areas**

D24/25

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
<b>PART A – Overarching Controls</b>			
<b>2.</b>	<b>Urban Design and Place-Making</b>		
<b>2.1</b>	<b>Guiding Principals</b>		
	A statement must be submitted with all DAs that demonstrates consistency with the Guiding Principles of this ‘Part A – Overarching controls’ and the relevant objectives contained in ‘Part B – Site specific controls’.	The proposal has demonstrated consistency with the guiding principles.	Complies.
<b>3.</b>	<b>Design Excellence</b>		
	(a) All new development involving the construction of a new building or external alterations to an existing building is to meet the requirements of Clause 6.11 of the RLEP relating to design excellence (b) Buildings are to be designed to demonstrate at least 4-Star Building Standard certification rating (GBCA) performance (c) The design excellence of all new development proposals is to be reviewed by the Randwick Design Excellence Panel and their report taken into consideration as part of the development assessment.	The proposal has been reviewed by the design excellence panel on 17 February 2025.  The comments and recommendations by the panel were issued in an RFI to the applicant. An appropriate response and amended plans were received.  The addition of 2 stories does not technically require compliance with GBCA level 4.	Complies.
<b>4.</b>	<b>Density and Land Use</b>		
	(a) The maximum FSR that can be achieved on a site is shown on the RLEP FSR Map (b) Health and education support land uses, and innovative enterprise / start-up businesses are encouraged in proximity to health and educational campuses (Randwick Hospital and UNSW) (c) Ground floor non-residential uses at prominent corner locations are encouraged to serve the residential areas of the HIAs (d) Active frontages are required for the ground floor level of development for business zoned areas and for the High Street frontage of Block C of the High Street HIA (to the extent allowed by permitted uses).	The height will be 6 stories and complies with the maximum building height.  The maximum building depth is less than 20m.  H5 does not have specific setbacks. The proposal is consistent with the existing development setbacks.	Complies.
<b>5.</b>	<b>Built Form</b>		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<p><u>Building heights</u></p> <p>(a) The maximum Height of Building (HoB) that can be achieved on a site is shown on the RLEP Height of Building Map</p> <p>(b) The maximum number of storeys on a site is to comply with the following:</p> <ul style="list-style-type: none"> <li>• on sites with a maximum HoB of 16.5m and 17.5m – 5 storeys</li> <li>• on sites with a maximum HoB of 19.5m – 6 storeys</li> <li>• on sites with a maximum HoB of 24m – 7 storeys</li> <li>• on sites with a maximum HoB of 26m – 8 storeys</li> </ul> <p>(c) Where a property is identified by Council to be subject to flooding, this may require a ground floor habitable space to be raised above the existing ground level (above the 1 in 100 year flood level, plus 0.5m freeboard). In the case of a raised ground floor level, the additional height should be absorbed into the overall height of the building, whilst continuing to meet ADG floor to ceiling standards and the required LEP maximum height of building level. In this case the full number of storeys stated in e) above may not be able to be achieved on the site. Council may at its discretion consider a minor exceedance for additional height depending on the required Floor Planning Flood Level.</p>	<p>The proposal complies with the building height and number of stories for the site.</p> <p>The proposal has been reviewed by Councils development engineer. The existing ground floor is being retained therefore there are no flood impacts.</p>	<p>Complies.</p>
	<p><u>Building setbacks</u></p> <p>(d) Developments are to comply with the minimum ground floor and upper-level setbacks illustrated in the relevant block diagrams in 'Part B – Site specific controls'</p> <p>(e) Development that results in an exposed party wall is to incorporate architectural or vertical landscape treatments to improve the visual amenity of the wall prior to the completion of the adjoining building. Alternatively, a public art mural, to a design to Council's approval, is to be provided</p>	<p>There are no relevant block diagrams for this site, the setbacks have been considered under the ADG and are discussed in the key issues section.</p>	<p>Acceptable of merit.</p>
	<p><u>Building depth</u></p> <p>(f) The residential component of a development is to have a maximum building depth of 20m, including balconies. A maximum building depth of 22m, may be permitted on merit, subject to ADG compliance.</p>	<p>The building depth is suitable based on the existing built form. The depth is less than 20m.</p>	<p>Complies.</p>
<b>PART B – Site Specific Controls</b>			
<b>9.4.5</b>	<b>Individual City Block Plans</b>		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
		<p>There are no specific measurements for the development site in the block plan opposite.</p>	<p>N/A.</p>
<b>PART C – Design Detail</b>			
<b>10.</b>	<b>Housing Mix</b>		
	<p>(a) Development is to comprise a mix of apartment types, where gardens, adaptability and accessibility are more easily achievable for elderly people, families with children, or people living with disabilities</p> <p>(b) At least 30% of the total number of dwellings (to the nearest whole number of dwellings) within a development are to be one or two-bedroom dwellings, or both</p> <p>(c) At least 20% of the total number of dwellings (to the nearest whole number of dwellings) within a development are to be three or more-bedroom dwellings</p> <p>(d) At least 20% of the total number of apartments of three bedrooms or more are to be located on the lower floors of the building</p> <p>(e) Family friendly apartments should be located at the ground and podium levels to utilise larger terrace areas for play, and in positions with direct sightlines of Communal Open Space for parental supervision.</p>	<p>This is a co-living development, therefore, this section is not applicable.</p>	<p>N/A.</p>
<b>11.</b>	<b>Floor to Ceiling Heights</b>		
	<p>(a) Minimum floor-to-ceiling heights (in accordance with the ADG) are to be provided as follows:</p> <ul style="list-style-type: none"> <li>i) Ground Floor – 3.3m</li> <li>ii) First Floor and above – 2.7m</li> </ul> <p>(b) The minimum floor-to-floor height of residential building levels should be 3.1m, unless detailed cross sections and engineering justifications are provided that establish the feasibility of a lesser height.</p>	<p>No changes to ground floor – third floor.</p> <p>Additional levels are compliant.</p>	<p>Complies.</p>
<b>12.</b>	<b>Solar and Daylight Access</b>		
	<p>(a) All development is to be designed and constructed to reduce the need for active heating and cooling systems by incorporating passive design measures through site planning and building design</p>	<p>The building layout is dictated by the existing built form.</p> <p>Control e) is applicable.</p>	<p>Complies.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<p>(b) All development is to be orientated to achieve optimum solar access and natural ventilation. To achieve this:</p> <ul style="list-style-type: none"> <li>i) Shade north facing windows from direct summer sun with external horizontal shading devices such as awnings, upper floor balconies, eaves and overhangs</li> <li>ii) Utilise vertical shading devices such as vertical louvres or fins on east and west facing windows that consider the oblique angles of the sun.</li> </ul> <p>(c) Solar access is to be provided in accordance with the recommendations of PART 4 of the Apartment Design Guide (ADG)</p> <p>(d) Buildings must ensure that areas of private or public open space are oriented to achieve the ADG recommended level of solar amenity</p> <p>(e) In relation to Co-Living (or student accommodation) proposals:</p> <ul style="list-style-type: none"> <li>i) The design is to ensure that at least 60% of rooms achieve solar access during mid-winter for sites that have a north-south orientation</li> <li>ii) Common spaces such as lounge rooms or communal study areas are designed with a northerly aspect where possible</li> <li>iii) Atriums, roof windows, skylights or slots in the façade are to be designed to maximise solar access to rooms.</li> </ul>	<p>67% of the new rooms will receive greater than 3 hours during mid-winter.</p> <p>Communal spaces have a suitable northern aspect.</p>	
<b>13.</b>	<b>Acoustic Amenity</b>		
	<p><u>Residential uses</u></p> <p>Since this DCP is not legislated an assessment against this section is based on the advice of Councils Environmental Health Officer.</p>	<p>The proposal has been reviewed by Councils Environmental Health Team, who provided a request for further information. This was appropriately in the amended documentation.</p>	<p>Complies.</p>
<b>14</b>	<b>Natural Ventilation</b>		
	<p>(a) All buildings are to be designed to comply with the ADG to maximise opportunities for natural ventilation and solar access by providing a combination of:</p> <ul style="list-style-type: none"> <li>• corner apartments</li> <li>• dual aspect apartments</li> </ul>	<p>The configuration of the existing floors below has been replicated for the additional levels.</p>	<p>Complies.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<ul style="list-style-type: none"> <li>• shallow, single-aspect apartments</li> <li>• openable windows and doors</li> <li>• other ventilation devices</li> </ul> <p>(b) Window placement, size, glazing selection and orientation are to maximise opportunities for cross ventilation and capturing prevailing breezes in summer</p> <p>(c) Internal corridors, lobbies, communal circulation spaces and communal areas shall incorporate adequate natural ventilation</p> <p>(d) Basements levels, including spaces used for storage, garbage areas or commercial activities, are to be designed to include natural ventilation wherever possible</p> <p>(e) Apartment configuration and apartment depth is to be limited to maximise the opportunity for cross ventilation and airflow</p> <p>(f) Where mechanical ventilation is considered necessary, prioritise 'low-tech' solutions, such as ceiling fans, over more complex and high energy use air conditioning systems.</p>		
<b>15.</b>	<b>Articulation and Modulation</b>		
	<p>(a) All buildings are to provide articulation by incorporating a variety of window openings, balcony types, balustrades, fins, blade walls, parapets, sun-shade devices and louvres to add visual interest and light and shade to the façade</p> <p>(b) The design of buildings should include modulation to a similar dimension as the historical subdivision pattern of the site</p> <p>(c) The design of buildings are to avoid large areas of blank walls. Where blank walls are unavoidable, they must be treated and articulated to achieve an appropriate presentation to the public domain</p> <p>(d) Building articulation should respect and complement the adjoining built form and contribute positively to the streetscape</p> <p>(e) Corner buildings are to be expressed by giving visual prominence to elements of the façade e.g. a change in building articulation, material or colour, roof expression or increased height</p> <p>(f) Corner buildings should be designed to add variety and interest to the street and mark an important junction in the urban fabric</p>	<p>Suitable articulation provided on upper level through the provision of communal open space.</p> <p>The articulation of level 4 is an extension of the floors below.</p>	<p>Acceptable.</p>
<b>16.</b>	<b>Materials and Finishes</b>		
	<p>(a) External walls are to be constructed of high quality and durable materials and finishes</p>	<p>The materials and finishes are a continuation of the existing building.</p>	<p>Acceptable.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
<b>18.</b>	<b>Landscaped Area</b>		
		<p>The proposal has been reviewed by Councils Landscape Officer, Strategic Planning Team and Planning Officer.</p> <p>See the key issues section.</p>	Acceptable on merit.
<b>19.</b>	<b>Transport, Parking and Access</b>		
	<u>Active transport</u>		
	(a) Bicycle parking and end-of-trip facilities within the HIA are to be provided in accordance with the rates outlined in Table 3	Bicycle parking has been added.	
	<u>Car parking provision</u>		
	<p>(a) Vehicle parking within the HIAs is to be provided in accordance with the rates outlined in Table 4. These rates are one-third less than the standard TfNSW rates and are consistent with the Kensington and Kingsford Town Centre rates. Parking requirements for all other development types not specified in the table below are contained in Section B7 Transport, Traffic, Parking and Access, Section 3.2 Vehicle Parking Rates of the Randwick DCP</p> <p>(b) Where a variation to the DCP Car Parking rates is sought, the proponent shall provide a justification in accordance with Section B7 Chapter 3.3 Exceptions to Parking Rates of the Randwick DCP</p>	<p>The carparking rates have been reviewed by Councils Development engineer who requested a carshare space to address the parking shortfall.</p> <p>*some of the requirements are not applicable and have been removed.</p>	Acceptable on merit.
	<u>Car parking access</u>		
	<p>(a) Where practical, parking access and / or loading is to be provided from secondary streets (as opposed to classified roads and / or major roads such as Alison Road, Anzac Parade, Botany Street and High Street)</p> <p>(b) Parking access and / or loading must be setback at least 6m from an intersection or rear lane boundary to ensure all vehicles are wholly contained on site before being required to stop</p> <p>(c) Parking access and / or loading areas are to be designed as recessive components of the building elevation to minimise the visual impact on the streetscape</p> <p>(d) All vehicles should be able to enter and leave the site in a forward direction</p>	Access to remain as existing.	Acceptable.
<b>20.</b>	<b>Sustainability</b>		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<p><u>General</u></p> <p>(a) New developments with a cost of works of \$3 million or greater are to achieve a minimum 4 Star Green Buildings certification rating</p> <p>(b) All development must address the requirements of Section B3 – Ecologically Sustainable Development of the Randwick DCP</p> <p>(c) New development involving the construction of a new building or external alterations to an existing building is to meet the requirements of Clause 6.11 of the RLEP relating to design excellence, particularly sustainable design principles, renewable energy sources and urban heat island effect mitigation</p>	<p>The proposal is alterations and additions.</p> <p>The proposal has been reviewed by the Design Excellence panel.</p>	<p>Complies.</p>
	<p><u>Energy</u></p> <p>(d) New developments are to sign up to a minimum three-year 100% renewable power contract with an Australian Government endorsed energy provider and evidence of the future contract provided to Council at DA stage</p> <p>(e) New developments are encouraged to be 100% electric (no natural gas)</p> <p>(f) All development is encouraged to incorporate PV rooftop solar and battery storage for the capture and use of energy for lighting, ventilation and services within communal spaces and for residential apartments</p> <p>(g) Where photovoltaic (PV) panels are proposed it is desirable that the panels be parallel and incorporated into the design of the building</p> <p>(h) Efficient lighting (LED), rainwater tanks and building insulation are to be included in the design of buildings.</p> <p>(i) New development must provide a screened outdoor area with an appropriate orientation for the purpose of communal clothes drying</p> <p>(j) All developments are to incorporate energy efficient fittings and systems for lighting including:</p> <ul style="list-style-type: none"> <li>i) Natural lighting where possible</li> <li>ii) Energy efficient lights such as LEDs</li> <li>iii) Movement and lighting level sensors and timers to ensure lighting is only used when required</li> </ul>	<p>The development will retain rooftop solar panels.</p>	<p>Complies.</p>
	<p><u>Waste</u></p>		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<p>(k) All development must address the requirements of Section B6 Recycling and Waste Management of the Randwick DCP</p> <p>(l) All developments must provide a space for:</p> <ul style="list-style-type: none"> <li>• Storage and sorting of problem waste such as E-waste, clothing, and residential hazardous waste</li> <li>• FOGO (Food Organics and Garden Organics) household rubbish collection bin storage and handling</li> </ul>	<p>The waste has been reviewed by Councils Development Engineer, who has provided conditions.</p>	<p>Complies.</p>
	<u>Materials</u>		
	<p>(m) New development construction is to be long-life, robust and use durable materials and finishes and utilise reduced carbon materials e.g. low carbon concrete, recycled aggregate, etc.</p> <p>(n) Use of recycled materials, such as bricks, timber and concrete, are encouraged</p> <p>(o) All development must specify light coloured roof colours to reduce building heat load and energy use for cooling in summer months. Consideration is required of potential glare impacts on neighbours.</p>	<p>The materials used are a continuation of the existing building.</p>	<p>Acceptable on merit.</p>
	<u>Transport</u>		
	<p>(p) Reduced car parking rates apply to the HIAs to reduce basement parking structure and in recognition of the proximity to public transport. Refer to Chapter 19 Transport, parking and access of this DCP for applicable rates</p> <p>(q) Car share provision is strongly encouraged within a development and HIA car parking rates can be further reduced when car share spaces are provided. Refer to Section B7 Transport, Traffic, Parking and Access of the Randwick DCP</p> <p>(r) Electric Vehicle (EV) and bike charging facilities and electrical infrastructure is required to be provided on common property and must include signage and a fixed bicycle rack or rail in accordance with Chapter 19 Transport, parking and access of this DCP section.</p>	<p>Councils Development Engineer has reviewed the carparking and there has been an inclusion of a carshare space.</p>	<p>Complies.</p>
	<u>Design and landscaping</u>		
	<p>(s) ADG solar access and cross ventilation standards are to be met in the development</p> <p>(t) All development should incorporate passive and low-tech solutions to managing solar access and heat load and cross ventilation. These may include:</p> <ul style="list-style-type: none"> <li>• Appropriate shading of the building's windows with fixed overhangs</li> </ul>	<p>The solar access and ventilation of the new levels complies.</p>	<p>Acceptable on merit.</p>

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	<ul style="list-style-type: none"> <li>• Shading blades for respectively north and east facing facades</li> <li>• Limiting openings on the west facing facades of buildings</li> <li>• Provision of ceiling fans to limit the need for air conditioning</li> </ul> <p>(u) Minimum tree canopy requirements apply to new developments to realise the Randwick City 40% tree canopy target for the LGA by 2036. Refer to Table 2 in Section 18 of this DCP.</p>		
<b>21.</b>	<b>Water Management</b>		
	<p>(a) All new fittings and fixtures are to be installed with the highest Water Efficiency Labelling and Standards (WELS) scheme star rating available at the time of development</p> <p>(b) Dual piping for future use of greywater or blackwater systems is encouraged to be provided in all new multi-unit residential development</p> <p>(c) All development must address Section B8 – Water Management of the Randwick DCP in relation to water conservation, groundwater and flooding, overland flow paths, on-site detention and Water Sensitive Urban Design (WSUD)</p> <p>(d) The ground level of a development is to be constructed above the stipulated 1 in 100 year flood level plus freeboard. Additional overall building height will only be considered by Council to the extent of the flood level above natural ground level for flood prone properties, and will be assessed on a site-specific merit basis</p>	Addressed via conditions.	Conditioned
<b>22.</b>	<b>Aircraft Operations</b>		
	<p>(a) Development involving the use of cranes during construction and other structures such as light poles must ensure compliance with Clause 6.8 of the Randwick LEP in relation to Airport Operations</p> <p>(b) Applications for building cranes or like structures during construction must meet the requirements of Section F3 – Sydney Airport Planning and Noise Impacts of the Randwick DCP</p>	The application was referred to Sydney Airport – their referral is included in the external referrals section of this report.	Complies.
<b>23.</b>	<b>Affordable Housing</b>		
	<p>(a) All development within the HIAs must contribute towards the provision of affordable housing at a contribution rate of either 3% or 5% as stated in the Plan</p> <p>(b) Affordable housing contributions are to be provided in accordance with the HIA Affordable Housing Plan 2023</p>	The affordable housing contribution has been calculated in the key issues section.	Complies.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/)
	(c) The affordable housing contribution rate is to apply to the total residential floor area component of the development (d) Contributions towards affordable housing are to be provided through a dedication of affordable housing units on site / 'in-kind' or as a monetary contribution 'in-lieu' of affordable housing units.		
<b>24.</b>	<b>Air Quality</b>		
	(a) All developments that adjoin a main road and at Council's discretion are to include a report from a suitably qualified air quality consultant that addresses building design solutions and construction measures that reduce air pollution and improve indoor air quality for occupants (b) DA are to submit a statement which explains how the proposal has addressed the NSW Government 'Development Near Rail Corridors and Busy Roads – Interim Guideline' (c) The air intakes for mechanical ventilation are to be located well away from major roads or the pollution source (eg on top of tall buildings) or provided with filtration to remove particulates (d) DA for sensitive land uses such as childcare centres, schools or aged care facilities must submit an air quality study prepared by a suitably qualified expert demonstrating how air pollution exposure and health risks will be mitigated (e) Vegetative screens should be investigated where appropriate to assist in maintaining local ambient air amenity and to improving aesthetics and visual impacts from an adjacent roadway.	The air quality impacts have been considered and addressed by Councils Environmental Health Officer.	Complies.

D24/25

**Responsible officer:** Joseph Edmonds, Environmental Planning Officer

**File Reference:** DA/1219/2024

D24/25

## Development Consent Conditions



<b>Folder /DA No:</b>	DA/1219/2024
<b>Property:</b>	2 Anzac Parade, KENSINGTON NSW 2033
<b>Proposal:</b>	Alterations and additions to an existing boarding house to facilitate development for construction of 2 levels of co-living (18 rooms), above the existing boarding house, with associated communal spaces and amenity areas, ancillary and landscaping works.
<b>Recommendation:</b>	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>
Ground Floor Plan – Rev C – DA.10	KPA	08 April 2025	08 April 2025
Level 1 Plan – Rev C – DA.11	KPA	08 April 2025	08 April 2025
Level 2 Plan – Rev C – DA.12	KPA	08 April 2025	08 April 2025
Level 3 Plan – Rev C – DA.13	KPA	08 April 2025	08 April 2025
Level 4 Plan – Rev C – DA.14	KPA	08 April 2025	08 April 2025
Level 5 Plan – Rev D – DA.15	KPA	06 May 2025	15 May 2025
Roof Plan – Rev C – DA.16	KPA	08 April 2025	08 April 2025
Section AA – Rev C – DA.20	KPA	08 April 2025	08 April 2025
West Elevation – Rev C – DA.21	KPA	08 April 2025	08 April 2025
South Elevation – Rev C – DA.22	KPA	08 April 2025	08 April 2025
East Elevation – Rev C – DA.23	KPA	08 April 2025	08 April 2025
Planting Plan – Rev F – C001	Bates Landscape	27 March 2025	08 April 2025
Ground Landscape Plan – Rev F – C003	Bates Landscape	27 March 2025	08 April 2025

Condition	
Document reference	Dated
Updated Noise Impact Assessment, Rev 3 (20241043.1/0404A/R3/RW)	34 April 2025
Outdoor Air Quality Assessment, Revision v1 (3038-OAQ-01-202425.v1f)	2 April 2025
BCA Performance Requirements Compliance Statement, Rev 3 1, (PRO-09032-H1Z8)	3 December 2024
Green Travel Plan (Ref: 24075).	21 November 2024
Section J – Energy Efficiency Report, Rev 1	25 October 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. **Green Travel Plan**

A Green Travel Plan for the development shall be prepared and submitted to Council's Department of Integrated Transport for approval which endeavours to minimise the parking and traffic generation of the proposed development. The green travel is to set out;

- a) Future travel mode share targets and specifically a reduction in car driver mode share.
- b) Travel demand management strategies & incentives to encourage sustainable travel
- c) Initiatives to implement and monitor travel measures such as car share and bike share

The approved Green Travel Plan shall be implemented during the operational life of the development.

The Travel Plan shall be submitted to and approved by Council's Department of integrated Transport prior to the issuing of an Occupation certificate.

Condition Reason: To ensure the development considers measures to further minimise parking and traffic generation during the life of the development.

3. **Car Share space**

A total of 1 car space within the development shall be reserved for use and managed by a 'car share' operator or the co-living housing operator. The use of the carshare space for occupants must be managed by the co-living housing operator and shall be provided in accordance with the following requirements to the satisfaction of the Principal Certifier.

The car share space must;

- a) In the case of a car share operator, be made available to the car share operator without fee or charge
- b) be signposted for use only by car share vehicles and be well lit
- c) in the case of a carshare operator be publicly accessible at all times
- d) be made available at the same time the co-living housing commences operations
- e) be accompanied by adequate Insurances including public liability
- f) be accompanied by promotional strategies to encourage awareness

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Condition

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and participation of residents of the development in the scheme

Condition Reason: To address the parking shortfall and minimise car ownership for the life of the development.

4. **TfNSW Infrastructure and Light Rail Operations**

The following requirements of TfNSW letter, (reference: CD25/00260) are to be adhered to:

- The applicant must comply with all Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and procedures when working in and about the Sydney Light Rail corridor;
- The applicant must comply with the requirements of ASA standards T HR CI 12090 ST Airspace and External Developments version 1.0 and Development Near Rail Corridors and Busy Roads- Interim Guidelines;
- Activities of the applicant must not affect and/or restrict Sydney Light Rail operations without prior written agreement between the applicant, Transport for NSW (TfNSW), Altrac, and the Sydney Light Rail Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Sydney Light Rail Operator;
- The applicant must apply to Altrac and the Sydney Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Sydney Light Rail Operator. The Sydney Light Rail Operator may grant or refuse a request for network shutdown at its discretion;
- The applicant shall provide safe and unimpeded access for Sydney Light Rail patrons traversing to and from the Sydney Light Rail stops at all times;
- TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought; and
- All TfNSW, Altrac and Sydney Light Rail Operator's costs associated with review of plans, designs and legal must be borne by the applicant.

Condition Reason: To comply with the requirements of TfNSW.

5. **Sydney Airport**

At the completion of the construction of the building, a certified surveyor is to notify (in writing) the Sydney Airport Manager, Airfield Spatial & Technical Planning of the finished height of the building.

Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the buildings. Construction

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Condition

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cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations, therefore Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

Condition Reason: To ensure the requirements of the authority are met as a part of the development.

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

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Condition

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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 documentation.

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

7. **External Colours, Materials & Finishes**

The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.

Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.

8. **Section 7.12 Development Contributions**

In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$5,097,400.00 the following applicable monetary levy must be paid to Council: \$50,974.00.

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

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

$$IDC = ODC \times CP2/CP1$$

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

## Condition

Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

Condition Reason: To ensure relevant contributions are paid.

9. **Housing and Productivity Contribution**

Before the issue of the Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$32.13 per square metre of new GFA. 588.2m <sup>2</sup> x \$32.13 = \$18,900.42
Transport project component	Nil
<b>Total housing and productivity contribution</b>	<b>\$18,900.42</b>

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.

10. **Housing Investigation Areas Affordable Housing Contribution**

An affordable housing contribution is required to be paid to Council. The amount of the contribution is calculated in accordance with Clause 6.27 of the RLEP 2012, the Housing Investigation Areas Affordable Housing Plan adopted by the Council on 20 June 2023.

Payment of this contribution shall be made prior to the issue of the Construction Certificate, to the satisfaction of the Manager, Development Assessment.

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 bi-annual variations in the Median strata dwelling price in the Randwick LGA from the date of Council's determination to the date of payment. Please contact Council on telephone 9093 6999 or 1300 722 542 for the indexed contribution amount prior to payment.

The total floor area used in the calculations for the development is 2041.89m<sup>2</sup>.

Condition
<p>The affordable housing contribution (in accordance with section 2.7 of the plan) is calculated to be <math>2041.89 \times (\\$718.175) = \mathbf{\\$1,467,608.44}</math>.</p> <p>The contribution period (for which the \$718.75 per m<sup>2</sup> applies) is 01 January 2025 until 30 June 2025.</p> <p>Condition Reason: to ensure compliance with the Housing Investigation affordable housing contributions framework.</p>
<p>11. <b>Long Service Levy Payments</b></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>
<p>12. <b>Security Deposits</b></p> <p>The following damage / civil works security deposit requirement must be complied with, as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> <li>• <b>\$2000</b> - <b>Damage / Civil Works Security Deposit</b></li> </ul> <p>The damage/civil works security deposit may be provided by way of a cash 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/builders 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>
<p>13. <b>Sydney Water</b></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"> <li>• Building plan approvals</li> </ul>

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Condition

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- 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.

14. **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.

The works are to be carried out in compliance with the 'BCA and Access 2022 Indicative Compliance Report', prepared by Building Innovations Australia, dated 3 December 2024 (Project No. 09032-H1Z8). Details of compliance is to be provided to the Principal Certifier's satisfaction.

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

15. **Building Code of Australia**

Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.

Condition Reason: To ensure safe and easy access to the premises for people with a disability.

16. **Site stability, Excavation and Construction work**

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:

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

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Condition

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(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 (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.

17.

**Street Tree Protection**

To ensure retention of the mature *Eucalyptus nicholii* (Willow Leafed Peppermint) on Council's Tay Street verge, close to the corner of Anzac Parade and just to the north of the existing pram ramp, as well as the two mature *Platanus x hybrida* (Plane Trees) that are further to its south, within the Anzac Parade verge, towards the corner of Tay Lane in good health, the following measures are to be undertaken:

- a. All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks and canopies to be clearly and accurately shown on all plans in relation to the site and new works.
- b. Prior to the commencement of any site works, their trunks (as well as any lower growing branches) must be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to a minimum height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- c. This protection shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION - DO NOT REMOVE".
- d. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble around their trunks, with all Site Management Plans to comply with these requirements.
- e. **The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning or any Occupation Certificate.**

Condition	
f.	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.
g.	A refundable deposit in the form of cash, credit card or cheque for an amount of <b>\$3,000.00</b> must be paid via Council's Customer Service Centre, <b>prior to a Construction Certificate being issued for the development</b> to ensure compliance with the conditions listed in this consent and preservation of the trees.

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

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

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

18. **Stormwater Drainage**  
Stormwater runoff from the redeveloped portion of the site shall be discharged to the existing stormwater drainage system that discharges to Council's kerb and gutter on Anzac Parade in general accordance with the submitted Stormwater plans by ITM design sheets 1-4 Rev A dated 18-10-2024

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

19. **Waste Management**  
The waste management plans submitted with the application shall not be approved as part of this development consent. An amended Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Lead Specialist Strategic Waste.

The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):

- The use of the premises and the number and size of occupancies.
- The type and quantity of waste to be generated by the development.
- Demolition and construction waste, including materials to be re-used or recycled.
- Details of the proposed recycling and waste disposal contractors.
- Waste storage facilities and equipment.
- Access and traffic arrangements.
- The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials.

Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's website at: [https://www.randwick.nsw.gov.au/\\_data/assets/pdf\\_file/0007/22795/Waste-Management-Plan-Guidelines.pdf](https://www.randwick.nsw.gov.au/_data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf)

	Condition
	<p>Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.</p>
20.	<p><b>Public Utilities</b> A <i>Public Utility Impact Assessment</i> must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
21.	<p><b>AMENDED Landscape Plans</b> The Landscape Plans by Bates Landscape, dwg's C001-003, rev F dated 27/03/25 must be amended to now include construction details confirming that a <b>minimum soil depth of 600mm</b> will be provided for the podium planters around the perimeter of the Outdoor Communal Open Space Area at Level 5, with dimensions showing planter width to now also be included.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p>
22.	<p><b>AMENDED Landscape Plans</b> Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the revised scheme complies with the requirements specified above, prior to any Construction Certificate, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p>
23.	<p><b>TfNSW - Process of endorsement of conditions</b> Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, the applicant shall:</p> <p>Consult with TfNSW, Altrac and the Sydney Light Rail Operator to ascertain requirements in relation to the protection of TfNSW's infrastructure and to confirm the timing of each construction certificate and associated documentation and activities prior to preparation of requested documentation;</p> <p>Sign Interface Access Deed Poll / Works Deed with TfNSW and/or the Sydney Light Rail Operator;</p> <p>Confirm in writing with TfNSW what each Construction Certificate stage will involve; and</p> <p>Submit all relevant documentation to TfNSW as requested by TfNSW and obtain its written endorsement for each construction stage. A summary report for each construction stage shall also be provided to TfNSW to demonstrate the following:</p> <ul style="list-style-type: none"><li>• No adverse impacts to the light rail corridor and light rail operation by clearly identifying impacts and mitigation measures; and</li><li>• Submitted documentation has satisfied the relevant conditions.</li></ul> <p>The Principal Certifying Authority (PCA) is not to issue the relevant Construction</p>

	Condition
	<p>Certificate until they have received written confirmation from TfNSW that the relevant conditions have been complied with for each Construction Certificate.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
24.	<p><b>TfNSW Review and Endorsement of Documents</b></p> <p>Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the following documentation shall be provided for the review and endorsement of TfNSW:</p> <ul style="list-style-type: none"> <li>• Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the light rail corridor located adjacent to the subject development site, easement and substratum;</li> <li>• Final construction methodology with construction details pertaining to structural support during excavation or ground penetration. Any temporary components, for example, shoring systems, formwork and falsework, that are located such that their failure has the potential to affect rail infrastructure facilities or operations shall have a minimum service life of 10 years;</li> <li>• Details of the vibration and movement monitoring system that will be in place before excavation / ground penetration commences;</li> <li>• Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor located adjacent to the subject development site. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor;</li> <li>• Detailed survey plan;</li> <li>• Details of crange including Crange Swing (Radius) Plans and Crange Collapse Plans; and</li> <li>• Demolition and excavation plans.</li> </ul> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
25.	<p><b>TfNSW – Pre-Construction Work Dilapidation Report</b></p> <p>A pre-construction work Dilapidation Report of the Sydney Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Sydney Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
26.	<p><b>TfNSW – Acoustic Assessment</b></p> <p>Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to PCA demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines". All recommendations of the acoustic assessment are to be incorporated in the construction documentation.</p>

Condition	
	Condition Reason: To comply with the requirements of TfNSW.
27.	<p><b>TfNSW – Electrolysis Analysis</b> Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
28.	<p><b>TfNSW – Reflectivity Report</b> Prior to the issue of the relevant Construction Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare and reflectivity to the satisfaction of Altrac, TfNSW and the Sydney Light Rail Operator.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
29.	<p><b>TfNSW – Balconies, Windows and Terraces</b> Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the light rail corridor, the development must have mitigation measures (e.g., awning windows, louvres, enclosed balconies, window restrictors etc) installed to prevent throwing of objects onto the rail corridor or as otherwise agreed by TfNSW as per Technical Direction TD 00015:2023. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from TfNSW confirming that this condition has been satisfied.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
30.	<p><b>TfNSW – Consultation Regime</b> Prior to the issue of the relevant Construction Certificate, a detailed regime is to be prepared for consultation with and approval by TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
31.	<p><b>TfNSW – Insurance Requirements</b> Prior to the issue of the relevant Construction Certificate, the applicant must hold current public liability insurance cover for a sum acceptable to TfNSW. TfNSW's standard public liability insurance requirement for this type of development adjacent to a rail corridor is minimum of \$250M. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact TfNSW to obtain the level of insurance required for this particular proposal. Prior to issuing the relevant Construction Certificate the PCA must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
32.	<p><b>TfNSW – Works Deed/ Agreements</b> Prior to the issue of any construction certificate or any preparatory, demolition or</p>

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Condition

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excavation works, whichever is the earlier, if required by TfNSW, Works Deed (s) between the applicant, TfNSW and/or Altrac and the Sydney Light Rail Operator must be agreed and executed by the parties. These agreements may deal with matters including, but not limited to, the following:

- Sydney Light Rail Operational requirements;
- Sydney Light Rail access requirements;
- Altrac and Sydney Light Rail Operator policies, rules and procedures compliance requirements;
- Indemnities and releases;
- Security of costs;
- Insurance requirements and conditions;

TfNSW, Altrac and the Sydney Light Rail Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs and reports, legal, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;

Interface coordination between the Sydney Light Rail Operator and the subject development construction works, including safety interface; Interface Assess Deed Poll and Safety Interface Agreement between the applicant and the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:

- Pre and post construction dilapidation reports;
- The need for track possessions;
- Review of the machinery to be used during excavation/ground penetration / construction works;
- The need for track monitoring;
- Design and installation of lights, signs and reflective material;
- Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);
- Endorsement of plans regarding proposed craneage and other aerial operations;
- Erection of scaffolding/hoarding;
- Light Rail Operator's rules and procedures; and
- Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.

Altrac and the Sydney Light Rail Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Sydney Light Rail Operations and assets;

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Condition

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Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the Sydney Light Rail Corridor;

Arrangements for shutdowns and Sydney Light Rail restricted operations related costs attributed to the applicant; and

Sydney Light Rail site works access approval and access permit to work.

Condition Reason: To comply with the requirements of TfNSW.

33. **Noise and Vibration Management**

Noise and vibration from the development must comply with the following requirements and a report prepared by a qualified Acoustic Consultant must be submitted to and approved by Council, prior to the issue of a Construction Certificate:

- (a) Noise and vibration from the development shall be assessed in accordance with the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017, the DECC (EPA) Assessing Vibration – A Technical Guideline and relevant Australian Standards and conditions of this development consent.
- (b) Noise from the development must not exceed the project amenity/intrusiveness noise level or the maximum noise level as detailed in the NSW Environment Protection Authority (EPA) Noise Policy for Industry 2017.
- (c) Noise from commercial plant and use of the premises, when assessed as an LAeq, 15 min must not exceed the LA90, 15 min background noise level by more than 3dB when assessed inside any habitable room of any affected residence or noise-sensitive commercial premises when in use (assessed with doors and windows closed).
- (d) The development is to be designed and constructed to satisfy the following acoustic criteria:
- (e) In naturally ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed:
  - 35 dB(A) between 10.00pm and 7.00am in sleeping areas when windows are closed,
  - 40 dB(A) in sleeping areas when windows are open (24 hours),
  - 45 dB(A) in living areas when windows are closed (24 hours),
  - 50 dB(A) in living areas when windows are open (24 hours).

In mechanically ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed the following criteria (when the mechanical ventilation system is operating and doors and windows are closed):

- 38 dB(A) in sleeping areas between 10.00pm and 7.00am,
- 45dB(A) in sleeping areas between 7.00am and 10.00pm,
- 46 dB(A) in living areas (24 hours).

Details of compliance with the relevant noise criteria are to be included in acoustic report submitted to Council with the Construction Certificate.

Condition	
	Condition Reason: To protect the amenity of the neighbourhood during construction and amenity of future residents.
BEFORE BUILDING WORK COMMENCES	
Condition	
34.	<p><b>Building Certification &amp; Associated Requirements</b></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"> <li>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>.</li> </ul> <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"> <li>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</li> <li>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</li> <li>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</li> <li>e) at least two days' notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.</li> </ul> <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>
35.	<p><b>Dilapidation Reports</b></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>

Condition	
36.	<p><b>Construction Site Management Plan</b></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"><li>• location and construction of protective site fencing and hoardings</li><li>• location of site storage areas, sheds, plant &amp; equipment</li><li>• location of building materials and stock-piles</li><li>• tree protective measures</li><li>• dust control measures</li><li>• details of sediment and erosion control measures</li><li>• site access location and construction</li><li>• methods of disposal of demolition materials</li><li>• location and size of waste containers/bulk bins</li><li>• provisions for temporary stormwater drainage</li><li>• construction noise and vibration management</li><li>• construction traffic management details</li><li>• provisions for temporary sanitary facilities</li><li>• measures to be implemented to ensure public health and safety.</li></ul> <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>
37.	<p><b>Sediment &amp; Erosion Control</b></p> <p>A Sediment and Erosion Control Plan must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: to manage sediment and erosion runoff during construction.</p>
38.	<p><b>Construction Site Management Plan</b></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>
39.	<p><b>Construction Noise &amp; Vibration Management Plan</b></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 &amp; Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise &amp; Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the</p>

	Condition
	<p>Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.</p> <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 &amp; Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise &amp; 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 &amp; 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>
40.	<p><b>Treatment of Site Fencing and Hoardings</b></p> <p>Any site hoarding or fencing, including temporary, construction, perimeter or safety fencing, are to incorporate artwork or historic images of the local area to improve the visual amenity of the site during demolition and for the interim period until construction is completed on the site.</p> <p>Details of artwork and/or historic images, and of the fencing/hoarding, are to be submitted to and approved by Council's Manager Development Assessment prior to the commencement of any works on site including demolition.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
41.	<p><b>Public Liability</b></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>
42.	<p><b>Construction Traffic Management</b></p>

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Condition

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An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Tay Street for the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.

43. **Construction Traffic Management**

A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

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Condition

*The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.*

Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.

44. **Construction Traffic Management**

Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.

All conditions and requirements of the NSW Police, Roads & Maritime Services, State Transit Authority and Council must be complied with at all times.

Condition Reason: To ensure construction traffic is appropriately managed and that any requirements of relevant external agencies are met.

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**DURING BUILDING WORK**


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## Condition

45. **Site Signage**

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.

46. **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"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No</li> </ul>

Condition	
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<p>work permitted</p> <ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 3.00pm</li> <li>• (maximum)</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>

*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.

47. **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.

48. **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.

49. **Inspections during Construction**

	Condition
	<p>Building works are required to be inspected by the <i>Principal Certifier</i>, in accordance with section 6.5 of the <i>Environmental Planning &amp; Assessment Act 1979</i> and the <i>Environmental Planning &amp; Assessment Regulation 2021</i>, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.</p> <p>Condition Reason: To address relevant legislative requirements.</p>
50.	<p><b>Site Fencing and Hoardings</b></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> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>d) Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</li> <li>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.</li> </ol> <p>Notes:</p> <ul style="list-style-type: none"> <li>• Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</li> <li>• A separate Local Approval application must be submitted to and approved by Council's Health, Building &amp; Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</li> </ul> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
51.	<p><b>Overhead Hoardings</b></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"> <li>• goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway</li> <li>• 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</li> <li>• it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land</li> <li>• as may otherwise be required by SafeWork NSW, Council or the Principal Certifier.</li> </ul> <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>

Condition	
52.	<p><b>Public Safety &amp; Site Management</b> 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>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><li>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><li>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</li><li>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><li>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><li>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.</li><li>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.</li><li>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><li>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><li>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.</li></ul> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
53.	<p><b>Site Accessway</b> 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>

	Condition
	<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>
54.	<p><b>Dust Control</b></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"> <li>• <i>Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).</i></li> <li>• <i>Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.</i></li> <li>• <i>Installation of water sprinkling system or provision hoses or the like.</i></li> <li>• <i>Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.</i></li> <li>• <i>Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.</i></li> <li>• <i>Landscaping and revegetation of disturbed areas.</i></li> </ul> <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>
55.	<p><b>Excavations and Support of Adjoining Land</b></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>
56.	<p><b>Complaints Register</b></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>
57.	<p><b>Building Encroachments</b></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</p>

Condition	
	Council land.
58.	<p><b>Survey Report</b></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"><li>• prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,</li><li>• prior to construction (pouring of concrete) of new floor levels,</li><li>• prior to issuing an Occupation Certificate, and</li><li>• as otherwise may be required by the Principal Certifier.</li></ul> <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>
59.	<p><b>Road/Asset Opening Permit</b></p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <ul style="list-style-type: none"><li>• A <i>Road / Asset Opening Permit</i> must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> must be complied with.</li><li>• The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> for the development.</li><li>• Relevant <i>Road / Asset Opening Permit</i> fees, repair fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place.</li></ul> <p>For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 1300 722 542.</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road &amp; footpath assets and ensure public safety.</p>
60.	<p><b>Traffic Management</b></p> <p>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>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
61.	<p><b>Traffic Management</b></p> <p>All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS</p>

Condition	
	1742.3 – Traffic Control Devices for Works on Roads, at all times.
	Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.
62.	<p><b>Traffic Management</b></p> <p>All conditions and requirements of the NSW Police, Roads &amp; Maritime Services, Transport and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
63.	<p><b>TfNSW – Requirements</b></p> <p>Construction vehicles shall not be stopped or parked adjacent to the site on Anzac Parade at any time without prior approval of TfNSW;</p> <p>No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;</p> <p>During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;</p> <p>The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the Sydney Light Rail Operator at intervals required by TfNSW and the Sydney Light Rail Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;</p> <p>Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Sydney Light Rail Operator (or the delegated authority); and</p> <p>No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Sydney Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>

#### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
64.	<p><b>Occupation Certificate Requirements</b></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>

Condition	
	<p>Condition reason: Statutory requirement. To ensure the site is authorised for occupation.</p>
65.	<p><b>Post-construction Dilapidation Report</b></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> <ul style="list-style-type: none"><li>(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</li><li>(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.</li></ul> <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>
66.	<p><b>Fire Safety Certificate</b></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>
67.	<p><b>Structural Certification</b></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>
68.	<p><b>Sydney Water Certification</b></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 <a href="http://www.sydneypwater.com.au">www.sydneypwater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <i>Water Servicing Coordinator</i> or</p>

	Condition
	<p>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>
69.	<p><b>Plan of Management</b></p> <p>A plan of management shall be submitted to and approved by Council prior to occupation or use of the development, which details the measures to be implemented to:</p> <ul style="list-style-type: none"> <li>• ensure compliance with the relevant conditions of development consent and recommendations outlined in the relevant approved acoustic reports.</li> <li>• ensure compliance with relevant noise criteria and minimise noise emissions and associated nuisances,</li> <li>• minimise the potential environmental and amenity impacts upon nearby residents,</li> <li>• effectively manage and respond to resident complaints,</li> <li>• ensure the outdoor communal areas are appropriately managed to prevent noise impacts to surrounding residents.</li> <li>• Include the restricted the hours of operation for the internal and external communal areas.</li> </ul> <p>Condition Reason: To ensure that the approved use is operated within the scope of the proposed development, to ensure safety and security and protect the amenity of surrounding areas.</p>
70.	<p><b>Noise Control Requirements &amp; Certification</b></p> <p>A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Principal Certifier and Council, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the Protection of the Environment Operations Act 1997, NSW Environment Protection Authority Noise Policy for Industry 2017 and conditions of this development consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
71.	<p><b>Council's Infrastructure, Vehicular Crossings and Road Openings</b></p> <p>Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb &amp; 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>
72.	<p><b>Council's Infrastructure, Vehicular Crossings and Road Openings</b></p>

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Condition

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All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:

- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
- b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- 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.

73. **Sydney Water**

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).

Go to [sydneywater.com.au/section73](http://sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council **prior to the issuing of an *Occupation Certificate***.

Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.

74. **Stormwater Drainage**

The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.

Condition Reason: To control and manage stormwater run-off so as not to

Condition	
	adversely impact neighbouring properties and Council's stormwater assets.
75.	<p><b>Landscape Certification</b></p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the AMENDED Landscape Plans by Bates Landscape, dwg's C001-003, rev F dated 27/03/25 and any relevant conditions of consent.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
76.	<p><b>Landscape Certification</b></p> <p>Suitable strategies must then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reasons: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
77.	<p><b>Landscape Certification</b></p> <p>That part of the nature-strip upon Council's footway/s 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 and prior to any Occupation Certificate.</p> <p>Condition Reason: To ensure that community assets are presented in accordance with reasonable community expectations.</p>
78.	<p><b>TfNSW – Post Construction Dilapidation Report</b></p> <p>Prior to the Issue of the Occupation Certificate, a post-construction dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW. The applicant needs to undertake rectification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable the local council.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
79.	<p><b>TfNSW – Reflectivity Report</b></p> <p>Prior to the Issue of the Occupation Certificate, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW, Altrac and the Sydney Light Rail Operator.</p> <p>Condition Reason: To comply with the requirements of TfNSW.</p>
80.	<p><b>Registration of Accommodation</b></p> <p>Boarding Houses and other types of Shared Accommodation must comply with the <i>Local Government (General) Regulation 2005</i> and the <i>Boarding Houses Act 2012</i> and the premises must also be registered with NSW Fair Trading and Council (as applicable) prior to issuing an occupation certificate.</p>

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Condition

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Condition Reason: To ensure the requirement of the relevant legislation are met.

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**OCCUPATION AND ONGOING USE**

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Condition

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81. **Residential Parking Permits**

- a) All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development
- b) A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.

Condition Reason: To ensure that Council's on-street scheme is effectively managed.

82. **Fire Safety Statement**

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

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

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

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

83. **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.

84. **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 Protection of the Environment Operations Act 1997 and Regulations.

Condition Reason: To ensure that noise from site does not adverse impact upon the amenity of the locality.

85. **Protection of the environment**

The use and operation of the site must not cause any environmental pollution, public nuisance or, result in an offence under the Protection of the Environment Operations Act 1997, associated Regulations, Guidelines and Policies.

Condition Reason: To ensure that noise from site does not adverse impact upon

	Condition
	the amenity of the locality.
86.	<p><b>Emissions and Discharges</b></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 Protection of the Environment Operations Act 1997.</p> <p>Condition Reason: To ensure that noise from site does not adverse impact upon the amenity of the locality.</p>
87.	<p><b>Air conditioning and plant equipment</b></p> <p>The air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:</p> <ul style="list-style-type: none"> <li>• before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or</li> <li>• before 7.00am or after 10.00pm on any other day.</li> </ul> <p>Condition Reason: To ensure that noise from site does not adverse impact upon the amenity of the locality.</p>
88.	<p><b>Speakers / Noise Amplification</b></p> <p>Speakers and/or noise amplification equipment must not be installed or played in any outdoor communal areas.</p> <p>Condition Reason: To ensure that noise from site does not adverse impact upon the amenity of the locality.</p>
89.	<p><b>Use of outdoor communal areas</b></p> <p>The use of all outdoor communal areas are restricted to Monday to Sunday 7:00am to 10:00pm.</p> <p>Condition Reason: To ensure that noise from site does not adverse impact upon the amenity of the locality.</p>
90.	<p><b>Plan of Management</b></p> <p>The plan of management shall be reviewed by the acoustic consultant and approved to include all recommended measures of the consent and any acoustic measures required.</p> <p>The Plan of management shall clearly state permitted numbers of people permitted in communal areas inside and outside. Once approved the POM shall be complied with at all times.</p> <p>A copy of the approved POM shall be provided to Council prior to commencement of use.</p> <p>Condition Reason: To ensure that the approved use is operated within the scope of the proposed development, to ensure safety and security and protect the amenity of surrounding areas.</p>
91.	<p><b>Maintenance</b></p> <p>The individual rooms, common areas, shared facilities, and yard are to be maintained in a clean and tidy state and individual's rubbish is to be placed in the appropriate receptacles.</p> <p>Condition Reason: To ensure the accommodation use is operated in a safe manner and in accordance with the Plan of management.</p>

Condition	
92.	<p><b>Lease Agreement</b> All residents in the co-living accommodation are to sign a lease or licence agreeing to comply with the Plan of Management (as updated in accordance with conditions) for the development.</p> <p>Condition Reason: To ensure the accommodation use is operated in a safe manner and in accordance with the Plan of management.</p>
93.	<p><b>Occupant Record</b> The owner or owner's agent shall maintain a record of all residents with details of their names, length of stay &amp; number of persons in each room. This information shall be stored for a minimum of 12 months on site and made available to Council Officers upon request.</p> <p>Condition Reason: To ensure the accommodation use is operated in a safe manner and in accordance with the Plan of management.</p>
94.	<p><b>Occupancy and Management</b> The residential accommodations shall be operated in accordance with the following requirements:</p> <ul style="list-style-type: none"><li>a) The maximum permanent resident occupancy shall comply with the approved number of bedrooms approved under this consent. No exceedance of boarders shall occupy units and shall comply with number permitted within any one room.</li><li>b) A notice shall be placed near the entrance to the property in a visible position to the public advising of the manager's name and after hours contact number.</li><li>c) Each occupant shall be furnished with a set of house rules (i.e. the Plan of Management as updated in accordance with conditions) and that no variation shall be permitted without the further concurrence of Council.</li></ul> <p>Condition Reason: To ensure the accommodation use is operated in accordance with the relevant legislation and enable the safe operation of the site.</p>
95.	<p><b>Waste Management</b> Trade/Commercial waste materials must not be disposed via Council's domestic garbage service. All trade/commercial waste material must be collected by Council Trade Waste Service or Private Waste Collection Contractor 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>The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with waste services contractors accordingly.</p> <p>Condition Reason: To ensure adequate waste management procedures.</p>
96.	<p><b>Site Operations</b> Any changes to the proposed operation of the co-living development is subject to further development consent and/or a report may also be required to be obtained by a suitably qualified and experienced consultant in acoustics certifying the operation complies with the relevant noise criteria.</p> <p>Condition Reason: To ensure that the approved use is operated within the scope of the proposed development, to ensure safety and security and protect the amenity</p>

## Condition

of surrounding areas.

### DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

## Condition

97.

**Demolition Work**

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

- a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.
- b) The Demolition Work Plan must include the following details (as applicable):
  - The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
  - Details of hazardous materials in the building (including materials containing asbestos)
  - Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)
  - Measures and processes to be implemented to ensure the health & safety of workers and community
  - Measures to be implemented to minimise any airborne dust and asbestos
  - Methods and location of disposal of any hazardous materials (including asbestos)
  - Other measures to be implemented to ensure public health and safety
  - Date the demolition works will commence/finish.

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

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

*Notes: it is the responsibility of the persons undertaking demolition work to obtain the relevant SafeWork licences and permits and if the work involves the removal of more than 10m<sup>2</sup> 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](http://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
98.	<p data-bbox="470 369 638 398"><b>Demolition Work</b></p> <p data-bbox="470 398 1251 517">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 data-bbox="470 539 1251 589">Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements:</p> <ul data-bbox="507 611 1251 958" style="list-style-type: none"><li data-bbox="507 611 1251 660">• A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li><li data-bbox="507 660 1251 710">• Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations</li><li data-bbox="507 710 1251 759">• A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li><li data-bbox="507 759 1251 808">• Council is to be given at least two days written notice of demolition works involving materials containing asbestos,</li><li data-bbox="507 808 1251 857">• Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,</li><li data-bbox="507 857 1251 958">• 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.</li></ul> <p data-bbox="470 981 1251 1030">Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.</p> <p data-bbox="470 1052 1251 1124"><i>A copy of Council's Asbestos Policy is available on Council's web site at <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; Development section or a copy can be obtained from Council's Customer Service Centre.</i></p> <p data-bbox="470 1146 1251 1198">Condition reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.</p>

D24/25



## Development Application Report No. D25/25

**Subject:** 41 Oberon Street, Randwick (DA/312/2024/A)

### Executive Summary

**Proposal:** S4.55(2) Modification to approved development for changes to and reduction of the roof of the outbuilding/garage to a mono-pitch roof, reduction of building height of outbuilding/garage by lowering the boundary masonry, provision of highlight windows to the north elevation of outbuilding/garage, relocation of waste bins.

**Ward:** East Ward

**Applicant:** Mr P Gallagher

**Owner:** Ms S R Wolfson

**Cost of works:** \$70,917.00

**Reason for referral:** Conflict of interest

D25/25

### Recommendation

That the RLPP, as the consent authority, approve the application made under Section 4.55 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Application No. 312/2024 for changes to and reduction of the roof of the outbuilding/garage to a mono-pitch roof, reduction of building height of outbuilding/garage by lowering the boundary masonry, provision of highlight windows to the north elevation of outbuilding/garage, relocation of waste bins at No. 41 Oberon Street, Randwick, in the following manner:

**A. Amend Condition 1 to read:**

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

Plan	Drawn by	Dated	Received by Council
DA.01 (Issue A)	Studio GA	260224	23 April 2024
DA.04 (Issue A)	Studio GA	260224	23 April 2024
DA.06 – Front Fence renovation Plan and Fence Elevation	Studio GA	260224	23 April 2024
DA-07 – Façade Renovations	Studio GA	260224	23 April 2024
Schedule 1 – Schedule of External Finishes and Fittings	Studio GA	260224	23 April 2024

**EXCEPT where amended by:**

- Council in red on the approved plans; and/or
- Other conditions of this consent; and/or
- the following Section 4.55 'A' plans and supporting documents only in so far as they relate to the modifications highlighted on the Section 4.55 'A' plans and detailed in the Section 4.55 'A' application:

D25/25

Plan	Rev	Drawn by	Dated	Received by Council
DA.01 – Oberon Lane Elevation, Site Data, and Schedule and Finishes.	B	Studio GA	13 February 2025	8 May 2025
DA.02 - Site Plans, Existing Plan, Proposed Plan.	C	Studio GA	13 February 2025	8 May 2025
DA.03 (i) - Garage/Courtyard Plan, Garage Section BB	B	Studio GA	13 February 2025	8 May 2025
DA.03(ii) – Garage/Courtyard, Section AA	B	Studio GA	13 February 2025	8 May 2025
DA.04(i) – Garage West Elevation	C	Studio GA	13 February 2025	8 May 2025
DA.04(ii) – Roof Drainage Plan	B	Studio GA	13 February 2025	8 May 2025
DA.05(i) – Garage/Courtyard, Section AA.	A	Studio GA	13 February 2025	8 May 2025
DA.05(ii) – Garage West Elevation	B	Studio GA	13 February 2025	16 May 2025
DA.05(iii) – Reserve Lane/Garage North Elevation	I	Studio GA	13 February 2025	16 May 2025
DA.06 – Façade, Front Fence Renovation Plan and Fence Elevation	A	Studio GA	26 February 2024	8 May 2025
DA.07 – Façade Renovations	A	Studio GA	26 February 2024	8 May 2025
DA.08 – Landscape Plan, Schedule of Planting	C	Studio GA	26 February 2024	8 May 2025
DA.10 – Plans	B	Studio GA	13 February 2025	8 May 2025
DA.11 – Longitudinal Site Section, 43 Oberon, Garage East Elevation	B	Studio GA	13 February 2025	8 May 2025
DA.12 – Garage Dimensions Accommodation Area Plan Details	B	Studio GA	13 February 2025	8 May 2025

**BASIX Certificate No.**

A1793895

**Dated**

4 May 2025

**Received by Council**

8 May 2025

**B. Amend Condition 5 to read:**

### Security Deposit

5. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- **\$2000.00 - Damage / Civil Works Security Deposit**

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

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

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

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

- C. Add the following conditions (Conditions 7A to 7H) – Before the issue of a Construction Certificate:**

#### Design Alignment levels

- 7A. The design alignment level (the finished level of concrete, paving or the like) at the property boundary for the driveway shall be **120mm above the invert of the kerb at all points opposite the kerb.**

The design alignment levels at the property boundary as issued by Council and their relationship to the roadway must be indicated on the building plans for the construction certificate (a construction note on the plans is considered satisfactory). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any request to vary the design alignment levels must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.

Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of **\$191**. This amount is to be paid prior to a construction certificate being issued for the development.

Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

#### Garage Design

- 7B. The gradient of the internal garage must be designed and constructed to not exceed a grade of 1 in 20 (5%) and the levels of the garage must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in

the construction certificate documentation and a copy of the plans are to be forwarded to Council's Development Engineers.

NOTE: Transitional grading of up to 1 in 8 (12.5%) is permitted internally on the garage (within 1.2m of the Oberon Lane boundary alignment only) to successfully transition between the garage slab and the Council issued alignment levels.

Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

#### **Stormwater Drainage**

7C. Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter to the satisfaction of the Certifier. Details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.

#### **Landscape Plans**

7D. Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Adopted Landscape Plans by Studio GA, REV C, Council Stamped 8/5/2025, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier.

#### **Street Tree Management**

7E. To ensure retention of the most western mature *Cupaniopsis anacardioides* (Tuckeroo) within Oberon Street council's verge, adjacent subject site, 5 metres high, good health, good vigour, in close conflict with frontage works, material handling and such, the following measures are to be undertaken:

- a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunk, canopy to be clearly and accurately shown on all plans in relation to the proposed works.
- b) The street tree must be physically protected by installing an evenly spaced star pickets at a setback of 1000 mm to its east and west, matching up with the kerb to its south, footpath to its north, to which, safety para-webbing shall then be permanently attached to completely enclose the tree 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) If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.
- e) The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6633 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, **GIVING UP TO SIX WEEKS NOTICE**, with payment to be received prior to pruning or any Occupation Certificate.

- f) Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.
- g) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.

A refundable deposit in the form of cash, credit card, cheque OR bank for an amount of **\$600.00** must be paid into **Tree Amenity Income** via Council's Customer Service Centre, **prior to a Construction Certificate being issued for the development** to ensure compliance with the conditions listed in this consent, and preservation of the trees.

The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's '*Security Deposit Refund Application Form*' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6633)

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

#### **Street Tree Removal**

- 7F. The applicant must submit a payment of **\$1968.75 (GST INCLUSIVE)** to cover the following costs:
- a) Being the cost for Council to remove, stump-grind and dispose of existing *Capaniopsis anacarioides* (Tuckeroo) street tree within Reserve Lane, within the small councils' verge, centrally between two rear garages, 6 metres high, good health, been planted from a seedling from nearby tree or planted by a member of public, in time the tree will inevitably damage the structure of the wall and kerb, noticeable trunk damaged by mechanical vehicles reversing from adjacent garages and driveway.

This fee must be paid into **Tree Amenity Income** at the Cashier on the Ground Floor of the Administrative Centre **prior to a Construction Certificate being issued for the development**.

**The applicant must contact Council's Landscape Development Officer on 9093-6633 (quoting the receipt number) and giving at least four working weeks' notice (allow longer for public holidays or extended periods of rain)** to arrange for removal of the street tree prior to the commencement of site works, as well as upon completion, to arrange for planting of the replacement street tree if needed.

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

#### **BASIX Requirements**

- 7G. 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.

#### **Excavation Earthworks and Support of Adjoining Land**

- 7H. Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.

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 of the footings of a dwelling or other building that is located on the adjoining land;
- when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and
- as otherwise may be required by the Certifier for the development.

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.

- D. Add the following conditions (Conditions 11A to 11C) – Before Building Work Commences:**

#### **Before Building Works Commences**

- 11A. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

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

#### **Dilapidation Reports**

- 11B. A dilapidation report must be obtained from a Professional Engineer, Building Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises;
- demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and
- as may be required by the Principal Certifier for the development.

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

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

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.

#### **Construction Site Management Plan**

11C. A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:

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

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

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

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

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

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

#### **E. Add the following conditions (Conditions 15A to 15B) – During Building Work:**

##### **Road / Asset Opening Permit**

15A. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

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

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

Condition Reason: To ensure protection and/or repair of Council's Road & footpath assets and ensure public safety.

#### **Tree Management**

- 15B. Approval is granted for the removal of the *Capaniopsis anacarioides* (Tuckeroo) 6 metres high, good health fair vigour, within Reserve Lane, on councils' verge, centrally between the two rear garages, plotted between a curb and subject site boundary wall, trunk is same width as kerb and wall and will inevitably damage the structure of the rear wall, trunk damaged due to been damaged by vehicles reversing from adjacent garages and driveway, in direct conflict with the works.

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

#### **F. Add the following conditions (Conditions 16A to 16C) – Before the issue of an Occupation Certificate:**

##### **BASIX Requirements**

- 16A. 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.

##### **Council's Infrastructure, Vehicular Crossings, street verge**

- 16B. The applicant must meet the full cost for a Council approved contractor to:
- a) Construct a **3.2m** wide concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site to Council's specifications and requirements.
- Note: the vehicle crossing should then splay towards the site boundary such that the width at the boundary is 2.8m.
- b) Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specifications and requirements.

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

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

All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions

Policy” and “Residents’ Requests for Special Verge Crossings Policy” and the following requirements:

- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
- b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council’s conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.
- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

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

#### **Landscaping Certification**

- 16C. Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Adopted Landscape Plans by Studio GA, REV C, Council Stamped 8/5/2025.

Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.

Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.

#### **G. Add the following conditions (Conditions 18A to 18B) – Occupation and Ongoing Use:**

##### **Use of parking spaces**

- 18A. 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.

##### **Waste Management**

- 18B. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.

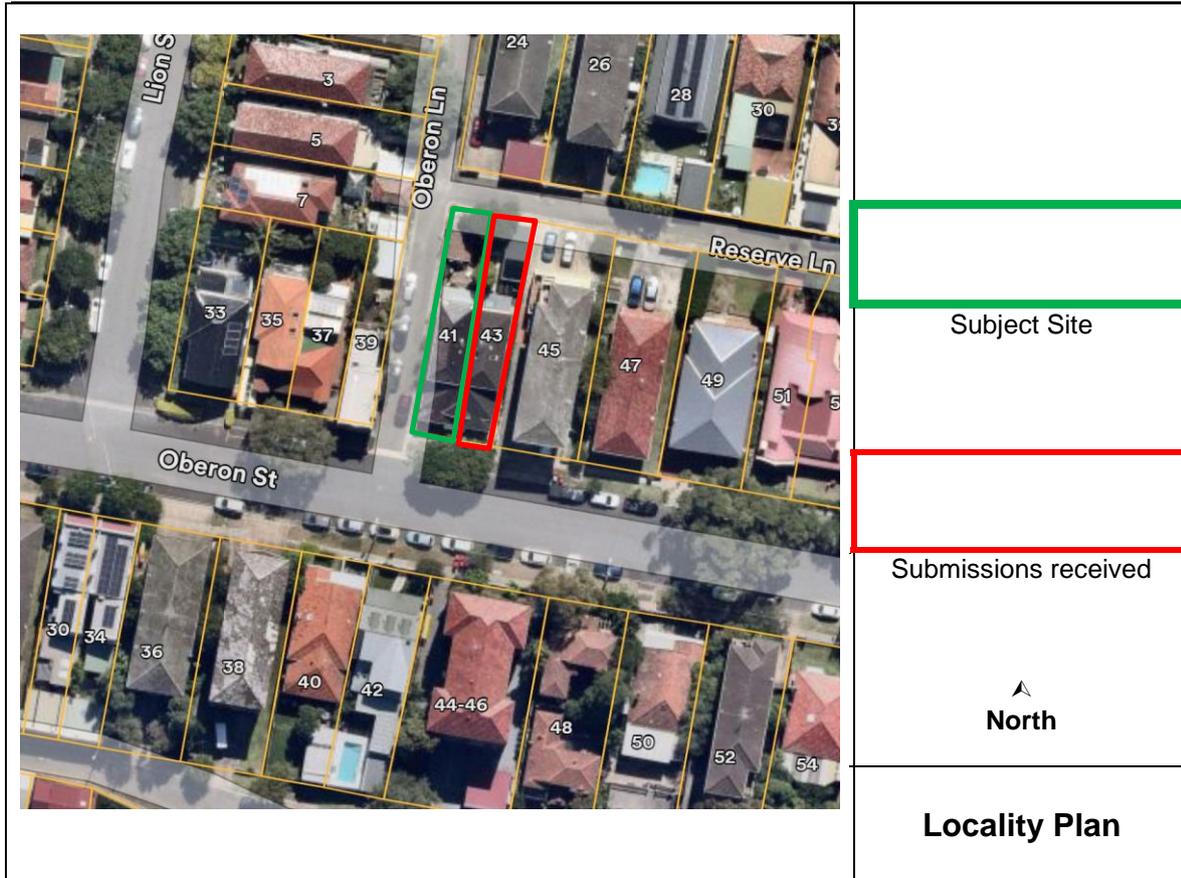
Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.

#### **H. Delete Condition 2.a.**

#### **Attachment/s:**

Nil

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**1. Reason for referral / Executive Summary**

This application is referred to the Randwick Local Planning Panel (RLPP) because:

- It is made under Section 4.55(2) of the Environmental Planning and Assessment Act (the Act) 1979 and seeks to modify a development previously approved by the Panel.

The original development application was referred to the RLPP because:

- The General Manager made a discretionary referral due to a potential conflict of interest.

This application was submitted to the Council on 3 March 2025 and seeks a modification of DA/312/2024.

The key issues of the application relate to:

- Inconsistency of submitted DA plans.
- Setback of parking facilities & Development in laneways (Section 6.3 and 8.1 of Part C1 of the RDCP 2023).
- Site Coverage (Section 2.4 of Part C1 of the RDCP 2023).

After a preliminary review of the application, a Request for Further Information (RFI) was sent to the Applicant on 23 April 2025, raising the following issues:

- Inconsistency of submitted architectural plans and the approved plans of DA/312/2024.
- Requirement of a Waste Management Plan.
- Requirement of a BASIX Certificate.

- Requirement of a referral to Ausgrid under Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.
- Potential for amenity impacts on neighbouring properties as a result of DCP non-compliances.

The applicant submitted additional information for consideration on 8 May 2025. Following a review of this additional information, it was considered that the above-noted issues were resolved. Therefore, the application for the modification of DA/312/2024 is recommended for approval, subject to conditions of consent.

## 2. Site Description and Locality

The subject site is known as No. 41 Oberon Street, Randwick, and is legally described as Lot 1 in DP 107203. The site is regular in shape and has a 5.715m frontage to Oberon Street to the south and Reserve Lane to the north, and a depth of 33.53m, resulting in a total site area of 191.6m<sup>2</sup> (by calculation). The site currently contains a two-storey semi-detached dwelling with a detached garage within the rear yard accessed from Reserve Lane.

The site slopes from the northeast/rear corner of the site to the southwest/front corner of the site from 54.08m to 53.51m AHD for a slope of 0.57m.

The site is located within an R2 Low-Density Residential zone that consists of residential development ranging from detached and semi-detached dwellings to Residential Flat Buildings (RFBs).



**Figure 1:** The front elevation of the site viewed from the footpath along Oberon Street.

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**Figure 2:** The secondary elevation of the subject street as viewed from Oberon Lane.



**Figure 3:** The rear elevation of the subject site (inclusive of existing garage and tree on the rear verge), as viewed from Reserve Lane.



**Figure 4:** The existing garage on the subject site as viewed from the rear yard.



**Figure 5:** View of the front elevation of the immediate neighbour to the east, at No. 43 Oberon Street.

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**Figure 6:** View of the rear elevation of the immediate neighbour to the east, at No. 43 Oberon Street.



**Figure 7:** View of the front elevation of the immediate neighbour to the west, at No. 39 Oberon Street.



**Figure 8:** The front elevations of neighbouring properties on the opposite side of Oberon Street from the subject site, at No. 44, 42, and 40 Oberon Street (L-R).



**Figure 9:** Ausgrid Pole No. MA9607, adjacent to the northwest corner of the site.



**Figure 10:** Rear elevations of residential flat buildings located north of the subject site (No. 24 and 26 Howard Street, L-R).

### 3. Details of Current Approval

The original development application was determined by the RLPP on 24 October 2024, subject to conditions of consent.

The approved development is for the alterations and additions to the existing dwelling house.

Of note, while the applicant sought the alterations and additions to the existing dwelling, which included extension of eaves and new fenestration to the front of the ground floor, it was also sought to demolish the existing garage and construct a new garage. Due to multiple issues raised throughout the assessment of DA/312/2024, a condition was imposed to delete the works to the garage.

### 4. Proposal

The subject application seeks to modify the development consent issued under DA/312/2024 under Section 4.55(2) of the Act. This application seeks the following changes to the development consent:

- Deletion of Condition 2 to reinstate the garage element within this consent.
- Amendment of the design of the garage to reduce the overall height and bulk as viewed from the public domain and neighbouring sites.
- Amendment to the internal design of the proposed garage.
- Repositioning of bin storage outside the garage.

The following conditions of consent will need to be amended as part of this proposal:

- Condition 1 - Approved Plans and Documentation.
  - This condition will need to be updated to reflect the updated author/date/revision numbers of the architectural plans approved as part of this application.

- Condition 2 – Amendment of Plans & Documentation
  - It is sought to delete this condition to reinstate the garage component of the consent.

Several other conditions are recommended to be imposed as a result of the assessment of this application. They are outlined throughout this report.

## 5. Section 4.55 Assessment

Under the provisions of Section 4.55(2) of the Act, as amended, Council may only agree to a modification of an existing Development Consent if the following criteria have been complied with:-

1. It is satisfied that the development to which the consent as modified relates is *substantially the same development* as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
2. It has consulted with any relevant public authorities or approval bodies, and
3. It has notified the application & considered any submissions made concerning the proposed modification.

An assessment against the above criteria is provided below:

### 1. *Substantially the Same Development*

The proposed modifications are not considered to result in a development that will fundamentally alter the originally approved development. It is acknowledged that concern has been raised in a public submission regarding the validity of this application, given that the garage was conditioned to be deleted from the proposal under DA/312/2024. While the objector is correct, the original consent did include a condition to delete the garage, we do not agree that this has removed the garage from the consent. The garage continued to form part of the development consent, which was assessed by the Council in DA/312/2024, and is referenced in the plans approved and stamped by the Council. However, the Council sought to delete the garage from the consent via a condition, as a result of issues raised within the assessment report related to the original DA.

In addition, the Applicant has not yielded the garage from the consent, and simply seeks to remove the condition relating to its deletion by demonstrating design changes which achieve the Council's concerns from the original assessment.

When considering that the garage still forms part of the consent which was originally granted, the development is substantially the same development, especially when considering case law established in *Vacik Pty Ltd v Penrith City Council*, and *Moto Projects No. 2 Pty Ltd v North Sydney Council*.

In this regard, the development as modified maintains the critical elements of the consent, being the change to fenestration, and fencing at the front of the site, extension of eaves in the rear of the dwelling, and demolition and reconstruction of the garage at the rear of the site. The key elements of the garage have been retained, including the footprint and orientation. While changes have been made to the envelope and materiality of the garage, these do not disrupt the critical elements of the consent and are made to improve the appearance of the garage when considering the immediate locality, and minimise any amenity impacts to neighbouring properties, which were considered key issues within the original assessment of DA/312/2024.

### 2. *Consultation with Other Approval Bodies or Public Authorities:*

The development is not integrated development or a development where the concurrence of another public authority is required.

### 3. *Notification and Consideration of Submissions:*

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

- GLN Planning on behalf of Mr and Mrs Wallington of 41 Oberon Street, Randwick.

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Issue	Comment
Validity of the Section 4.55(2) submission as it is not substantially the same development.	<p>As addressed earlier in Section 5 of this assessment report, it is considered that the garage portion of the development continues to form part of the consent, given that it was never removed by the Applicant, and was only conditioned to be deleted by the Council.</p> <p>For the reasons stated previously in this Section, it is considered that it is substantially the same development.</p>
Provision of required concurrence from Ausgrid in regard to Section 4.22(2)(c).	<p>Section 4.55(2)(c) only requires consultation with a relevant minister, public authority or approval body within the meaning of Division 4.8 of the Act, which relates to integrated development.</p> <p>The concurrence of Ausgrid under Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 is not integrated development within the meaning of Division 4.8 of the Act.</p> <p>Notwithstanding this, the Council sought advice from Ausgrid under Clause 2.48 of the SEPP (Transport and Infrastructure) 2021. This is discussed later in this assessment report.</p>
Inconsistency with provisions of the Randwick Development Control Plan (RDCP) 2023.	<p>It is acknowledged and discussed further in this assessment report that certain aspects of the proposal are inconsistent with specific provisions of the RDCP 2023. Notwithstanding this, Section 4.15(3A) of the Act states that the consent authority is to be flexible in applying provisions of a DCP if an alternative solution demonstrates that the objectives of that provision are achieved.</p> <p>It is considered that, notwithstanding the inconsistency with the provisions of the RDCP 2013, the proposal achieves the objectives of these provisions and is acceptable.</p>
Tree Removal.	<p>The submitted application does not seek the removal of the tree referenced in the objection. However, the Council's landscape officer has reviewed the application and has recommended that the tree be removed, given the poor location of the tree and visible damage to the tree caused by passing cars and trucks.</p> <p>In addition, it is not considered that any adverse amenity impacts will result from the removal of the tree, given the generous setback (18m) of the neighbouring flat building on the opposite side of Reserve Lane.</p>

In reference to clause (3) of Section 4.55 of the EP&A Act 1979, the consent authority must consider the following:

*“(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.”*

This report has appropriately responded to the heads of consideration of section 4.15 of the EP&A Act 1979, relevant to this application, as noted in the remainder of the report.

Furthermore, the modified application has adequately addressed the reasons given by the consent authority within the determination for DA/312/2024. Consideration is given to the reasons given for the implementation of a condition of consent requiring the removal of the garage. The reasons given within the Development Application Report are summarised as follows:

- Insufficient internal dimensions of the garage.
- Restriction of manoeuvrability within the garage.
- A built form that is inconsistent with the character of the laneway.
- Proximity to the power pole on Oberon Lane.
- Potential amenity impacts on neighbouring properties.

This assessment is of the position that the garage has been modified so that it now adequately addresses the above reasons. This is achieved in the following manner:

- The proposal has been amended to comply with the required minimum internal dimensions as required by the Council’s DCP and the Australian Standards. Council’s development engineer has reviewed the application and outlined that the required minimum dimensions are achieved, and the proposed garage is now acceptable.
- It is considered that, due to the movement of the bin storage outside the garage, adequate manoeuvrability is now available for movement through the garage. In addition, the garage complies with minimum spaces as required by relevant Australian Standards and the RDCP 2013.
- The garage has been modified in terms of bulk and scale to be more reflective of the character of garages along Oberon and Reserve Lane. The key change relates to the removal of the large semi-circular roof form and replacement with a skillion roof form. It is noted that Oberon and Reserve Lanes have a character of single and double garages with either skillion, flat, or pitched roof forms. The development now respects this character. Concern was also raised within the original reporting regarding the orientation of the garage, which is now along Reserve Lane. Upon further review of the character of the laneway, it is considered that garages along the width of the site, instead of the length, are common, especially for corner sites, similar to that located at No. 22A Howard Street and No. 39 Oberon Street.
- Concern was raised within DA/312/2024 in regard to the proximity of the garage to a power pole located on Oberon Lane. The applicant has submitted correspondence with the relevant electricity authority (Ausgrid), who accepted a 0.5m setback of the garage door from the face of the power pole. Council’s development engineer has reviewed the application and outlined that this separation is maintained, and no objection is raised.
- The applicant has demonstrated, as noted within the remainder of this report, that no adverse impacts will result to any neighbouring property.

This assessment has considered the reasons given for the grant of consent within the original assessment, and it is considered that the modified resolves the concerns that resulted in the implementation of a condition of consent requiring the removal of the garage.

## 6. Key Issues

- **Inconsistency of submitted DA plans.**

Upon preliminary review of this application, it was noted that the submitted architectural plans conflicted with the approved plans of DA/312/2024. The drawing numbers of the approved and proposed plans were inconsistent, resulting in potential issues with any future conditions of consent. In addition, the approved works as part of DA/312/2024 were removed from the proposed architectural plans.

As a response to this, the Council issued an RFI on 23 April 2025 outlining this concern. The applicant submitted an amended package on 8 May 2025, which resolved these inconsistencies.

- **Setback of parking facilities & Development in laneways (Section 6.3 and 8.1 of Part C1 of the RDCP 2023).**

Sections 6.3 and 8.1 of Part C1 of the Randwick Development Control Plan 2013 speak to the requirements of setbacks to side boundaries for garage and laneway development. See below:

*“6.3. Setbacks of parking facilities.*

*ii) Entry to garages and carports off the rear laneway must be setback a minimum of 1m from the laneway boundary*

*iii) Garages and carports built to the side boundary may be considered where:*

- *The adjoining property has its parking facilities or outbuildings constructed to the common boundary; and*
- *The location of car parking is compatible with the streetscape character; and*
- *Appropriate sightlines will be maintained for drivers and pedestrians; and*
- *Development seeks to amalgamate the driveway crossing with that of the adjoining property.”*

*“8.1. Development in laneways.*

*v) Laneway development may have a zero setback from the side boundaries in the following scenarios:*

- *The adjoining site already contains a building at the rear constructed to the common boundary; and*
- *A zero side setback will not result in unreasonable visual, privacy and overshadowing impacts on the adjoining properties.”*

The proposed modification relating to the garage fronting both Reserve and Oberon Lanes is inconsistent with the above provisions. This is as the garage is proposed to be built with a nil setback both laneways, and to the shared boundary to the east with No. 43 Oberon Street, which does not contain a parking facility or outbuilding also built to the boundary. This was raised within an RFI issued by the Council on 23 April 2025. It was noted within this RFI that while a non-compliance was proposed, Council would be open to being flexible with the control, in line with Section 4.15(3A)(b) of the Act, if it was demonstrated that the alternative proposal would result in minimal amenity impacts, and if the objectives of the controls were achieved.

In response to the RFI, the Applicant submitted an amended package on 8 May 2025 which provided justification for the above non-compliances. In this regard, the following is noted.

The proposed application varies control 6.3(ii) as the entry to the garage is off a rear laneway, and is not setback a minimum of 1m from the laneway boundary.

A variation to this control is supported as the proposed garage replaces an existing garage which is built to the rear boundary of Reserve Lane, and contains a minimal 300mm setback to Oberon Lane. In addition, there are numerous examples of garages along both Oberon Lane and Reserve Lane that have nil setback to the laneway. It is considered that the proposal is consistent with the character of laneway development in this regard.

The proposed application varies control 6.3(iii) & 8.1(v) as the garage is built to a side boundary (eastern boundary), and the adjoining property (No. 43 Oberon Street) does not have a garage/outbuilding built to this common boundary.

A variation to this control is supported as the proposed alternative, which results in a variation to the controls, provides a better outcome for the subject site without compromising the amenity of neighbouring properties, or being inconsistent with similar development in the laneway.

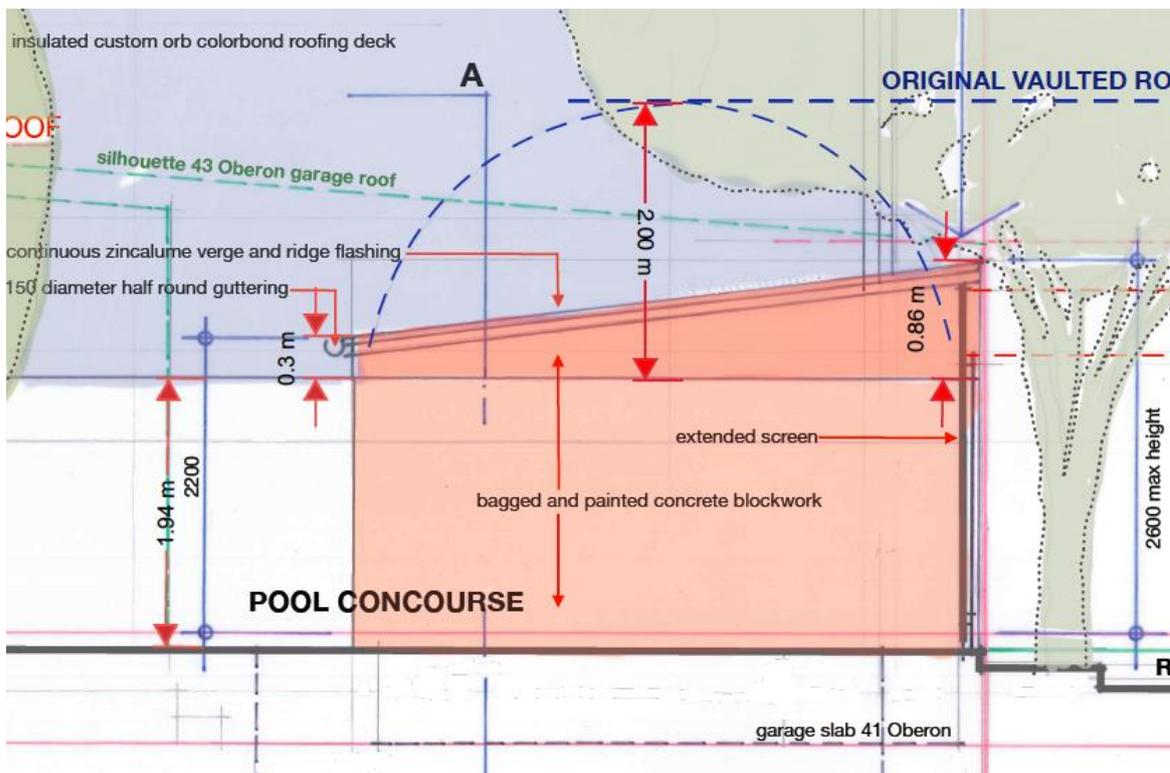
The subject site is currently constrained in terms of private open space in the rear yard, as a result of the current orientation of the garage, which is along Oberon Lane. This results in the rear yard containing a L-shaped private open space area that contains a passageway along the eastern side of the current garage, which offers little usability and amenity to the residents of the subject site. The proposed alternative to the current arrangement includes a garage orientated along Reserve Lane. This alternative results in a squared-off private open space area that is increased in terms of usability and amenity. It also allows the proposed private open space area to achieve the required dimensions for private open space areas under Section 2.7 of Part C1 of the RDCP 2023.

The proposed garage has also been amended since DA/312/2024, and is reduced in scale, through the deletion of the semi-circular roof, and provision of a skillion roof form, which is consistent with the character of the laneway.

The modifications have resulted in reduced amenity impacts on No. 43 Oberon Street to the east.

The proposed garage does not result in any visual privacy impacts to the rear yard of No. 43 Oberon Street, given that no openings are proposed along the common boundary that the two sites share.

It is also considered that the modified garage will not result in adverse visual bulk to the rear yard of No. 43 Oberon Street. Of note, the shared boundary between No. 41 and 43 Oberon Street contains a large 1.94m fence that separates the two sites. The proposed garage extends between 300mm and 860mm above this fence (see Figure 11 below).



**Figure 11:** Extract of Drawing No. DA10 of the architectural plans prepared by Studio GA.

The garage has improved the relationship between the garage and No. 43 Oberon Street from that proposed under DA/312/2024, which extended 2m above the fence (See Figure 11 above). The garage has also been fitted with a skillion roof form which falls in height towards the rear building line of the primary buildings. The portion of a garage which extends above the fence adjoins the swimming pool area of No. 43 Oberon Street and only contains a narrow paved area adjoining the common boundary. Due to this interface, it is not considered that any adverse visual bulk impacts will result in the key areas of recreation within the rear yard of No. 43 Oberon Street.

Lastly, it is not considered that any unreasonable overshadowing impacts result from the modified garage. The Applicant has provided hourly shadow diagrams from 11am to 4pm (noting within their

RFI submission that due to the orientation of the site, no overshadowing impacts are possible prior to 11am). These shadow diagrams have outlined that a minor amount of overshadowing is proposed onto the rear yard of No. 43 Oberon Street at 12pm, 1pm, 2pm, and 3pm on the winter solstice. The additional shadows are minor and do not prevent No. 43 Oberon Street from achieving 3 hours of solar access at midwinter in line with the provisions of Section 5.1 of Part C1 of the RDCP 2023. It is also noted that the rear yard of No. 43 Oberon Street is already heavily overshadowed at midwinter by its own garage and fencing, at all times throughout the day.

Furthermore, in line with Section 4.15(3A)(b) of the Act, it is considered that flexibility should be applied as an alternative solution has been presented that achieves the objectives of these sections of the RDCP 2023, as discussed below:

Section 6.3 of the Part C1 of the RDCP 2023:

- *To ensure car parking and access facilities do not visually dominate the property frontage or streetscape.*

**Planner's comment:** The proposed garage structure, as amended, has successfully navigated key constraints of the site to provide a structure that is not out of character with the laneway and provides improved internal amenity for the subject site. The proposed garage is of a size and scale that will not dominate the laneway.

While it appears that the garage is inconsistent with the orientation of garages along the laneway, it is consistent with the orientation of garages of corner allotments, similar to that located at No. 22A Howard Street and No. 39 Oberon Street.

- *To ensure parking facilities are integrated with the architectural expression of the dwelling as an integrated element.*

**Planner's comment:** The proposed garage is separated from the dwelling and is not an integrated element. Notwithstanding this, the proposed form, and materials, and finishes are not indifferent to the character of the dwelling on No. 41 Oberon Street.

- *To minimise hard paved surfaces occupied by driveways and parking facilities and maximise opportunities for deep soil planting and permeable surfaces for stormwater infiltration.*

**Planner's comment:** The proposed reorientation of the existing garage increases opportunities for deep soil planting and minimises unused spaces within the private open space of the subject site. The proposed development results in improved amenity for the subject site.

- *To ensure the location and design of parking and access facilities do not:*
  - *Pose undue safety risks on building occupants and pedestrians*
  - *Adversely impact on the amenity of neighbouring properties*
  - *Result in a loss of on-street parking and street trees.*

**Planner's comment:** The proposed garage has been modified to limit, as much as reasonable, any potential safety risks on building occupants and pedestrians. The Applicant has demonstrated that the garage has the dimensions, as required by the Australian Standards, and the Council to adequately fit a vehicle. The proposed garage is along a laneway, which has no pedestrian pathways; as such, it is not considered that any undue safety risks will result in the public domain. In addition, the status quo of line of sight along Oberon and Reserve Lane is maintained.

As discussed above, the proposed garage has an acceptable impact on neighbouring properties.

The proposed garage does not result in the loss of any on-street car parking. While a street tree will need to be removed, this has been supported by the Council's landscape officer as the tree is damaged and in an unsafe position in the laneway.

Section 8.1 of the Part C1 of the RDCP 2023:

- *To ensure any building fronting a rear lane has a scale and mass secondary to the main dwelling on the site and is appropriate for the width of the lane*

**Planner's comment:** The proposed garage, as amended, will be of a mass and scale that is secondary to the main dwelling on site. The garage is also appropriate for the width of the laneway, given the character of garages that face both Oberon Lane and Reserve Lane. The orientation of the garage is acceptable for a corner allotment and improves the internal amenity of the site.

- *To promote casual surveillance and improve safety and security of laneways.*

**Planner's comment:** The garage, as amended, contains highlight windows facing Reserve Lane, which promotes casual surveillance. In addition, the reduced roof form will improve surveillance opportunities from the first-floor rear-facing windows of No. 41 and 43 Oberon Street. It is also noted that both Reserve and Oberon Lanes have excellent casual surveillance due to the large flat buildings that overlook both laneways. The proposed garage will not impact this outcome.

As noted above, it is considered that the variation to the setback controls of Section 6.3 and 8.1 of Part C1 of the RDCP 2023 is acceptable.

- **Site Coverage (Section 2.4 of Part C1 of the RDCP 2023).**

Section 2.4 of Part C1 of the RDCP 2023 outlines maximum requirements for the site cover of buildings on development sites. As the subject site has an area of 191.6m<sup>2</sup>, the maximum site cover permitted for the site is 60% or 114.96m<sup>2</sup>. The subject site has an existing site cover of 113.38m<sup>2</sup> or 59.17%. The addition of the proposed garage will result in a site cover of 120.35m<sup>2</sup> or 62.81%, resulting in a variation of 5.39m<sup>2</sup> or 4.68%.

The proposed variation is a result of a constraint of the site, being the location of the power pole. Due to the power pole, the width of the garage has been elongated to ensure the garage door has an acceptable clearance from the pole. If this power pole were not present, the garage could be narrower, and may comply. Notwithstanding this, the garage has resulted in improved amenity for the subject site, given the improvement to the private open space area in terms of usability available to the residents. As discussed previously within this assessment, the garage does not result in any unacceptable amenity impacts to neighbouring properties.

A variation to the above control is considered reasonable in the circumstances of the subject application.

## 7. Referral comments

- **Landscape and Development Engineer Officer**

A internal referral has been made to Council's Landscape and Development Engineer Officer. There comments are outlined below:

*"An amended Section 4.55 (2), modification application has been received to the approved development for changes to and reduction of the roof of the outbuilding/garage to a mono-pitch roof, reduction of building height of outbuilding/garage by lowering the boundary masonry wall from 190mm to 140mm, provision of highlight windows to the north elevation of outbuilding/garage, and relocation of waste bins.*

Original consent:  
*Alterations and additions to the existing dwelling house.*

This report is based on the following plans and documentation:

- *Architectural Plans by Studio GA, REV B dated 13/02/2025,*
- *Statement of Environmental Effects by Studio GA and dated 12/04/2024,*
- *Detail & Level Survey by McDonald Surveying and dated 08/03/2023.*

### **General Comments**

The engineering issues raised with the original proposal have now been addressed with the S4.55 plans and subsequent amendments to those plans. There are no objections to the proposed modifications from Development Engineering.

As Engineering and landscape Comments were also not included in the original planning report to the local Planning Panel, to ensure transparency and completion, these are now included in this report for the modified proposal

### **Parking Comments**

The modified proposal has reduced the thickness of the rear wall which increases the length available for the carspace to 5.45m and is now fully compliant with AS 2890.1. This is supported by Development Engineering. The garage also has sufficient width and height clearance to accommodate a compliant car space.

As the garage is immediately adjacent to Oberon Lane care must be taken in levels design to ensure vehicles can adequately transition between the garage floor level and the laneway without scraping. With the proposed Garage Floor Level of RL 53.56 AHD this should not be difficult to achieve. Suitable conditions have been included in this report.

### Access from Oberon Lane

Concerns were raised with the original proposal on access and turning manoeuvres from Oberon Lane as it is only 6.1m (20ft) wide. The widening of the garage opening to 2.8m and the existing No parking signs opposite the proposed garage entrance on Oberon Lane (giving more manoeuvring room) will address this issue. The modified proposal maintains this opening width and no objections are raised.

### **Ausgrid Light pole Comments**

The original application was not supported by Ausgrid due to its proximity to an existing light pole on Oberon Street. After some amendments including most notably a setback 0.5m of the garage door opening from the face of the power pole, Ausgrid were accepting of the proposal.

The modified proposal maintains this setback and hence no objections are raised by Development Engineering.

### **Drainage Comments**

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

### **Landscape Comments**

Landscape conditions were not included in the original consent, opportunity is there for taken for this application to correct this error. Landscape comments were not also included and now have been provided below.

Site Inspection was undertaken on Friday 28<sup>th</sup> March 2025 with all pictures of vegetation on D05662336 & D05279749.

Within Oberon Street council's verge, two, mature *Cupaniopsis anacardioides* (Tuckeroo) first is plotted centrally adjacent the subject site, second tree, is to the east of first tree, adjacent No.43 property, both 6 metres high, good health, good vigour, in close conflict with frontage works, material handling and such, most westerly tree **to be protected**, lastly, moving within the frontage of the property, there was a total absence of vegetation to which proposed new landscaping will be applied.

Moving towards the rear of the property, within the western side setback laneway, a small courtyard which was showing small insignificant vegetation, wholly within the eastern neighbouring No.43 property, centrally between the rear dwelling and rear garage, *Cupressus* Spp, 5 metres high, good health, good vigour, measuring from Architectural Plan (DA.08 Issue C Council Stamped 4/3/2025), this tree measured 4 metres south of proposed rear workshop garage, an existing brick retaining wall, measures along the eastern common boundary, north to south maintains protection to all roots, this wall would have been built before tree was planted to which roots would not be able to enter subject site property, with all these factors this neighbouring tree has ample clearance from works.

Moving to the rear of subject site, within Reserve Lane, on councils' verge, centrally between the two rear garages, *Capaniopsis anacarioides* (Tuckeroo) 6 metres high, good health, fair vigour, plotted between curb and subject site boundary wall, which measures 600mm wide, the trunk is of same size of between existing kerb and wall, which in time, this tree will inevitably damage the structures of wall and kerb.

There is noticeable trunk damage, to which it has been mechanically damaged by vehicles reversing from adjacent garages and driveways within this small laneway, this tree would have been planted from a seedling from nearby tree, with all these factors **this tree can be removed at applicant costs.**

These alterations do not increase site coverage by more than 10%, the landscaping and tree canopy cover clauses in the C1 DCP 2023 will not apply."

- **Ausgrid**

A referral was made to Ausgrid as required by Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. A response was received on 29 April 2025, which outlined that Ausgrid had no objection to the proposed development. This response is attached in Appendix 1 of this report.

**8. Section 4.15 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	<p><b>State Environment Planning Policy (Sustainable Buildings) 2022.</b></p> <p>It is acknowledged that a BASIX Certificate was not required under DA/312/2024 due to the total cost of works of the approved development, which included alterations and additions to a BASIX building, being under \$50,000. However, as the condition requiring the removal of the garage is sought to be deleted under this application, the total cost of works will be greater than \$50,000. Therefore, a BASIX Certificate will now be required.</p> <p>For clarity, see the explanation below:</p> <p>The State Environmental Planning Policy (Sustainable Buildings) 2022 outlines requirements for BASIX development. BASIX development is defined under the Environmental Planning and Assessment Regulation 2021 as (emphasis added):</p> <p><i>“BASIX development means the following development if it is not BASIX excluded development—</i></p> <p><i>(a) development that involves the erection, but not the relocation, of a BASIX building,</i></p> <p><i>(b) development that involves a change of building use by which a building becomes a BASIX building,</i></p> <p><b><i>(c) development that involves the alteration of a BASIX building, if the estimated development cost is \$50,000 or more,</i></b></p> <p><i>(d) development for the purposes of a swimming pool or spa, or combination of swimming pools and spas, that—</i></p> <p><i>(i) services 1 dwelling only, and</i></p> <p><i>(ii) has a capacity, or combined capacity, of 40,000 litres or more.”</i></p>

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Section 4.15 'Matters for Consideration'	Comments
	<p>The subject site includes a dwelling house, which is sought to be altered as part of this consent. See the definition of BASIX Building below:</p> <p><i>“BASIX building means a building that contains at least 1 dwelling, but does not include the following—</i></p> <ul style="list-style-type: none"> <li><i>(a) hotel or motel accommodation,</i></li> <li><i>(b) a boarding house, hostel or co-living housing that—</i> <ul style="list-style-type: none"> <li><i>(i) accommodates more than 12 residents, or</i></li> <li><i>(ii) has a gross floor area exceeding 300 square metres.”</i></li> </ul> </li> </ul> <p>The subject site and proposal also include BASIX-excluded development as a garage forms BASIX-excluded development. See below (emphasis added):</p> <p><i>“BASIX excluded development means the following development—</i></p> <ul style="list-style-type: none"> <li><b><u>(a) development for the purposes of a garage, storeroom, carport, gazebo, verandah or awning,</u></b></li> <li><i>(b) development that involves the alteration of a building listed on the State Heritage Register under the Heritage Act 1977,</i></li> <li><i>(c) development that involves the alteration of a building resulting in a space that cannot be fully enclosed, other than a space that can be fully enclosed but for a vent needed for the safe operation of a gas appliance,”</i></li> </ul> <p>However, even though BASIX-excluded development forms part of the application, Section 6A of the Environmental Planning and Assessment Regulation 2021 outlines that in determining whether development involving an alteration of a BASIX building is BASIX development, the consent authority must use the estimated cost of work, including any BASIX-excluded development.</p> <p>Therefore, as the total cost of the works of the development, as noted in the Cost Estimate prepared by Vitech Building Services, is greater than \$50,000, a BASIX Certificate is required to be submitted.</p> <p>The applicant has submitted a new BASIX certificate. The plans have been checked with regard to this new certificate, and they are consistent with the requirements indicated for the DA stage. Standard conditions of consent requiring the compliance of the development with the SEPP are included in the modified consent.</p> <p><b>State Environment Planning Policy (Transport and Infrastructure) 2021.</b></p> <p>Clause 2.48 of the Transport and Infrastructure SEPP applies to development comprising or involving any of the following:</p> <ul style="list-style-type: none"> <li><b><u>“(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</u></b></li> <li><b><u>(b) development carried out—</u></b> <ul style="list-style-type: none"> <li><i>(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or</i></li> <li><i>(ii) immediately adjacent to an electricity substation, or</i></li> <li><b><u>(iii) within 5m of an exposed overhead electricity power line,</u></b></li> <li><i>(c) installation of a swimming pool any part of which is—</i></li> </ul> </li> </ul>

Section 4.15 'Matters for Consideration'	Comments
	<p><i>(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or</i></p> <p><i>(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,</i></p> <p><i>(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned."</i></p> <p>The proposed modification involves penetration of ground within 2m of an electricity distribution pole, and development that is carried out within 5m of an exposed overhead electricity powerline, and as such, clause 2.48 is applicable. The application has been referred to Ausgrid (the relevant electricity supply authority), and suitable conditions have been provided.</p> <p>It is also noted that evidence has been provided by the Applicant that the proposed separation between the power pole and the driveway is acceptable.</p> <p><b>State Environmental Planning Policy (Biodiversity and Conservation) 2021</b></p> <p>Chapter 2 of the Biodiversity SEPP relates to the clearing of vegetation in non-rural areas. The proposal does not include tree removal as part of the application. Notwithstanding this, the Council's landscape officer has reviewed the application and identified that a tree is located on Council land adjacent to the rear boundary of the site, on Reserve Lane. The location of the garage would require substantial pruning works to be carried out on the tree, and also potential impacts to the root system.</p> <p>Council landscape officer has recommended the removal of this tree at the applicant's expense due to the tree's inappropriate location in a narrow laneway, previous damage to the trunk, and impact from the proposed garage.</p> <p><b>State Environmental Planning Policy (Resilience and Hazards) 2021</b></p> <p>Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 of the SEPP states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose.</p> <p>The conclusion reached as part of the assessment of DA/312/2024 has not changed as a result of the proposed modification.</p> <p><b>Randwick Local Environmental Plan 2012</b></p> <p>The proposed modifications do not impact the compliance with any development standards or Clauses of the RLEP 2012. The development, as modified, remains consistent with the general aims and objectives of the RLEP 2012.</p>

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Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Reference is to be made to Appendix 2 of this report, which addresses Part C1 of the RDCP 2023.
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	The proposed modifications have responded appropriately to the relevant planning controls and will not result in any significant adverse environmental, social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	<p>The site has been assessed as being suitable for the development in the original development consent.</p> <p>The modified development will remain substantially the same as the originally approved development and is considered to meet the relevant objectives and performance requirements in the RDCP 2013 and RLEP 2012. Further, the proposed modifications will not adversely affect the character or amenity of the locality.</p> <p>Therefore, the site remains suitable for the modified development.</p>
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

## 9. Conclusion

That the Section 4.55 modification application to the approved development for changes to and reduction of the roof of the outbuilding/garage to a mono-pitch roof, reduction of building height of outbuilding/garage by lowering the boundary masonry, provision of highlight windows to the north elevation of outbuilding/garage, relocation of waste bins, be approved (subject to amended conditions of consent) for the following reasons:

- The proposed modifications are considered to result in a development that is substantially the same as the previously approved development.
- The modified development will not result in significant adverse environmental impacts upon the amenity and character of the locality.
- The deletion of the condition requiring the removal of the garage from the proposal is considered appropriate as the modified garage now achieves the required dimensions of the relevant

Australian Standards, has a design that is now characteristic of the laneway, and does not result in any adverse amenity to any adjoining development.

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**Responsible officer:** GAT & Associates, Town Planners

**File Reference:** DA/312/2024/A

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## Appendix 1: Ausgrid Referral

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[ausgrid.com.au](http://ausgrid.com.au)

**This letter is Ausgrid's response under section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.**

Ausgrid does not object to the proposed development.  
The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

### **Ausgrid Overhead Powerlines are in the vicinity of the development**

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at [www.ausgrid.com.au](http://www.ausgrid.com.au).

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

Should you have any enquiries, please contact Ausgrid at [development@ausgrid.com.au](mailto:development@ausgrid.com.au)

Regards,  
Ausgrid Development Team

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**Appendix 2: DCP Compliance Table**

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	<b>Classification</b>	Zoning = R2 Low-Density Residential.	<b>Complies</b>
<b>2</b>	<b>Site planning</b>		
<b>2.1</b>	<b>Minimum lot size and frontage</b>		
	Minimum lot size (RLEP).	Existing 191.6m <sup>2</sup> . No subdivision proposed.	N/A
<b>2.2</b>	<b>Minimum frontage</b>		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 12m Existing = 5.715m No subdivision or dual occupancy is proposed.	N/A
<b>2.4</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 189.7m <sup>2</sup> Existing = 112.41m <sup>2</sup> (59.26%) Proposed = 120.35m <sup>2</sup> (62.81%).	Variation is sought. Refer to key issues.
<b>2.5</b>	<b>Deep soil permeable surfaces</b>		
	i) Up to 300 sqm = 30% ii) 301 to 450 sqm = 35% iii) 451 to 600 sqm = 40% iv) 601 sqm or above = 45% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Minimum 25% of front setback is to be landscaped area	N/A. Change in site cover is only 4.75%.	N/A. However, the overall landscape character of the site is improved.
<b>2.6</b>	<b>Landscaping and tree canopy cover</b>		
	i) Alterations that change site coverage over 10% requires at least 25% tree canopy cover over the site. ii) Up to 300 sqm = 2 trees iii) 301 to 450 sqm = 3 trees iv) 451 to 600 sqm = 4 trees v) 601 sqm or above = 4 trees	N/A. Change in site cover is only 4.75%. Four trees are proposed for planting (two x Frangipani and two x Dwarf Apple).	N/A. However, the overall landscape character of the site is improved.
<b>2.7</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b> <u>Up to 300 sqm = 5m x 5m</u> 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Site = 191.6m <sup>2</sup> Existing = 4.65m x 5.56m Proposed = 6.7m x 5.665m	Yes. As the proposed garage is conditioned for deletion, no change to the private open space area will occur.
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = no provision.</b>	Site area = 191.6m <sup>2</sup> Existing FSR = 0.787:1	N/A. As there is no maximum FSR of the site, the proposal remains

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
		Proposed FSR = 0.805:1	compliant with the RLEP 2012.
<b>3.2</b>	<b>Building height</b>		
	<b>Maximum overall height LEP 2012 = 9.5m maximum</b>	Existing = 8.32m (61.86m ridge – NGL 53.54m) No change to the maximum height of the dwelling. Outbuilding height proposed	Yes. Height for laneway structures is controlled under section 8.1 of the RDCP. Refer below.
	i) (Minimum floor to ceiling height = 2.7m) ii) The minimum floor-to-floor height for building stories, excluding those above the first floor level within the building roofline, is 3.1 m ii) Max two storeys except for consideration of topography, site orientation, lot configuration, flooding and if the height does not result in amenity impacts	N/A, no change proposed to dwelling floor-to-ceiling height.	N/A.
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b> i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary Street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	No change to the setbacks of the dwelling house.  Refer to Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of laneway structures.	Yes.
<b>3.3.2</b>	<b>Side setbacks:</b> Semi-Detached Dwellings: <ul style="list-style-type: none"> <li>• Frontage less than 6m = merit</li> <li>• Frontage b/w 6m and 8m = 900mm for all levels</li> </ul> Dwellings: <ul style="list-style-type: none"> <li>• Frontage less than 9m = 900mm</li> <li>• Frontage b/w 9m and 12m = 900mm (Gnd &amp; 1<sup>st</sup> floor) 1500mm above</li> <li>• Frontage over 12m = 1200mm (Gnd &amp; 1<sup>st</sup> floor), 1800mm above.</li> </ul> Refer to 6.3 and 7.4 for parking facilities and outbuildings	No change to the setbacks of the dwelling house.  Refer to Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of laneway structures.	Yes.
<b>3.3.3</b>	<b>Rear setbacks</b> 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"> <li>- Existing predominant rear setback line - reasonable view sharing (public and private)</li> <li>- protect the privacy and solar access</li> </ul>	No change to the setbacks of the dwelling house.  Refer to Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of laneway structures.	Yes.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	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:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts  Refer to 6.3 and 7.4 for parking facilities and outbuildings		
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> </ul>	No change to the approved alterations/additions to the dwelling house.  The garage has been modified to respect site constraints and characteristics as discussed in the key issues section of this report.	Yes.
<b>4.3</b>	<b>Alterations and additions to existing semi-detached and dual occupancy (attached) dwellings</b>		
	i) Alterations and additions must respect and enhance the architectural character of the pair of semi-detached and dual occupancy (attached) dwellings as a coherent entity ii) The design of the dwelling must be based on a detailed site and contextual analysis iii) Design solutions must respect the existing architectural expression and symmetry between the pair of semi-detached and dual occupancy (attached) dwellings and address: - Locating the bulk of any first floor level addition, setback from the principal street frontage and accommodated to the rear of the dwelling, with a substantial portion of the existing front roof remaining intact - Positioning the addition behind the apex of existing hipped roofed houses. For gable roofs, additions should be setback from the gable end 100% of the height increase and retain any existing gable features and chimneys - Designing the first floor level addition as a low profile roof form that is visually secondary to the existing front roof. Alternatively, the addition should adopt a roof form that is compatible with	No change to the approved alterations/additions to the dwelling house.  The garage is a separate element from the semi-detached dwelling. Notwithstanding, its selection of materials and general form respects the key characteristics of the semi-detached dwellings.	Yes.

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	<p>the style and period of the existing roof to be retained.</p> <p>iv) Alterations and additions to semi-detached and dual occupancy (attached) dwellings may be constructed to the common boundary with the adjoining dwelling</p> <p>v) Avoid the exposure of existing blank party walls of the adjoining semi-detached dwelling to the public domain</p> <p>vi) Alterations and additions must seek to minimise the creation of exposed party walls at the common boundary. Where this is not feasible, the party walls must be appropriately finished</p> <p>vii) The selection of materials used for alterations and additions must enhance the character of the pair of semi-detached dwellings and result in a coordinated / holistic design outcome.</p>		
<b>4.4</b>	<b>Roof terraces and balconies</b>		
	<p><i>Rooftop terraces</i></p> <p>i) on stepped buildings only (not on uppermost or main roof)</p> <p>ii) above garages on sloping sites (where garage is on low side)</p> <p><i>Dormers</i></p> <p>iii) Dormer windows do not dominate</p> <p>iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</p> <p>v) Multiple dormers consistent</p> <p>vi) Suitable for existing</p> <p><i>Clerestory windows and skylights</i></p> <p>vii) Sympathetic to design of dwelling</p> <p><i>Mechanical equipment</i></p> <p>viii) Contained within roof form and not visible from street and surrounding properties.</p>	No rooftop terrace or balcony is proposed	N/A.
<b>4.5</b>	<b>Rooftop Design and Features</b>		
	<p><u>Dormer Windows</u></p> <p>iv) Dormer windows must be located and have a size, bulk and scale that do not dominate the roof form or add excessively to the building mass</p> <p>v) The configuration of dormer windows must satisfy the following: - A maximum height from base to ridge of not more than 1.5m</p> <ul style="list-style-type: none"> <li>- The highest point of a dormer must be situated below the ridge of the roof to which it is attached</li> <li>- Dormers must be setback from the sides of the roof by a minimum of 500mm</li> <li>- The front face of a dormer must be setback from the external face of the wall immediately below</li> <li>- The base of a dormer must be positioned above the gutter of the roof in which it is situated.</li> </ul>	No dormer windows proposed for the dwelling or garage.	N/A.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	vi) Dormers occurring in the same roof plane must be similarly sized, configured, and arranged symmetrically.		
<b>4.6</b>	<b>Colours, materials and finishes</b>		
	i) The development application must include a schedule detailing the proposed materials and finishes for a new dwelling, alteration or addition in the DA documentation. The selection of colour and material palette must complement the character and style of the building ii) The exterior materials (such as wall cladding and roofing materials) of a building must be durable and non-reflective iii) External surfaces must be of lighter coloured materials to reduce the impacts of the urban heat island effect iv) The use of lighter coloured external materials must consider and mitigate undesirable or uncomfortable glare directed towards neighbouring properties v) Large expanses of rendered masonry must be avoided in street frontages and laneway elevations, except where they are required due to heritage considerations vi) A combination of materials and finishes must be selected to articulate long sections of walls and create visual interest vii) Select materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration viii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	A schedule of colours/materials list has been submitted with the proposal.  The proposed colours and materials are acceptable and complement the character and style of the building and laneway.	Yes.
<b>4.7</b>	<b>Earthworks</b>		
	i) Any excavation and backfilling within the building footprint must be limited to a maximum 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification. Refer to Figure 16. These requirements do not apply to swimming or spa pool structures ii) The outer edge of any excavation, piling or sub-surface walls must be setback a minimum of 900mm from the side and rear boundaries	A cut of 520mm from the courtyard to the garage level is proposed.	Yes.
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21st June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21st June.	A shadow analysis has been prepared and submitted within the architectural package prepared by Studio GA. These shadows	Yes.

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
		<p>demonstrate that no additional shadows are cast on the building line of either No. 41 Oberon Street, nor any additional shadows on the private open space area of No. 41 Oberon Street.</p> <p>The status quo of solar access retained to the subject site will be retained.</p>	
	<b>Solar access to neighbouring development:</b>		
	<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 21st June.</p> <p>ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21st June.</p> <p>v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21st June. If no panels, direct sunlight must be retained to the northern, eastern</p>	<p>A shadow analysis has been prepared and submitted within the architectural package prepared by Studio GA. These shadows demonstrate that no addition shadows are cast to the building line of No. 43 Oberon Street.</p> <p>The status quo of solar access to living areas of the subject site and neighbouring development will remain.</p> <p>The submitted shadow analysis also demonstrate that while addition overshadowing is proposed to the private open space area of No. 41 Oberon Street, it continues to retain 3 hours of direct sunlight between 8am and 4pm on the 21<sup>st</sup> June.</p> <p>No solar panels are located on any adjoining property that will be impacted by the proposed works.</p>	<p>Yes.</p>

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	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"> <li>• Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>• Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>• Topography of the subject and adjoining allotments.</li> <li>• Location and level of the windows in question.</li> <li>• Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	No variation is proposed.	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	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"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> </ul> 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	A BASIX Certificate has been submitted, which demonstrates that key sustainability requirements will be met.  No changes are made to any of the works proposed to the dwelling as approved under DA/312/2024.	Yes.
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	i) All habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following design measures: <ul style="list-style-type: none"> <li>- Offsetting or staggering windows away from those of the adjacent building</li> <li>- Setting the window sills at a minimum of 1.6m above finished floor level</li> <li>- Installing fixed and translucent glazing up to a minimum of 1.6m above finished floor level</li> <li>- Installing fixed privacy screens outside the windows in question</li> <li>- Creating a recessed courtyard on the side elevations of a building measuring not less than 3m x 2m in size, with windows opening towards the courtyard in lieu of the common boundary.</li> </ul>	No changes are made to the any window to an habitable space which was approved under DA/312/2024.  In addition, the proposed highlight windows to the northern elevation of the garage will not result in any adverse visual privacy.	Yes.
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) noise sources not located adjacent to adjoining dwellings bedroom windows	The garage is located at the rear of	Yes.

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	<p>iii) Development affected by noise from road traffic, aircraft and industrial and port operations must be designed and constructed in accordance with the relevant Australian Standards and guidelines (as a minimum) issued by the relevant agencies and authorities. As a minimum, the bedroom windows must be oriented away from the noise source wherever possible. Depending on the level of noise impact, developments are encouraged to exceed minimum noise standards to achieve a high standard of internal amenity.</p>	<p>the site, and adjacent to the laneway. It is away from any sensitive area of neighbouring properties.</p> <p>The site is not mapped in the ANEF contour area.</p>	
<b>5.5</b>	<b>Safety and Security</b>		
	<p>i) Dwelling's main entry on front elevation (unless narrow site)                      ii) Street numbering at front near entry.                      iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place.                      iv) Front fences, parking facilities and landscaping does not to obstruct casual surveillance (maintain safe access)</p>	<p>No changes are proposed to the approved works to the front of the dwelling under DA/312/2024.</p> <p>The proposed garage promotes additional casual surveillance through the provision of highlight windows to the laneway. The new windows at the front provide passive surveillance of Oberon Street.</p>	Yes.
<b>5.6</b>	<b>View Sharing</b>		
	<p>i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas.                      ii) Retaining existing views from the living areas are a priority over low use rooms                      iii) Retaining views for the public domain takes priority over views for the private properties                      iv) Fence design and plant selection must minimise obstruction of views                      v) Adopt a balanced approach to privacy protection and view sharing                      vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.                      (certified height poles used)</p>	<p>The site is not in proximity to any significant views or vistas.</p>	N/A.
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	All dwellings		Yes.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	<p>i) Provide a maximum of one vehicular access per property</p> <p>ii) Locate parking facilities off rear lanes, or secondary street frontages in the case of corner allotments, where available</p> <p>iii) Where rear lane or secondary street access is not available, parking facilities must be located behind the front façade alignment, either integrated within the dwelling or positioned to the side of the dwelling</p> <p>iv) Provide a single width garage or carport facing the primary street if the site frontage has a width of less than 12m</p> <p>v) A double width garage or carport may only be provided where:</p> <ul style="list-style-type: none"> <li>- The frontage width is at least 12m; and</li> <li>- The development is consistent with the predominant pattern in the street; and</li> <li>- The minimum deep soil permeable surfaces area in the front setback is achieved.</li> </ul> <p>vi) A tandem car parking garage or single garage and a carport, or hardstand space in front of a single garage, will be considered where two car parking spaces are required for a dwelling. Refer to B7 Transport, Traffic, Parking and Access</p> <p>vi) Avoid long driveways that require large expanses of impermeable surfaces</p>	<p>One vehicular access point is proposed.</p> <p>The proposed garage is located off the rear laneway.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p>	<p>Yes.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p> <p>N/A.</p>
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment (if other options not available)</b>		
	<p>i) The following may be considered:</p> <ul style="list-style-type: none"> <li>- An uncovered single car space</li> <li>- A single carport (max. external width of not more than 3m and</li> <li>- Landscaping incorporated in site frontage</li> </ul> <p>ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where:</p> <ul style="list-style-type: none"> <li>- There is no alternative, feasible location for accommodating car parking;</li> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> </ul>	<p>The proposed garage addresses Oberon Lane.</p> <p>No vehicular access is proposed to Oberon Street, the primary frontage of the site.</p>	<p>N/A.</p>

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	<p>iv) May include an additional 6sqm of floor area through additional length for storage purposes that is excluded from FSR.</p> <p>v) 2.6m max wall height of detached garages, and max height of 3m for pitched roof.</p> <p>vi) recess garage door 200mm to 300mm behind walls (articulation)</p> <p>vii) 600mm max. parapet wall or bulkhead</p> <p>viii) minimum clearance 2.2m AS2890.1</p>	<p>Additional storage is proposed; however, it is added to the width of the garage rather than the length. This is partly a consequence of the power pole along Oberon Lane. The garage has been modified to reduce its bulk and scale to an acceptable level, where no adverse amenity impacts result. A variation is acceptable in this instance.</p> <p>The controls under Section 8.1 of Part C1 of the RDCP 2023 control the height of the structure, given that it is a laneway structure.</p> <p>While the garage door is flush to the external walls, articulation is proposed through timber battens to break up the bulk of the garage.</p> <p>The controls under Section 8.1 of Part C1 of the RDCP 2023 control the height of the structure, given that it is a laneway structure.</p> <p>2.2M clearance is achieved.</p>	<p>N/A.</p> <p>Yes. On Merit.</p> <p>N/A.</p> <p>Yes.</p>
<b>6.6</b>	<b>Carport Configuration</b>		
	<p>i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open).</p> <p>ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling</p> <p>iii) 3m maximum width.</p> <p>iv) 5.4m minimum length</p> <p>v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof.</p>	<p>The proposal is for a garage</p>	<p>N/A.</p>

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	vi) No solid panel or roller shutter door. vii) front gate allowed (minimum 30% open) viii) Gate does not open to public land		
<b>6.7</b>	<b>Hardstand Car Space Configuration</b>		
	i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The proposal is for a garage	N/A.
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	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	No changes to the approved fencing at the front of the site are made under this modification.	N/A.
<b>7.2</b>	<b>Front Fencing</b>		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) lightweight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.	No changes to the approved fencing at the front of the site are made under this modification.	N/A.
<b>7.3</b>	<b>Side and rear fencing</b>		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	No change to side fencing is proposed.	N/A.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- finished external walls (not requiring maintenance);</li> <li>- no openings facing neighbours' lots and</li> <li>- maintain adequate solar access to the neighbours dwelling</li> </ul> v) First floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic)</li> <li>- Articulating the facades;</li> <li>- Using screen planting to visually soften the outbuilding;</li> <li>- Not being obtrusive when viewed from the adjoining properties;</li> <li>- Maintaining adequate solar access to the adjoining dwellings; and</li> <li>- Maintaining adequate privacy to the adjoining dwellings.</li> </ul> vi) Must not be used as a separate business premises.	Section 8.1 overrides these controls due to the proposed garage being a laneway structure.	N/A.
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	No swimming pools are proposed.	N/A.
<b>7.6</b>	<b>Air conditioning equipment</b>		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	No change to the A/C unit proposed.	N/A.
<b>7.7</b>	<b>Communications Dishes and Aerial Antennae</b>		
	i) Max. 1 communications dish and 1 antenna per dwelling.	No antenna or dish proposed on the outbuilding	N/A

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DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: <ul style="list-style-type: none"> <li>- Located behind the front and below roof ridge;</li> <li>- minimum 900mm side and rear setback and</li> <li>- avoid loss of views or outlook amenity</li> </ul> iii) Max. 2.7m high freestanding dishes (existing).		
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	i) Located behind the front alignment and not be prominently visible from the street	Adequate space is proposed in the rear yard for the provision of a clothesline.	Yes.
<b>8</b>	<b>Area Specific Controls</b>		
<b>8.1</b>	<b>Development in Laneways</b>		
	i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey).  ii) 1 operable window to laneway elevation (casual surveillance)  iii) Aligns with consistent laneway setback pattern (if no consistent setback, then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.)  iv) Nil side setback allowed subject to: <ul style="list-style-type: none"> <li>- adjoining building similarly constructed</li> <li>- no unreasonable visual, privacy and overshadowing impacts</li> </ul>	The garage has been modified to result in a maximum height of 3.4m. The proposed roof form of the garage is no longer inconsistent with the character of the laneway. The form of the garage is not dissimilar to the primary dwelling of the site.  Highlight windows are proposed to Reserve Lane to encourage casual surveillance.  Setbacks are consistent with the pattern of nil setbacks for outbuildings along Oberon and Reserve Lane.  A nil side setback is proposed to the common boundary with No. 43 Oberon Street. Refer to the key issues section of this report under Section 6. The proposed garage is built to the side, rear, and secondary street boundary.	No.  Yes.  Yes.  Refer to key issues.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	v) Screen or match exposed blank walls on adjoining properties (i.e. on common boundary).	New blank walls are proposed to adjoining properties.	Yes.

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## Development Application Report No. D26/25

**Subject:** 69 Meeks Street, Kingsford (DA/188/2025)

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### Executive Summary

<b>Proposal:</b>	Alterations and additions to existing dwelling house including modifications to, and extension of, the existing detached garage to provide a single car space, workshop, office and bathroom/laundry on the ground floor and a first floor addition above comprising media room; removal of existing window to facilitate new door opening in the dwelling house, and installation of side fencing (Heritage Item).
<b>Ward:</b>	West Ward
<b>Applicant:</b>	Gardner Design & Drafting
<b>Owner:</b>	Y. Li
<b>Cost of works:</b>	\$430,352.89
<b>Reason for referral:</b>	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/188/2025 for 'Alterations and additions to existing dwelling house including modifications to, and extension of, the existing detached garage to provide a single car space, workshop, office and bathroom/laundry on the ground floor and a first floor addition above comprising media room; removal of existing window to facilitate new door opening in the dwelling house, and installation of side fencing (Heritage Item).', at No. 69 Meeks Street, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

-  [RLPP Dev Consent Conditions \(general\) - DA/188/2025 - 69 Meeks Street, KINGSFORD NSW 2032](#)

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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 including rear extension and attic addition to the existing detached garage. Works to the dwelling house are limited to the removal of existing window and associated brickwork to facilitate new door opening.

The subject site is zoned R3 – Medium density residential, under which the land use of ‘dwelling house’ is permissible with consent. The site is listed as a local heritage item under Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012) – known as *1950s brick house* (1156).

The key issues associated with the proposal relate to the heritage conservation, fire separation requirements under the Building Code of Australia, configuration of dormer windows, private open space, and canopy tree requirements.

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

- Details of BCA performance solutions for fire safety to be submitted to Council for approval, with no external shutters permitted due to the heritage significance of the site.
- Works to be contained within the subject property, with no encroachment of structures over the boundaries of No. 102 Botany Street.
- The removal of undesirable and inadequate vegetation at the site, and a replacement canopy tree to be planted within western setback of the site.
- Materials and finishes of the new addition, and treatment of original fabric, to be consistent with heritage requirements
- Details of new fencing to be provided, demonstrating consistency with the requirements of RDCP 2023

## 2. Site Description and Locality

The subject site is legally described as Lot A in DP 377722 and has a street address of 69 Meeks Street, Kingsford. The site is a corner allotment with a 17.68m primary frontage to Meeks Street, a 18.595m secondary frontage to Botany Lane, and a total site area of 385sqm. The site features a near level topography, with no notable slope identified across the site.

Existing structures to the site include a single storey detached dwelling house, addressing Meeks Street (north), and a detached garage and carport structure accessed off Botany Lane (west).

The site is listed as a local heritage item under Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012) – (I156) – *1950s brick house*. The site is not located within a heritage conservation area

The subject site is one of the few single storey dwellings within the immediate locality, with surrounding development primarily comprises three-four storey residential apartment development,



reflecting the medium density zoning of the locality.

**Figure 1.** Street presentation of subject site, viewed from Meeks Street.

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**Figure 2.** Street presentation of existing garage to be partially demolished, Viewed from Botany Lane.



**Figure 3.** Existing private open space at the subject site, in location of proposed garage extension.



**Figure 4.** Existing carport between main dwelling and garage outbuilding.



**Figure 5.** Laneway presentation of Botany Lane

### 3. Relevant history

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

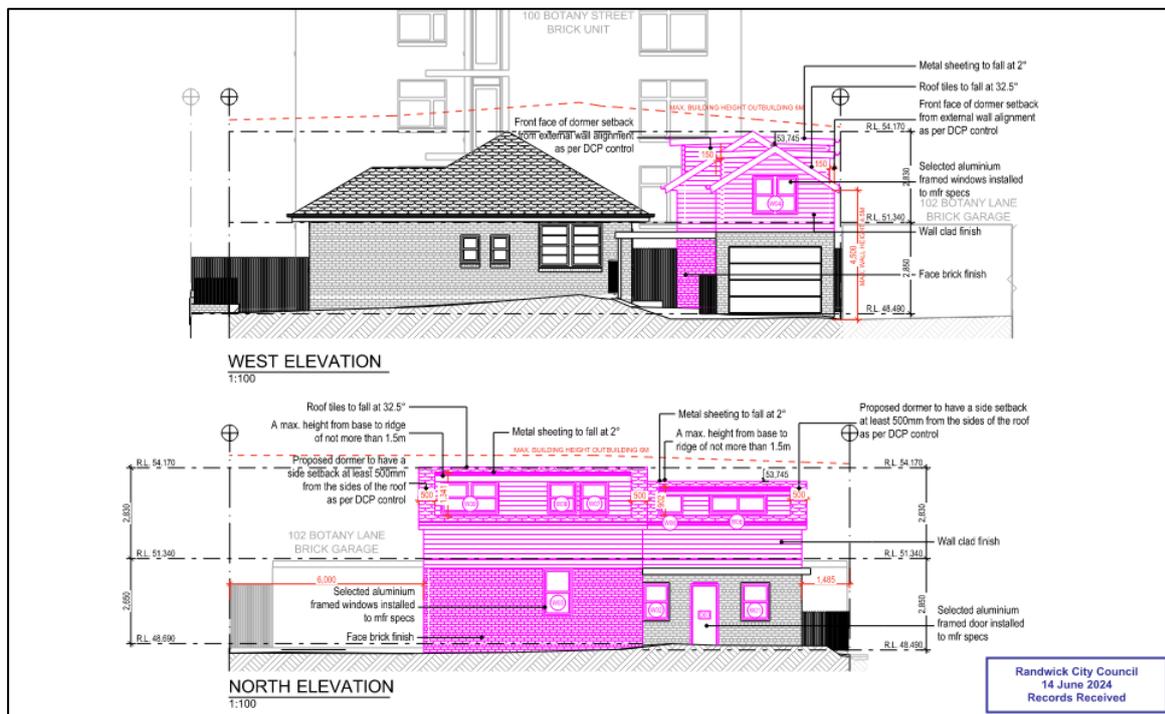
**PL/17/2024** – Alterations and addition to the existing garage.

A pre-lodgement meeting was held on 5 September 2024 for alterations and additions to the existing garage at the site, to accommodate a two-storey outbuilding.

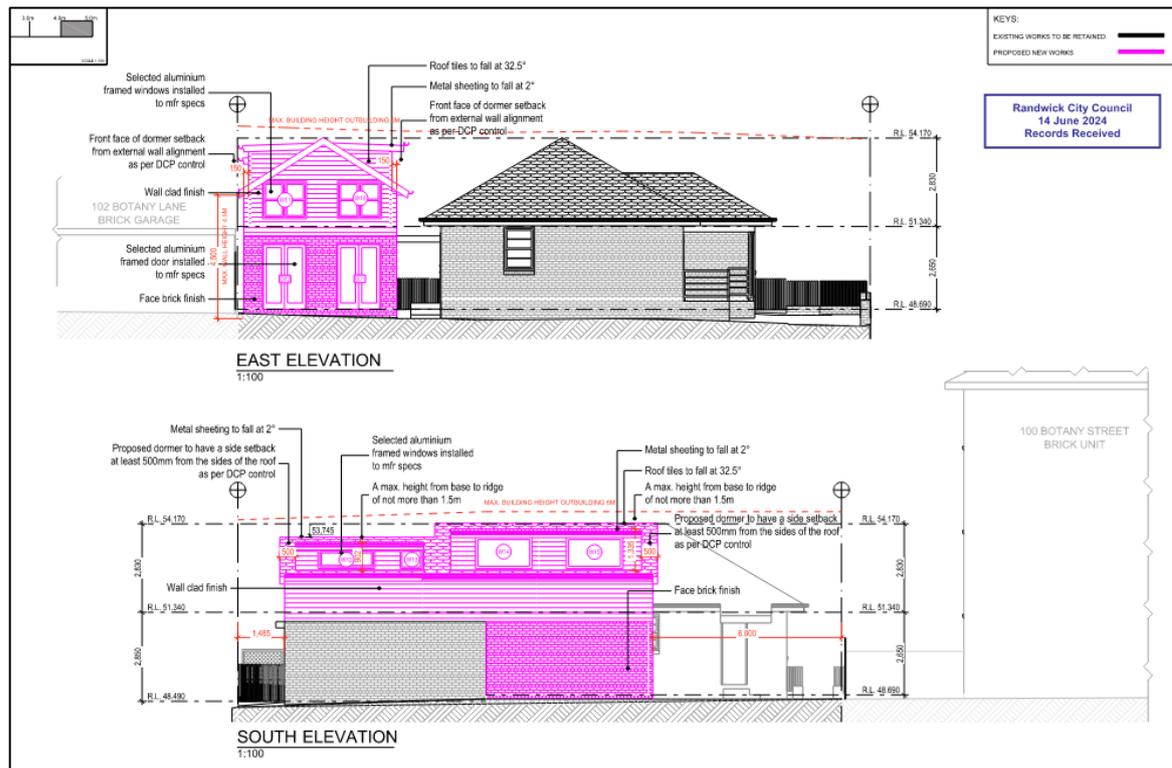
Council advised that the design submitted was unlikely to be supported as the bulk and scale of the design was inconsistent with the Randwick DCP, with the first floor level not contained within an attic style roof form.

Council’s heritage planner raised concern that the design was out of character with the existing heritage item and would dominate and obscure the existing dwelling. It was recommended that any future outbuilding follow the width alignment of the existing garage outbuilding, and any first floor element be aligned with the building line of the dwelling house from the western boundary

The design submitted in the pre-lodgement is illustrated in figures 6 and 7 below:



**Figure 6.** North and West elevations of pre-lodgement submission (Source: Gardner Design and Drafting).



**Figure 7.** East and South elevations of pre-lodgement submission (Source: Gardner Design and Drafting).

Additional information request

On 15 May 2025 Council issued an additional information request, requiring the following information and amendments to the proposal:

- Built form and visual presentation to be amended to an attic addition, consistent with laneway development controls under the RDCP 2023
- Materials and finishes to be compatible with, and sympathetic to, the heritage character of the site.
- Amendments to window and door openings to reduce the loss of heritage fabric
- Ceiling height requirements for habitable areas to be consistent with Building Code of Australia

Additional information was submitted on 22 May 2025, addressing the issues raised in the information request.

In accordance with the Randwick Community the amended proposal was not required to be renotified, as the scope of proposed changes are not considered to further detrimentally affect surrounding properties originally notified of the development.

**4. Proposal**

The proposal, as amended, seeks development consent for alterations and additions to an existing dwelling house, involving rear extension and first floor addition to a detached garage outbuilding, alterations to dwelling access, and ancillary external works:

Specifically, the scope of works comprise the following:

Garge outbuilding

- Partial demolition of the existing garage roof

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- Ground floor extension to the existing garage to create an office, workshop, bathroom and laundry, and stair access to attic;
- Attic addition to garage outbuilding for a media room, featuring hipped roof design and dormer windows to north and south elevations
- Amendments to the existing windows and door openings along the existing garage;

Dwelling house

- Removal of existing window and associated brickwork along the western elevation of dwelling house, to create new door opening to private open space

External and ancillary

- Removal of existing meshwire fencing adjacent to carport structure
- Installation of 1.8m high fencing to the western boundary of the dwelling, to delineate creation of new primary private open space.

Unauthorised works

A site inspection was undertaken on 15 April 2025. During the site inspection it was observed that the existing living room appears to have been enclosed by new walls to form a hallway. Council does not have record of the works being approved and undertaken.

Claims of unauthorised works are currently being investigated by Council’s Building and Compliance team. The observed works are not nominated on the Architectural Plans submitted with the development application. If recommended for approval, conditions will be included to confirm that no consent is granted to works already undertaken at the site.

The proposed development is illustrated in Figures 8 to 14 below:



**Figure 8.** Proposed Ground Floor Plan (Source: Gardner Design & Drafting).

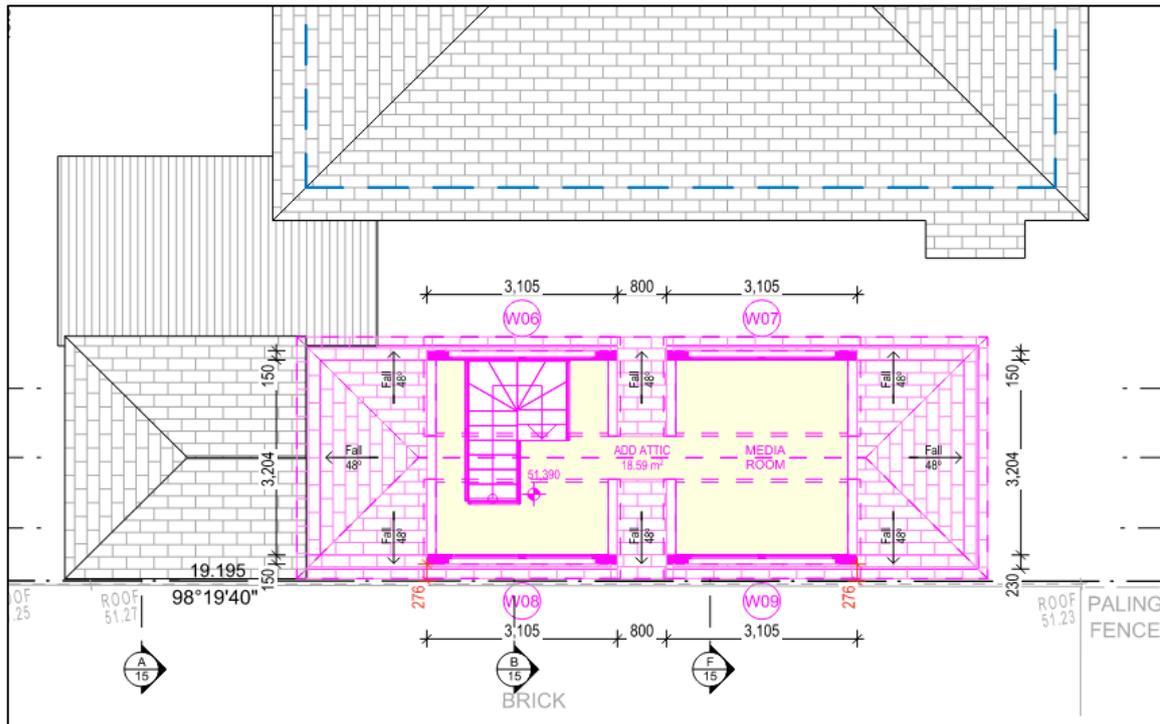


Figure 9. Proposed Attic Floor Plan (Source: Gardner Design & Drafting).

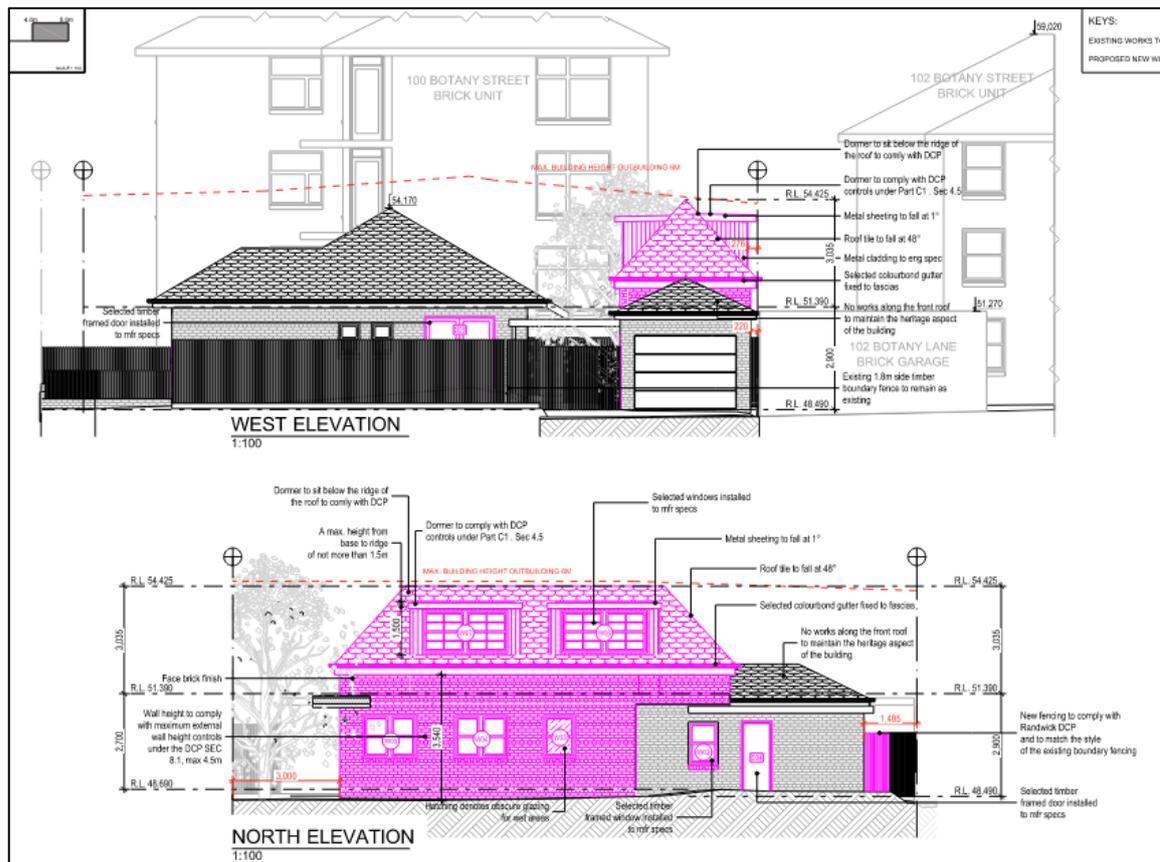


Figure 10. Proposed North and West elevation plans (Source: Gardner Design & Drafting).

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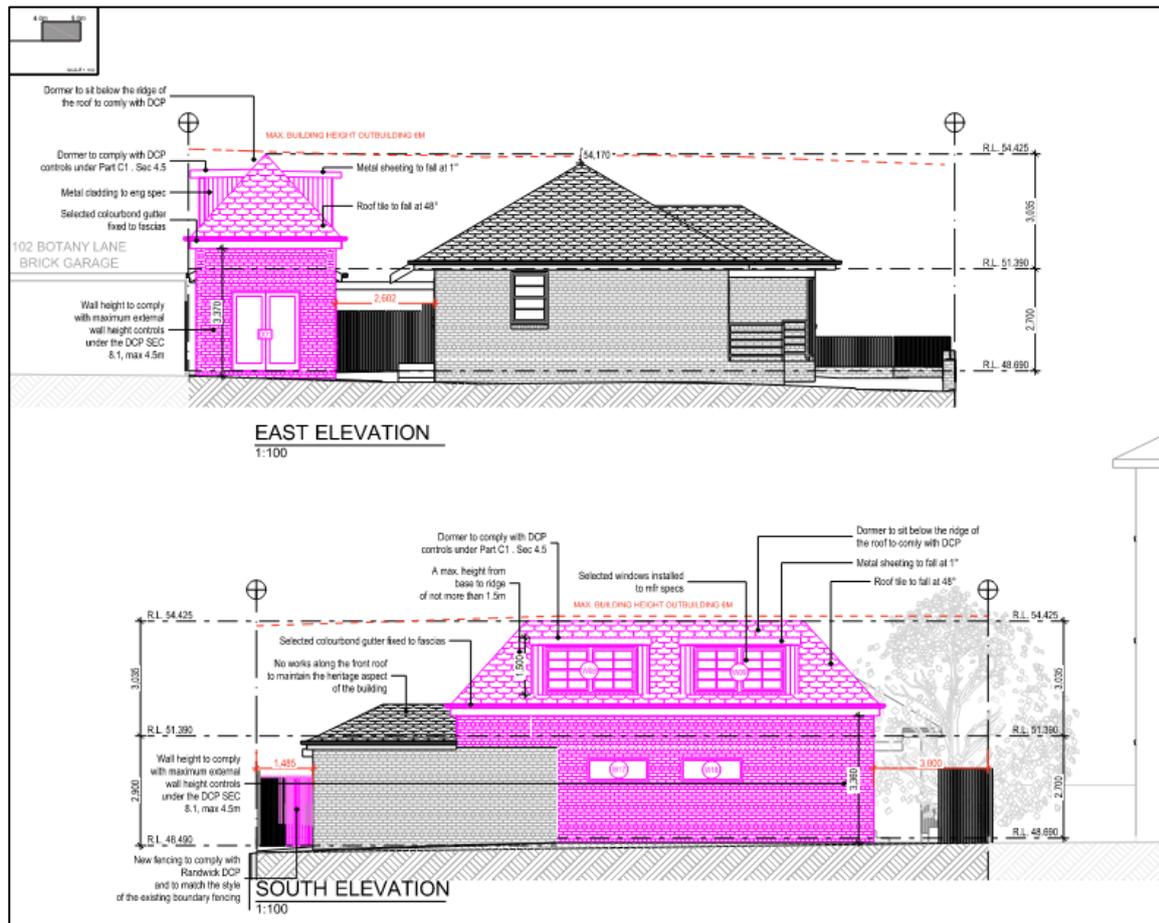


Figure 11. Proposed East and South elevation plans (Source: Gardner Design & Drafting).

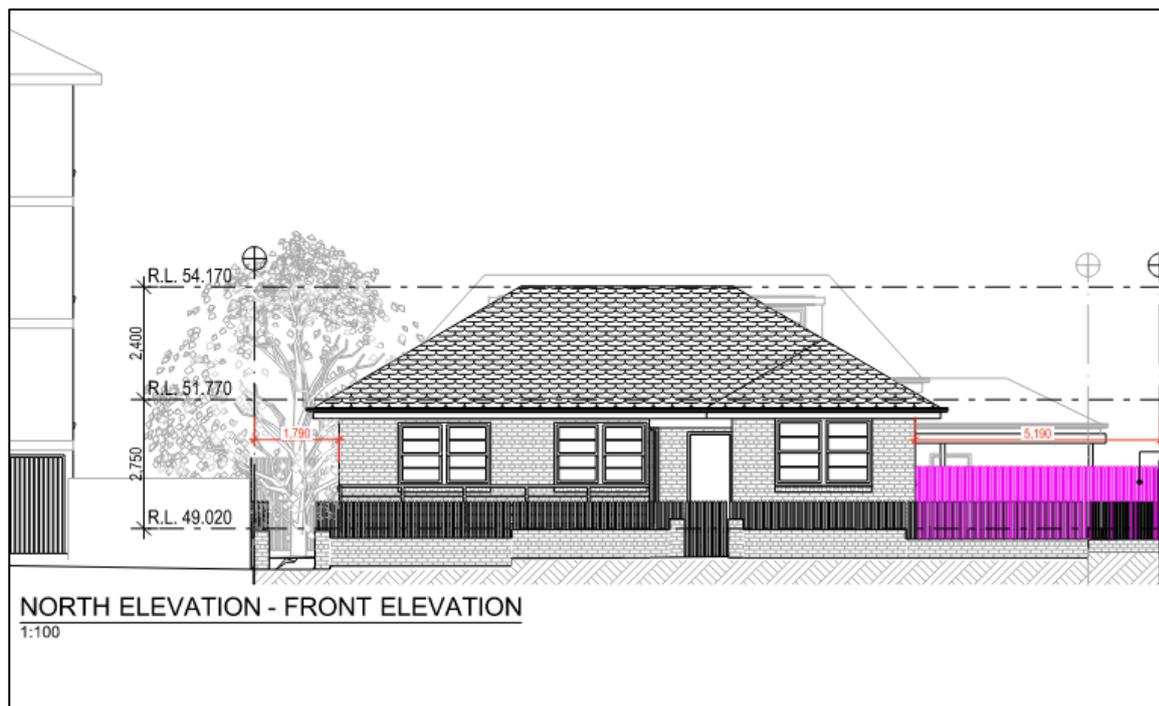


Figure 12. Proposed street elevation (Source: Gardner Design & Drafting).

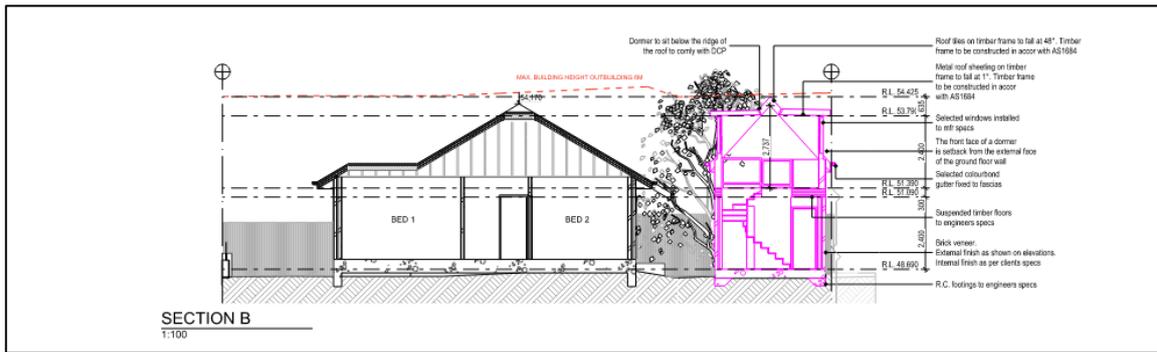


Figure 13. Proposed section plans (Source: Gardner Design & Drafting).

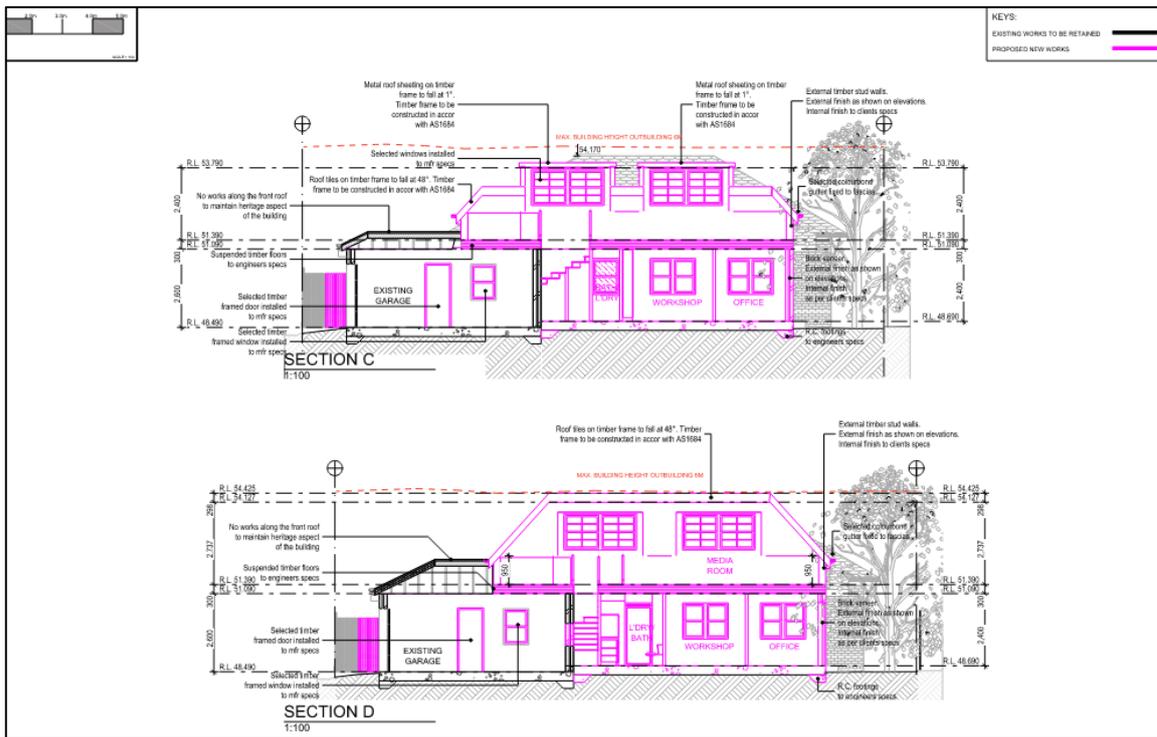


Figure 14. Proposed section plans (Source: Gardner Design & Drafting).

**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 during 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.

While the proposed development does not nominate the removal of vegetation at the site, Council’s landscape officer has reviewed the application and notes the presence of vegetation which is either of undesirable species, or in poor health and structural integrity, in close proximity to the proposed works. Council’s landscape officer has recommended conditions requiring the removal of this vegetation at the site, and a suitable replacement canopy tree be planted. Subject to the recommended conditions, the proposal satisfies the relevant objectives and provisions under Chapter 2.

**6.3. SEPP (Resilience and Hazards) 2021**

Chapter 4 – Remediation of Land

The provisions of 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 (involving alterations and additions to a dwelling and garage outbuilding) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

**6.4. Randwick Local Environmental Plan 2012 (LEP)**

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

The site is zoned R3 Medium Density Residential under Randwick Local Environmental Plan 2012 and the proposal 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 recognising the aesthetic character of the site and locality , and protecting the amenity of the local residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.354:1 136.18sqm/385sqm	Yes
Cl 4.3: Building height (max)	9.5:1	6m.	Yes

**6.4.1. Clause 5.10 - Heritage conservation**

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

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

The site is a locally listed heritage item under Schedule 5 of Randwick Local Environmental Plan 2012 (RLEP 2012), known as ‘1950s brick house’ (I156).

Council's Heritage Planner has reviewed the proposal and is satisfied that the built form outcome is consistent with considerations under clause 5.10 of RLEP 2012, subject to conditions of consent focused on the treatment and management of original fabric of the heritage item, and materiality of the new addition and finishes of new fencing within the site. Refer to referral comments from Council's Heritage Planner at Appendix 1 of this report.

## 7. Development control plans and policies

### 7.1. Randwick Comprehensive DCP 2013

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

#### 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 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.

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.  The built form and scale is compatible character in the locality, and responds to the heritage significance of the site.

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Section 4.15 'Matters for Consideration'	Comments
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 during the notification of the application.
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**

**Laneway development**

The development proposes a two-storey outbuilding in a laneway environment, with the upper level contained within an attic style roof form.

The proposed outbuilding addresses Botany Lane which is generally characterised by three-four storey apartment development, with parking facilities provided at ground level. The eastern side of the laneway comprises rear access parking facilities to service apartments addressing Botany Street (Figure 15). On the western side of the laneway an apartment building at No.65 Meeks Street extends the entire street block and directly addresses the laneway (Figure 16).



**Figure 15.** Parking facilities addressing Botany Lane at No.102 Botany Street, adjoining the subject site to the south



**Figure 16.** Laneway presentation of No.67 Meeks Street

Part C1 Section 8.1 of RDCP 2023 contains provisions for laneway development. Council is satisfied that the proposed development generally satisfies the requirements of section 8.1. A detailed assessment of the proposal against each control is provided below.

- i) *All ancillary buildings fronting laneways must have a maximum height of not more than 6m. The maximum external wall height is limited to 4.5m. Ancillary buildings on laneways must have a mass and scale secondary to the primary dwelling on the allotment. Any upper level must be contained within the roof form as an attic storey.*

**Assessment officer comment:** The proposed outbuilding has a maximum wall height of approximately 3.7m, and total building height of 5.925m (RL54.425- RL48.50). While the outbuilding addition is significant in relation to the existing garage at the site, Council is satisfied that the mass and scale remains secondary to the dwelling house itself, which while being single storey in appearance, features a significant roof structure minimising visibility of the outbuilding immediately behind.

- ii) *The laneway elevation of any upper level must provide at least one window to enable casual surveillance of the rear lane*

**Assessment officer comment:** The attic addition features a hip roof design addressing Botany Lane, with no windows provided to the front elevation. While the design does not enable direct casual surveillance to the laneway, due to the heritage significance of the site the outcome is considered preferable as it reduces visual bulk and prominent features to the laneway which may compete with heritage fabric. Council considers that the dormer windows to the side elevations would still enable some sightlines towards Botany Lane.

- iii) *Where there is a consistent setback pattern along the lane, buildings must be aligned in accordance with that setback. Where there is no consistent setback pattern, buildings must be setback a minimum of 1m from the laneway boundary (refer to subsection 6.3 Setbacks of parking facilities for controls relating to the setback of garage entries)*

**Assessment officer comment:** There is no consistent setback pattern along Botany Lane. The existing front setback of the garage is proposed to be retained (1.485m), and the upper level addition is setback approximately 5.25m from Botany Lane, satisfying the requirements of the control.

iv) *Laneway development may have a zero setback from the side boundaries in the following scenarios:*

- *The adjoining site already contains a building at the rear constructed to the common boundary; and*
- *A zero side setback will not result in unreasonable visual, privacy and overshadowing impacts on the adjoining properties.*

**Assessment officer comment:** The proposed outbuilding has a minimum setback of 200mm to No.102 Botany Street (south), following the existing alignment of the garage. The adjoining site currently features parking facilities constructed with a nil setback to the subject site (Figure 17 below).



**Figure 17.** Rear wall of parking facilities of No.102 Botany Street, constructed to common boundary of the subject site.

The 200mm side setback is not considered to result in unreasonable impacts in terms of visual bulk, overshadowing or privacy. The shadow diagrams show that significant overshadowing throughout the day is limited to the area of 102 Botany Street which is currently used as parking facilities, and similarly, dormer windows along the southern elevation provide sightlines to the parking facilities rather than habitable areas of surrounding development.

#### Fire separation requirements under Building Code of Australia (BCA)

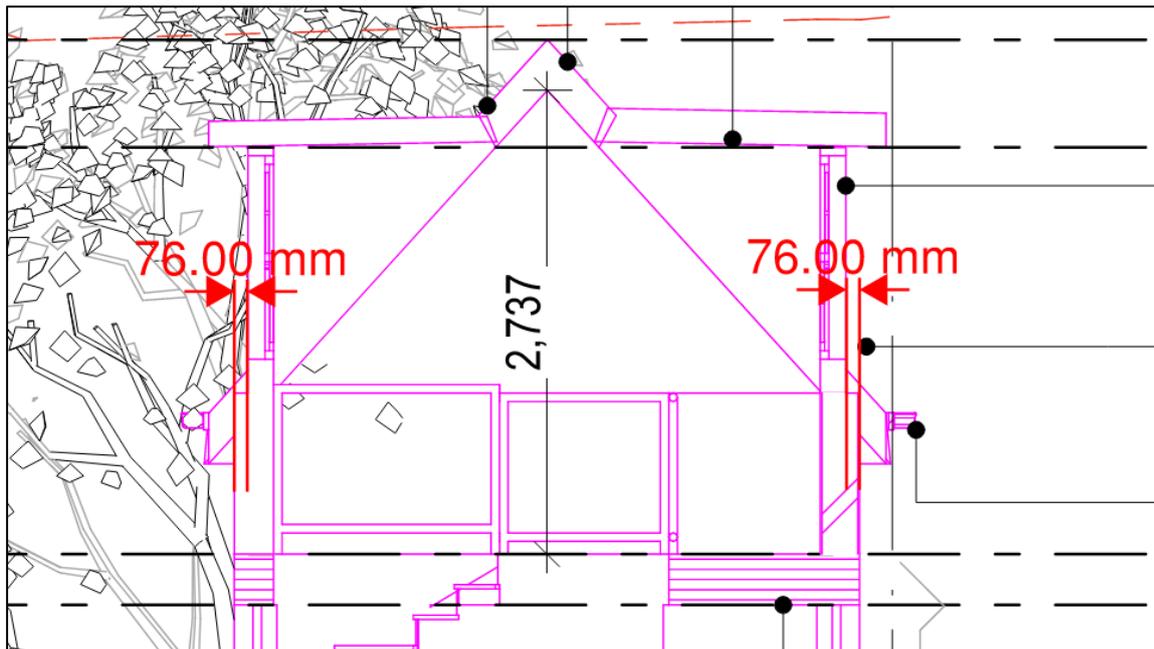
It is noted that the outbuilding features window within 900mm of the southern side boundary (200mm-276mm setback). The Building Code of Australia (BCA) requires a 900mm setback to window openings to achieve adequate fire separation, otherwise a performance solution is required to be provided. Details of development compliance with the BCA are typically required to be provided to Principal Certifier prior to the issue of a Construction Certificate. Council's standard conditions relating to BCA compliance are included in the consent, however due to the heritage significance of the site, the condition has been amended to ensure that no external shutters, or other visually prominent external features, are nominated as a performance solution. Details of BCA compliance are recommended to be submitted to, and approved by, Council to confirm that an adequate outcome is achieved at the site.



- Dormers must be setback from the sides of the roof by a minimum of 500mm
- The front face of a dormer must be setback from the external face of the wall immediately below
- The base of a dormer must be positioned above the gutter of the roof in which it is situated.

**Assessment officer comment:** The proposed dormer windows generally satisfy the configuration requirement, with a height of 1.5m from base to ridge, positioned below the ridgeline of the roof, 500mm-1.85m setback from the side of the roof, and gutters nominated below the dormers.

The dormer windows are setback only 76mm from the external face of the wall immediately below, which while technically meeting the requirement of the control, would generally read as a flush alignment with the external walls (Figure 19).



**Figure 19.** Proposed recessing of dormer window from external walls of the outbuilding.

In considering the reasonableness of the proposed configuration, Council notes that the internal area of the attic level is constrained to a width of approximately 3.2m, following the existing alignment of the garage. In this regard, requiring further recession of the dormers from the levels below (300mm to 500mm) would significantly constrain the internal amenity of the space.

Despite limited recessing between the dormers and external walls below, it is considered that adequate articulation is achieved to the outbuilding, as the eaves of the roof structure break up the visual bulk between the dormers and the wall alignment, and the change in materials and finishes provide visual articulation to the development. As also mentioned above, the dormers are provided to side elevations, rather than directly addressing the Botany Lane frontage, limiting the visual bulk of the structure as viewed from the public domain. In light of the above consideration, the configuration is considered supportable on merit.

- viii) Dormers occurring in the same roof plane must be similarly sized, configured, and arranged symmetrically.

**Assessment officer comment:** The dormer windows to the north and south elevations of the outbuilding are similarly sized and arranged symmetrically within the roof plane

- ix) Dormer windows may only be provided on buildings with an architectural character or style that is suitable for dormer features.

**Assessment officer comment:** The dormer windows are provided to a new addition at the site. The hip roof design of the garage extension is compatible with the existing roof structures of the

main dwelling and existing detached garage. Hip roofs are considered to be compatible with dormer features.

In light of the above assessment, the proposed dormer configuration generally satisfies the controls under Part C1 Section 4.5 of RDCP 2023. The development remains consistent with the objectives as the windows are appropriately integrated with the form and scale of the new roof structure, and the development does not exceed a two-storey height and frontage to Botany Lane.

### **Private Open Space**

The proposed outbuilding extension is located within the existing primary private open space at the site. The development nominates that the private open space will be relocated to the western boundary of the site, adjacent to Botany Lane, with new 1.8m high fencing at the front alignment of the main dwelling for privacy, and a new external door off of the nominated living area to provide direct access to the private open space. While the RDCP preferences private open space being located behind the dwelling where possible, the site is a corner allotment with adequate height boundary fencing along Botany Lane, and therefore the proposed new location of the private open space is considered acceptable. The western aspect of the private open space enables sufficient solar access to be provided, ensuring adequate amenity to its use.

Part C1 Section 2.7 of RDCP 2023 requires private open space to feature a contiguous area measuring 6m x 6m in dimensions. The nominated private open space has a dimensions of 5.19m x 9m, which while not strictly meeting the dimension requirements, still remains adequate to support passive recreational uses. The total continuous area is approximately 45sqm, exceeding the 36sqm achieved by the 6m x 6m requirement. Additional areas surrounding the building curtilage further support passive use for occupants of the building. The proposed relocation of the private open space and achieved configuration is considered to remain consistent with the objectives of the RDCP 2023.

### **Landscaping and Tree canopy**

Part C1 Section 2.6 of RDCP requires development which changes site coverage by more than 10% to satisfy site wide canopy tree requirements. The proposed development results in an increase in site coverage by more than 10% and has a site area of 385sqm, requiring 3 x canopy trees to be provided at the site.

While 3 x trees are currently accommodated at the site, Council's landscape officer has reviewed the proposal and has identified that an existing canopy tree (mature olive species) within the southeast setback is in poor condition with a significant lean over neighbouring property. The tree is in close proximity to the proposed works and its structural integrity may be undermined by other vegetation at the site. Accordingly, Council's landscape officer has recommended the tree be removed, and a replacement canopy tree be provided at the site. Other insignificant and/or undesirable vegetation is recommended to be removed across the site by Council's landscape officer. A landscape plan is required to be submitted to reflect the required changes.

Subject to conditions recommended by Council's landscape officer, the development will satisfy the landscaping and canopy tree requirements of Part C1 Section 2.6 of RDCP 2023.

## **9. Conclusion**

That the application for 'alterations and additions to existing dwelling house including modifications to and extension of the existing detached garage to provide a single car space, workshop, office and bathroom/laundry on the ground floor and a first floor addition above comprising media room; removal of existing window to facilitate new door opening in the dwelling house, and installation of side fencing (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 and 2023, subject to recommended conditions of consent

- 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 recognising the aesthetic character of the site and locality, 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.
- The development is considered to be compatible with the heritage significance of the site, subject to recommended conditions.
- Non-standard conditions are applied relating to the following:
  - Details of BCA performance solutions for fire safety to be submitted to Council prior to the issue of Construction Certificate, with no external shutters permitted due to the heritage significance of the site.
  - Works to be contained within the subject property, with no encroachment of structures over the boundaries of No.102 Botany Street.
  - The removal of undesirable and inadequate vegetation at the site, and a replacement canopy tree to be planted within western setback of the site.
  - Materials and finishes of new work, and treatment of original fabric, to be consistent with heritage requirements
  - Details of new fencing to be provided, demonstrating consistency with the requirements of RDCP 2023

## Appendix 1: Referrals

### 1. Internal referral comments:

#### 1.1. Heritage planner

**Note.** The application was referred to Council's heritage planner for review. The comments and recommended conditions provided below relate to the original proposal submitted for Council's consideration. Due to issues with the original bulk and scale, the recommended conditions were included in the additional information request issued to the applicant. A number of the recommended conditions have been addressed in the redesign which is recommended to the Local Planning Panel. Accordingly, some of the comments are no longer relevant and have been omitted from recommended condition of consent. The assessment officer has reviewed final condition recommendations with Council's heritage officer to confirm that the proposal will remain consistent with heritage requirements.

The original heritage comments are detailed below:

*Please see below the heritage referral for 69 Meeks Street, Kingsford (DA/188/2025):*

*The Site:*

- *The subject site is listed as a local heritage item, known as '1950s brick house' (Item no. 156).*

*Background:*

*Heritage comments were provided at pre-lodgement application stage (PL/17/2024). Council recommended the proposal be redesigned. The current scheme has been reviewed against the previous pre-lodgement application recommendations.*

*Heritage comments on current proposal (DA/188/2025):*

- *A site inspection was undertaken on 15 April 2025. The existing living room appears to have been enclosed by new walls to form a hallway. Council has no records of the works being undertaken.*

*Recommended conditions:*

*The following conditions must be submitted to, and approved by, Council prior to issue of the CC:*

- *The introduction of the two new windows to the existing garage will result in unnecessary loss of original fabric. Delete Window 01 to minimise the loss of original fabric and retention of the existing appearance of the garage from the streetscape.*
- *Window 02, Door 04, and Door 05 must be a timber framed to reflect the traditional materiality of the existing garage and dwelling.*
- *The proposal metal sheeting to the first floor addition is not supported. Propose metal cladding in a dark recessive colour (e.g. Manor Red, Gully, Jasper, Wallaby, Basalt, Woodlands Grey) to improve the appearance of the addition and minimise impacts on the heritage item. Confirm the colour and materials chosen for the first-floor windows and cladding on the materials and finishes schedule.*
- *Provide details of the new fencing type and colour on the materials and finishes schedule.*
- *The form of the first-floor addition should be tapered on both ends to reduce the proposed bulk and scale and ensure the upper level is contained within an attic roof form.*
- *Reduce the number of windows on the North Elevation at the first-floor level. Consider a traditional fenestration pattern to reduce the visual clutter and visual impact to the heritage item when viewed from the surrounding streets.*
- *No original masonry or terracotta surfaces are to be painted.*
- *The new proposed bricks should match the colour and finish of the existing bricks. Brick samples should be provided to Council for approval.*

- *A shadow line (narrow recess or gap) should be introduced between the new and original brickwork at ground level to distinguish between the new and original fabric. Any original bricks salvaged from the site should be used to construct the new addition.*

## 1.2. Landscape Officer

The application was referred to Council's landscape officer for review. The following comments were received:

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

*This report is based on the following plans and documentation:*

- *Architectural Plans by Gardner Design & Drafting Issue A dated 7/2/2025;*
- *Statement of Environmental Effects by Gardner Design & Drafting, Council Stamped 7/3/2025;*
- *Detail & Level Survey by C&A Surveyors dated 9/10/2023;*

### **General Comments**

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

### **Landscape Comments**

*Site inspection was undertaken on Friday 4<sup>th</sup> April with pictures of all vegetation on D05676278 & D05635092.*

*The frontage council nature strip, which is elevated 800mm above Meeks Street, was showing random insignificant shrubs, all in poor condition and health, well clear from works.*

*Within the northeastern front side setback of property, plotted centrally between existing dwelling and front boundary, hard up against eastern boundary fence, mature Cypress Pine tree, 11 metres high, good vigour, good condition, as the species is not significant in any way, it does perform side setback privacy from neighbouring car park and is a prominent tree within the frontage.*

*Whilst the Cypress tree is hard against common boundary wall and fence, proposed new garden path showing on architect's plans will now have the tree in direct conflict with proposed garden path works, conditions within this report will be applied so to protect Cypress tree roots.*

*Moving to western side setback, plotted within the corner of Meeks and Botany Lane, small insignificant shrub, which can be removed at any time without permission, moving along the western side setback north to south, centrally adjacent the western aspect of dwelling, semi mature Lagerstroemia indica (Crepe myrtle), 6 metres high, in good health and condition, to be retained and protected, just to its south, over mature, overgrown hedging shrub, south of shrub, another small insignificant Abeila x grandiflora shrub, both can be removed at any time without permission.*

*Within eastern side setback, rear of existing garage, three mature trees and one mass planting of bamboo species, all plotted along the eastern rear common boundary fence line, all three trees must be removed as in direct conflict with works, close to dwelling, hard against the eastern boundary fence, Bamboo species, which is listed as an undesirable species under our 2013 B5 DCP controls, which must be removed to comply with this control. Details of each tree and rational are provided below:*

- *Located within the eastern side setback boundary, south of Bamboo species, is an over mature Olive species, showing severe lean to southwest, recently lopped, poor condition, fair health, twisted trunk. The tree has a possible to fail as another insignificant tree has seeded within the base of the tree from behind. It is impossible to remove one without the other, and they are close to dwelling and proposed new garage extension, causing safety*

issues and overhangs heavily within southern neighbours property. Both trees to be removed.

- Lastly within the side setback, plotted within the far southern corner of the property, an over mature, overgrown hedging shrub, *Murraya paniculata* (Orange jasmine) 6 metres high, good health and condition, not supported as a canopy tree, over mature and over grown, this species may not survive the construction phase, roots systems of these species cannot sustain much damage and are susceptible to many diseases whilst under stress. The tree/shrub is required to be removed.

The only aspect that requires assessment, is the need for a formal Landscape Plan for **DA/188/2025** with conditions requiring all outlining requirements and the all the inclusions required for the site.

**An assessment against the C1 DCP 2023 controls with a site area of 301 to 450sqm revealed that compliance is achieved with:**

- Clause 2.5: Site coverage/deep soil (35% achieved, minimum 35% required)

**Deficiencies/amendments required to Landscape Plans to achieve compliance:**

- In excess of 25% of front setback area must be planted out to achieve compliance.
- Clause 2.6: Canopy cover. The existing three tree species within the rear eastern side setback have been removed due to insignificance, overmature species, safety and near works. to achieve a minimum of 25% of the site area with 10 years, one additional native tree, which must maintain a mature height of 5-7 metres, must now be added within the western side setback, along the western boundary, centrally between frontage boundary and existing Crepe Myrtle tree, and is to be measured 1500mm from western boundary fence;
- Clause 2.6: Native species. The plant schedule must meet the minimum 60% native species target, so must be applied to Landscape Plan to comply with this control;

**Assessment officer comment:** The comments provided by the landscape officer are concurred with, however it is noted that the front setback of the site does is generally comprised of grass groundcover and therefore satisfies the 25% are requirement under Part C1 Section 2.6 of RDCP. All other recommended conditions have been included in the development consent.

**Appendix 2: DCP Compliance Table**

**2.1 Part B2 Heritage**

Council's heritage planner has reviewed the proposed development and is satisfied that the outcome remains consistent with the requirements of Part B2 of the RDCP 2023, subject to recommended conditions of consent.

**2.2 Part C1 Low Density Residential**

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	
<b>2</b>	<b>Site planning</b>	Site = 385sqm	
<b>2.4</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)	Proposed = 44.8% (172.5sqm/385sqm)	Yes
<b>2.5</b>	<b>Deep soil permeable surfaces</b>		
	Up to 300 sqm = 30% 301 to 450 sqm = 35% 451 to 600 sqm = 40% 601 sqm or above = 45% i) Deep soil minimum width 900mm ii) Retain existing significant trees iii) Minimum 25% front setback area permeable surfaces *Dual occupancies and semi-detached dwellings: Deep soil area calculated on the overall site area and must be evenly distributed between the pair of dwellings.	Proposed = 35.2% (135.59sqm/385sqm)  Deep soil within the front setback = 80% (61.4/76.85sqm)	Yes
<b>2.6</b>	<b>Landscaping and tree canopy cover</b>		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees 301 to 450 sqm = 3 large trees 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Proposed = 3 x existing trees at the site.  Council's landscape officer has reviewed the proposal and requires one of the existing canopy trees to be removed, and a suitable replacement provided at the site.  Deep soil within the front setback = 80% (61.4/76.85sqm)	Refer to key issues on tree canopy requirements.
<b>2.7</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m <b>301 to 450 sqm = 6m x 6m</b> 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	Proposed = 5.1m x 9m  Despite the minor variation to dimension requirements, the proposed private open space is considered sufficient to support	Refer to key issues for discussion on suitability of private open space

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DCP Clause	Controls	Proposal	Compliance
		passive recreational uses.	
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.75:1</b>	Proposed =0.354:1 136.18sqm/385sqm	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Building height LEP 2012 = 9.5m</b>	Proposed = 6m	Yes
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> <li>- Topography</li> <li>- Site orientation</li> <li>- Lot configuration</li> <li>- Flooding</li> <li>- Lot dimensions</li> <li>- Impacts on visual amenity, solar access, privacy and views of adjoining properties.</li> </ul>	Proposed = The development retains a single storey presentation to Meeks Street and Botany Lane, with habitable space above the ground floor provided within a roof form.	Yes
<b>3.3</b>	<b>Setbacks</b>		
<b>3.3.1</b>	<b>Front setbacks</b>	Proposed = No change to existing ground floor setbacks to Meeks Street or Botany Lane.	Yes
	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"> <li>- 900mm for allotments with primary frontage width of less than 7m</li> <li>- 1500mm for all other sites</li> <li>- Should align with setbacks of adjoining dwellings</li> </ul> iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.	The first floor addition provides a 5.25m front setback to Botany Lane. Dormers provide 7.2m front setback to the secondary street frontage.	
<b>3.3.2</b>	<b>Side setbacks</b>	Proposed East: GF: 3m South: GF 200mm, FF: 276mm  The side setback arrangement is considered acceptable for the site context of laneway development, with outbuildings at adjoining sites constructed to side boundaries.	Considered acceptable - refer to laneway development assessment.
<b>3.3.3</b>	<b>Rear setbacks</b>	Rear setbacks do not apply to corner allotments.	N/A
	i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or		

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DCP Clause	Controls	Proposal	Compliance
	<p>demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> <li>- Existing predominant rear setback line</li> <li>- Reasonable view sharing (public and private)</li> <li>- Protect the privacy and solar access</li> </ul> <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> <li>- Compatibility</li> <li>- POS dimensions comply</li> <li>- minimise solar access, privacy and view sharing impacts</li> </ul> <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>		
<b>4</b>	<b>Building design</b>		
<b>4.1</b>	<b>General</b>		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> <li>• balconies appropriately sized</li> <li>• Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension).</li> </ul>	<p>The design of the outbuilding generally satisfies the requirements of section 4.1. The built form is appropriately articulated with the inclusion of dormer windows to the attic addition while remaining sympathetic to the predominant built form of the main dwelling and existing garage structure.</p> <p>While the ground floor of the outbuilding feature contiguous wall lengths in excess of 12m (approximately 14.6m), it is noted that the existing alignment of the garage is constrained in width, and therefore requiring further recesses and modulation would significantly limit the internal amenity. The unarticulated walls are limited to the ground floor level, and</p>	<p>Considered acceptable</p>

DCP Clause	Controls	Proposal	Compliance
		therefore are not considered to present excessive visual bulk as viewed from surrounding sites.	
<b>4.5</b>	<b>Roof design and features</b>		
	<p><i>Dormers</i></p> <ul style="list-style-type: none"> <li>i) Dormer windows do not dominate</li> <li>ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof.</li> <li>iii) Multiple dormers consistent</li> <li>iv) Suitable for existing</li> </ul> <p><i>Clerestory windows and skylights</i></p> <ul style="list-style-type: none"> <li>v) Sympathetic to design of dwelling</li> </ul> <p><i>Mechanical equipment</i></p> <ul style="list-style-type: none"> <li>vi) Contained within roof form and not visible from street and surrounding properties.</li> </ul>	<ul style="list-style-type: none"> <li>i) The attic addition provides two dormer windows to both the north and south elevation of the outbuilding. The dormers are sited to enable sufficient area of the roof to be presented to surrounded sites.</li> <li>ii) Height of dormers: 1.5m from base to ridge</li> <li>iii) Dormers setback approximately 500mm from side of roof at minimum (reduced to 450mm when eaves included)</li> <li>iv) Front face of dormer setback 76mm from external face of wall immediately below, which generally presents as a flush alignment. Variation considered acceptable noting constrained internal width of attic addition, and variation in materials proposed.</li> <li>v) Dormer located above gutter position within roof.</li> </ul>	Refer to key issues
<b>4.6</b>	<b>Colours, Materials and Finishes</b>		
	<ul style="list-style-type: none"> <li>i) Schedule of materials and finishes.</li> <li>ii) Finishing is durable and non-reflective and uses lighter colours.</li> <li>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</li> <li>iv) Articulate and create visual interest by using combination of materials and finishes.</li> <li>v) Suitable for the local climate to withstand natural weathering, ageing and deterioration.</li> <li>vi) Recycle and re-use sandstone</li> </ul>	Council's heritage officer has reviewed the proposal and is satisfied that the materials and finishes will be compatible with the heritage significance of the site, subject to recommended conditions relating to treatment of original	Conditioned to comply

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DCP Clause	Controls	Proposal	Compliance
		fabric and tones and finishes of new additions. Conditions are included to require more details on colours and finishes to be submitted to Council's heritage planner for approval.	
<b>4.7</b>	<b>Earthworks</b>		
	<ul style="list-style-type: none"> <li>i) Excavation and backfilling limited to 1m, unless gradient too steep</li> <li>ii) Minimum 900mm side and rear setback</li> <li>iii) Subterranean spaces must not be habitable</li> <li>iv) Step retaining walls.</li> <li>v) If site conditions require setbacks &lt; 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm.</li> <li>vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping)</li> <li>vii) cut and fill for POS is terraced <i>where site has significant slope:</i></li> <li>viii) adopt a split-level design</li> <li>ix) Minimise height and extent of any exposed under-croft areas.</li> </ul>	Minimal earthworks proposed, limited to site gradings for footings of the outbuilding.	Yes
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	<ul style="list-style-type: none"> <li>i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June</li> <li>ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</li> </ul>	The outbuilding structure is located south of the main dwelling and private open space, and therefore will not impact upon solar access to living areas of the dwelling and private open space, as shown in the shadow diagrams submitted with the application.	Yes
	<b>Solar access to neighbouring development:</b>		
	<ul style="list-style-type: none"> <li>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.</li> <li>iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.</li> <li>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</li> </ul>	The shadow diagrams submitted with the proposal demonstrate that the proposed development enables sufficient solar access to be retained to habitable areas and private/communal open space of surrounding apartment development. The	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not &lt;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"> <li>• Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>• Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>• Topography of the subject and adjoining allotments.</li> <li>• Location and level of the windows in question.</li> <li>• Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	<p>significant overshadowing impacts to No.102 Botany Street are limited to the rear communal parking area which services the apartment development.</p> <p>In addition, Council notes that the shadow diagrams appear to overestimate shadows cast by the existing and proposed development, with shadows in excess of 30m nominated in morning and afternoon hours for the 6m structure.</p> <p>Overshadowing impacts are considered to be even less than what is nominated within the architecture plans.</p>	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	<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"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> </ul> <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>	<p>Sufficient light and ventilation provided to the outbuilding structure.</p> <p>A compliant BASIX certificate has been submitted with the development application.</p>	Yes
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> <li>- windows are offset or staggered</li> <li>- minimum 1600mm window sills</li> <li>- Install fixed and translucent glazing up</li> </ul>	<p>The siting of windows to the outbuilding do not raise concern in relation to visual privacy of surrounding sites.</p> <p>The dormer windows to</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)	the southern elevation directly address parking facilities of No.102 Botany Street, and therefore do not raise concern in relation to visual privacy.	
<b>5.4</b>	<b>Acoustic Privacy</b>		
	i) Noise sources not located adjacent to adjoining dwellings bedroom windows <i>Attached dual occupancies</i> ii) Reduce noise transmission between dwellings by: - Locate noise-generating areas and quiet areas adjacent to each other. - Locate less sensitive areas adjacent to the party wall to serve as noise buffer.	The proposed development is not considered to result in unreasonable acoustic privacy impacts to surrounding development, beyond what is associated with standard residential use.	Yes
<b>5.5</b>	<b>Safety and Security</b>		
	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)	Dwelling entrance retained to front elevation.  Habitable windows of the main dwelling overlook Meeks Street.  New fencing within the property does not obstruct sightlines to Meeks Street.	Yes
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	<b>All dwellings</b>		
	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 to existing parking facilities at the site.	N/A
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	No change to existing driveway proposed.	N/A
<b>7</b>	<b>Fencing and Ancillary Development</b>		

DCP Clause	Controls	Proposal	Compliance
<b>7.1</b>	<b>General - Fencing</b>		
	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	New fencing is proposed within the western setback of the subject site, aligned with the front of the dwelling, to create privacy for private open space.  Conditions are included to require materials and finishes to be consistent with existing fencing at the site, and the height not to exceed 1.8m.	Conditioned to comply.
<b>7.2</b>	<b>Front Fencing</b>		
	i) 1200mm max. (solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. x) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines. xi)	No change to existing front fencing.	N/A
<b>7.3</b>	<b>Side and rear fencing</b>		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites	No change to existing boundary fencing, except for minor infill of timber fencing adjacent to driveway	Yes

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DCP Clause	Controls	Proposal	Compliance
	iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	access off Botany Lane.	
<b>7.4</b>	<b>Outbuildings</b>		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: <ul style="list-style-type: none"> <li>- Finished external walls (not requiring maintenance;</li> <li>- No openings facing neighbours lots; and</li> <li>- Maintain adequate solar access to the neighbours dwelling</li> </ul> v) For secondary street frontages a nil setback is only permitted if it adjoins a building constructed on the boundary. For detached garages at rear, first floor addition to existing may be considered subject to: <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic)</li> <li>- Articulating the facades;</li> <li>- Using screen planting to visually soften the outbuilding;</li> <li>- Not being obtrusive when viewed from the adjoining properties;</li> <li>- Maintaining adequate solar access to the adjoining dwellings; and</li> <li>- Maintaining adequate privacy to the adjoining dwellings.</li> </ul> vi) Must not be used as a separate business premises.	Refer to section 8.1 for laneway development control assessment.  i) Outbuilding is located behind the main dwelling ii) Development achieves required deep soil permeable surfaces iii) The proposal is for laneway development, and therefore may exceed the 3.6m max height. iv) 200mm side setback proposed to southern elevation. v) The development does not provide a nil setback to secondary frontage, Botany Lane. vi) Conditions are included to ensure the outbuilding is not used as a separate business premises.	Yes
<b>8</b>	<b>Area Specific Controls</b>		
<b>8.1</b>	<b>Development in Laneways</b>		
	i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey). ii) At least 1 operable window to laneway elevation for casual surveillance iii) Aligns with consistent laneway setback pattern (if no consistent setback then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.) iv) Nil side setback allowed subject to: <ul style="list-style-type: none"> <li>- Adjoining building similarly constructed</li> <li>- No unreasonable visual, privacy and overshadowing impacts</li> </ul> v) Screen or match exposed blank walls on adjoining properties (i.e. on common boundary).	i) Maximum outbuilding height = 6m. External wall height 3.7m ii) No windows to the first floor component directly address Botany Lane. Despite this, large dormers on the north and west elevations enable outlooks to the laneway environment. accessing the lane. iii) There is no predominant laneway setback	Considered acceptable – refer to key issues for detailed assessment

DCP Clause	Controls	Proposal	Compliance
		<p>pattern. Botany Lane is not a typical laneway environment, with surrounding development largely comprising 3-4 storey apartment buildings with parking areas</p> <p>iv) The development is constructed adjacent to the boundary of No.102 Botany Street, with a 200mm setback at ground level, and 276mm setback at first floor level. The adjoining parking facilities at No.102 Botany Lane are constructed to the adjoining boundary. The two-storey outbuilding does not result in unreasonable visual, privacy or overshadowing impacts</p> <p>v) Blank walls adjoining neighbouring sites are appropriately finished.</p>	

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**Responsible officer:** Elizabeth James, Environmental Planning Officer

**File Reference:** DA/188/2025

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## Draft Development Consent Conditions



<b>Folder /DA No:</b>	DA/188/2025
<b>Property:</b>	69 Meeks Street, KINGSFORD NSW 2032
<b>Proposal:</b>	Alterations and additions to existing dwelling house including modifications to, and extension of, the existing detached garage to provide a single car space, workshop, office and bathroom/laundry on the ground floor and a first floor addition above comprising media room; removal of existing window to facilitate new door opening in the dwelling house, and installation of side fencing (Heritage Item).
<b>Recommendation:</b>	Approval

### GENERAL CONDITIONS

#### Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Existing Ground Floor Plan – Sheet 04 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Proposed Ground Plan – Sheet 08 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Proposed Attic Plan – Sheet 09 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Elevations 1 – Sheet 10 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Elevations 2 – Sheet 11 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Elevations 3 – Sheet 12 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Sections 1 – Sheet 13 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Sections 2 – Sheet 14 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Sections 3 – Sheet 15 -	Gardner Design & Drafting	22 May 2025	22 May 2025

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Revision C			
Schedules – Sheet 18 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
Materials and Finishes – Sheet 21 - Revision C	Gardner Design & Drafting	22 May 2025	22 May 2025
<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>	
A1784507_02	26 May 2025	26 May 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. Details on BCA performance solutions for windows located within 900mm setback from site boundaries are required to be provided to, and approved by Council's Manager/Co-ordinator Development Assessment. No external shutters or the like are to be provided as performance solutions due to the heritage significance of the site.
- b. The architectural plans are required to show the development is wholly contained within the subject site, with no encroachment of the first-floor addition into No.102 Botany Street.
- c. Details of new fencing configuration, materials, and finishes must demonstrate consistency with Part C1 Section 7 of Randwick Development Control Plan 2023, and be compatible with existing boundary fencing arrangements at the site. Fencing within the site must be limited to a maximum height of 1.8m.

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

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

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

3. **Heritage Requirements**

To ensure the development remains compatible with the heritage significance of the site, the following requirements must be reflected in amended plans and documentation

- Window 02, Door 04, and Door 05 must be a timber framed to reflect the traditional materiality of the existing garage and dwelling.
- A shadow line (narrow recess or gap) is required to be introduced between the new and original brickwork at ground level to distinguish between the

Condition	
	<p>new and original fabric.</p> <ul style="list-style-type: none"> <li>No original masonry or terracotta surfaces are to be painted.</li> <li>The new proposed bricks are required to match the colour and finish of the existing bricks. Brick samples should be provided to Council's heritage planner for approval.</li> <li>Any original bricks salvaged from the site must be used to construct the new addition.</li> <li>Metal cladding/sheeting for dormer windows must be in a dark recessive colour (e.g. Manor Red, Gully, Jasper, Wallaby, Basalt, Woodlands Grey) to improve the appearance of the addition and minimise impacts on the heritage item.</li> <li>No external shutters (or the like) are permitted as a fire separation solution for windows on the southern elevation of the outbuilding.</li> </ul> <p>The above requirements must be reflected in Construction Certificate documentation. Any amended plans/documentation, as required under this condition, must be submitted to and approved by Council's Heritage Planner and Coordinator Development Assessment prior to the release of any construction certificate.</p> <p>Condition Reason: To ensure the heritage significance of the site is maintained.</p>
4.	<p><b>Unauthorised works</b></p> <p>Any as-built structures and the use of those structures do not form part of this consent. This consent relates only to the approved alterations and additions.</p> <p>Condition Reason: To clarify the scope of the consent and to ensure retrospective approval is not granted.</p>

### BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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5.	<p><b>Consent Requirements</b></p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
6.	<p><b>External Colours, Materials &amp; Finishes</b></p> <p>The colours, materials and surface finishes to the development must be consistent with the relevant colour schedules provided with the development application, except where amended by heritage requirements under Condition 3 of this development consent.</p> <p>Details of the final colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.</p>

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<p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
<p>7. <b>Section 7.12 Development Contributions</b>                      In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of 430,352.89 the following applicable monetary levy must be paid to Council: \$4,303.55.</p> <p>The levy must be paid in <b>cash, bank cheque</b> or by <b>credit card</b> 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 <b>9093 6000</b> or <b>1300 722 542</b> for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> <p style="text-align: center;"><b>IDC = ODC x CP2/CP1</b></p> <p>Where:  <b>IDC</b> = the indexed development cost  <b>ODC</b> = the original development cost determined by the Council  <b>CP2</b> = 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  <b>CP1</b> = 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 <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a>.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
<p>8. <b>Long Service Levy Payments</b>                      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>
<p>9. <b>Security Deposits</b>                      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"> <li>• \$1000.00 - Damage / Civil Works Security Deposit</li> </ul> <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the</p>

	Condition
	<p>completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
10.	<p><b>Sydney Water</b></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"> <li>• Building plan approvals</li> <li>• Connection and disconnection approvals</li> <li>• Diagrams</li> <li>• Trade waste approvals</li> <li>• Pressure information</li> <li>• Water meter installations</li> <li>• Pressure boosting and pump approvals</li> <li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li> </ul> <p>Sydney Water's Tap in™ online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></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><b>Building Code of Australia</b></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>Details on performance solutions for windows located within 900mm setback from site boundaries are required to be provided to, and approved by Council's manager/co-ordinator of development assessment. No external shutters or the like are to be provided as performance solutions due to the heritage significance of the</p>

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<p>site.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
<p>12. <b>BASIX Requirements</b>                      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>
<p>13. <b>Stormwater Drainage</b>                      A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:-</p> <ul style="list-style-type: none"> <li>a) Surface water/stormwater drainage systems must be provided in accordance with the relevant requirements of the Building Code of Australia (Volume 2);</li> <li>b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;</li> <li>c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;</li> <li>d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;</li> <li>e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works.</li> </ul> <p>Condition Reason: To control and manage stormwater run-off.</p>
<p>14. <b>Excavation Earthworks and Support of Adjoining Land</b>                      Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
<p>15. <b>Excavation, Earthworks and Support of Adjoining Land</b>                      A report must be obtained from a professional engineer prior to undertaking</p>

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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 of the footings of a dwelling or other building that is located on the adjoining land;
- when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling);
- when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and
- as otherwise may be required by the Certifier for the development.

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.

16.

**Landscape Plan**

A Landscape Plan prepared by a suitably qualified professional must be submitted to, and be approved by, the Principal Certifier, **prior to the issue of a construction certificate** detailing the following:

- a) 1 x 25 litre (pot size at the time of planting) feature tree within the western side setback of site, selecting species which will attain a minimum height of between 5-7 metres at maturity, measuring 1500mm east of western boundary fence, all tree planting to be in deep soil and be sited at least 2.5m from any part of the dwelling.
- b) A Planting Plan & Plant Schedule which includes proposed species, botanic and common names, pot size at the time of planting, quantity/density, location, dimensions at maturity and any other details required to describe the works.
- c) Dedicated garden areas along the length of western side setback, to which, evergreen screen planting and decorative lower growing species shall be provided so as to soften the appearance of boundary fence as well as improve screening and amenity between this site and Botany Lane.
- d) Provision of a 1.0 metre wide, deep soil garden bed along the rear southeastern side setback, between existing dwelling and proposed new garage workshop, along the eastern boundary fence north to south, to which, a continuous evergreen hedge shall be planted, using a species which will attain a minimum height of 1.5 metres at maturity.
- e) The plant schedule **must meet** the minimum 60% native species target

Condition Reason: To ensure adequate landscaping and canopy trees are achieved across the site in accordance with requirements of the Randwick Development Control Plan 2013 and 2023.

17.

**Protection of trees within property**

To ensure retention of **mature Cypress Pine tree**, within the northeastern front side setback of property, plotted centrally between existing dwelling and front boundary fence, and the **semi mature Lagerstroemia indica (Crepe myrtle)**

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Condition

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plotted within the western side setback, centrally adjacent the western aspect of dwelling, the following measures are to be undertaken:

- a) All documentation submitted for the Construction Certificate application must show both their retention, with the position and diameter of their trunks, canopies to be clearly and accurately shown on all plans in relation to the proposed works.
- b) All Construction Certificate plans must show that the **northeastern Cypress tree**, which is showing hard against common boundary wall and fence, and proposed new garden path, which is proposed along the western aspect of tree, this path must be hand excavated prior to any works to show if roots are within the footprint of new footpath, if roots are larger than 50mm in diameter, they must be retained with path moved further west from its SRZ to minimise any injuries.
- c) Where there is a difference in level between this site and an adjoining property, and the soil level where the trees are growing is higher than the subject site, if the soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation.
- d) Each of the trees must be physically protected by installing an evenly spaced star pickets at a setback of 1000mm of their trunks matching up with their perspective boundary fences to which, safety para-webbing shall then be permanently attached to completely enclose the trees separately for the duration of works.
- e) This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed.
- f) Where major roots with a diameter of 50mm or more are encountered and Council's officer determines they must be retained, a cantilevered, pier and beam style footing must be used for these areas.
- g) The Construction Certificate plans must acknowledge that the site inspection may result in the need to alter the design away from a traditional strip footing, with a suitably qualified engineer to have an alternative design approved by the Principal Certifier, prior to installing the footings.
- h) Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible.
- i) Ground levels within the TPZ's 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.
- j) 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.

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 Condition
 

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- k) The Principal Certifier/and Project Arborist 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.

Condition Reason: To manage protection of significant vegetation within the site.

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**BEFORE BUILDING WORK COMMENCES**


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 Condition
 

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18. **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.

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

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

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

20. **Dilapidation Reports**  
A dilapidation report must be obtained from a Professional Engineer, Building

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Condition

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Surveyor or other suitably qualified person to the satisfaction of the appointed Registered Certifier for the development, in the following cases:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises;
- demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and
- as may be required by the Principal Certifier for the development.

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

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

Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.

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

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

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

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

22. **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

Condition	
	<ul style="list-style-type: none"> <li>• location and size of waste containers/bulk bins</li> <li>• provisions for temporary stormwater drainage</li> <li>• construction noise and vibration management</li> <li>• construction traffic management details</li> <li>• provisions for temporary sanitary facilities</li> <li>• measures to be implemented to ensure public health and safety.</li> </ul> <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>
23.	<p><b>Construction Site Management Plan</b></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>
24.	<p><b>Public Utilities</b></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>
25.	<p><b>Public Utilities</b></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	
26.	<p><b>Site Signage</b></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"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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-</li> </ol>

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Condition

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- 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.

27. **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"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 3.00pm</li> <li>• (maximum)</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>

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

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

28. **Noise & Vibration**

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

29. **Construction Site Management**

Temporary site safety fencing must be provided to the perimeter of the site prior to

	Condition
	<p>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"> <li>• <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></li> <li>• <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building &amp; Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i></li> </ul> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
30.	<p><b>Public Safety &amp; Site Management</b></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"> <li>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> <li>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> <li>c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.</li> <li>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> <li>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> <li>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.</li> <li>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.</li> <li>h) The prior written approval must be obtained from Council to discharge any</li> </ol>

Condition
<p>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>
<p>31. <b>Excavations and Support of Adjoining Land</b> 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>
<p>32. <b>Building Encroachments</b> There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
<p>33. <b>Building Encroachments</b> There must be no encroachment of any structures or building work onto the adjoining property at No. 102 Botany Street.</p> <p>Condition Reason: To ensure no encroachment onto neighbouring properties</p>
<p>34. <b>Road /asset opening permit</b> 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 require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>35. <b>Tree Management</b></p>

Condition
<p>Approval is granted for the removal of the following trees within the subject property;</p> <p>a) Within the western side setback (north of existing carport and south of Crepe myrtle tree), the two over mature, overgrown hedging shrubs, <b>can be removed at any time without permission.</b></p> <p>b) Within eastern side setback, rear of existing garage, three mature trees and one mass planting of bamboo species, all plotted along the eastern rear common boundary fence line, <b>must be removed.</b> The vegetation to be removed includes the following:</p> <p>i) 1 x over mature Olive species within the eastern common side setback boundary fence line (which shows severe lean to southwest, recently heavily lopped, poor condition, poor health, twisted trunk, unsafe), and 1 x insignificant tree immediately adjacent which has seeded within the base of the Olive tree from behind. It is impossible to remove one without the other, so <b>both to be removed.</b></p> <p>ii) 1 x <i>Murraya paniculata</i> (Orange jasmine) 6 metres high, located within the rear side setback, plotted within southeastern corner of property. The tree is not supported as a canopy tree, and may not survive the construction phase, roots systems of these species cannot sustain much damage and are susceptible to many diseases whilst under stress, to be <b>removed.</b></p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>

#### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition
<p>36. <b>Occupation Certificate Requirements</b> 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>37. <b>Structural Certification</b> A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
<p>38. <b>Sydney Water Certification</b> 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 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p>

Condition
<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>
<p>39. <b>BASIX Requirements</b> 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>40. <b>Council's Infrastructure, Vehicular Crossings, street verge</b> 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 &amp; gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
<p>41. <b>Council's Infrastructure, Vehicular Crossings, street verge</b> 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"> <li>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.</li> <li>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.</li> <li>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.</li> </ol>

Condition	
	<p>d) That part of the nature strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.</p> <p>Condition Reason: To ensure rectification of any damage to public infrastructure and that works are completed in accordance with Council's requirements with Council's approval.</p>
42.	<p><b>Landscaping Certification</b> The Principal Certifier must ensure that landscaping at this site has been installed in accordance with the approved plan/s and any relevant conditions of consent, prior to any Occupation Certificate, with the owner/s to then maintain it in a healthy and vigorous state until maturity.</p> <p>Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: to ensure landscaping is completed in accordance with requirements.</p>
43.	<p><b>Landscaping Certification</b> That part of the nature-strip upon either of Council's footways which are damaged during the course of works shall be re-graded and re-turfed with Kikuyu Turf rolls, including turf underlay, wholly at the applicant's cost, to Council's satisfaction, prior to any Occupation Certificate.</p> <p>Condition Reason: to ensure that community assets are presented in accordance with reasonable community expectations.</p>

### OCUPATION AND ONGOING USE

Condition	
44.	<p><b>Use of the premises</b> The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p> <p>No consent is granted for the use of the premises as a boarding house (or the like).</p> <p>The outbuilding shall only be used for purposes ancillary to the main dwelling and shall not be used as a bedroom area or business premises.</p> <p>Condition Reason: To ensure the development is used for its intended purpose.</p>
45.	<p><b>Use of parking spaces</b> 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>
46.	<p><b>External Lighting</b></p>

Condition	
	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.
47.	<p><b>Plant &amp; Equipment</b> Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>

### DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

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

### DURING DEMOLITION WORK

Condition	
49.	<p><b>Demolition Work</b> 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"> <li>• A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li> <li>• Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations</li> <li>• A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li> <li>• Council is to be given at least two days written notice of demolition works involving materials containing asbestos,</li> <li>• Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,</li> <li>• A Clearance Certificate or Statement must be obtained from a suitably</li> </ul>

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**Condition**

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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](http://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. D27/25

**Subject:** 37 Beach Street, Clovelly (DA/138/2025)

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### Executive Summary

<b>Application:</b>	Demolition of existing buildings, tree removal and construction of a 3-storey residential flat building with basement level containing three (3) residential apartments, four (4) car parking spaces, installation of a swimming pool for the ground floor apartment, new front fencing and detached awning, associated ancillary and landscaping works (Variation to Floor Space Ratio Development Standard).
<b>Ward:</b>	North Ward
<b>Applicant:</b>	PollyCo Developments Pty Ltd
<b>Owner:</b>	Strata Plan 45039
<b>Cost of works:</b>	\$3,625,000.00
<b>Reason for referral:</b>	The Application contravenes the development standard for floor space ratio by more than 10%.

### Recommendation

- A. That the RLPP is satisfied that the applicant's written request to vary the Floor Space Ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012 has 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. DA/138/2025 for Demolition of existing buildings, tree removal and construction of a 3-storey residential flat building with basement level containing three (3) residential apartments, four (4) car parking spaces, installation of a swimming pool for the ground floor apartment, new front fencing and detached awning, associated ancillary and landscaping works, at No. 37 Beach Street, Clovelly, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

1.  DA/138/2025 - Conditions of Consent

D27/25



**1. Executive summary**

Application

This report will assess DA/138/2025 (*the Application*) for 37 Beach Street, Clovelly (*the Subject Site*) against the relevant heads of consideration under S 4.15(1) of *Environmental Planning and Assessment Act 1979 (the Act)*.

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

The Application seeks consent for the demolition of an existing two storey, four apartment RFB and construction of a new three storey, three apartment RFB with basement parking as follows:

**Demolition**

- Demolition of the existing two storey RFB; and
- Demolition of an existing rear carport.

**Construction**

- Construction of a new three storey, three unit RFB, comprising:
  - Basement parking, plant, storage, and car turntable;
  - Ground floor RFB unit one, providing three bedrooms;

- First floor RFB unit two, providing three bedrooms;
- Second floor RFB unit three, contained within the proposed roof form, providing two bedrooms;
- Basement to second floor stair and lift access;
- Associated landscaping, planting, and stormwater drainage; and
- Rear yard pool.

**Section 4** of this report provides greater detail on the Application's scope.

The Application was subject to review by the Design Excellence Advisory Panel (DEAP) and a subsequent request for information and amended drawings. **Section 5** of this report details this review.

### Subject Site

The Subject Site is regular in shape and improved by an existing residential flat building. The Subject Site is zoned R2 low density residential, bordering an R3 zone across Beach Street. Accordingly, surrounding development comprises a mix of low and medium density dwelling types.

### Key Issues Summary

The second floor unit exceeds the maximum floor area for a habitable roof apartment and proposes substandard ceiling height for the living area.

Council finds the additional 9.2sqm for the second floor unit to be acceptable and in keeping with the objectives for habitable roof space under *Randwick Comprehensive Development Control Plan 2013*.

This report provides a condition requiring the increasing of the ceiling height for second floor unit to provide satisfactory amenity for the living area of the upper level unit.

### Planning Assessment

The instruments for consideration for the Application are the applicable *State Environmental Planning Policies (SEPP)*, *Randwick Local Environmental Plan 2012 (RLEP 2012)*, and *Randwick Comprehensive Development Control Plan 2013 (RDCP 2013)*.

### Conclusion

In considering all matters, this report concludes that the Application satisfies the relevant criteria established by the Act and is in the public interest. A recommendation for approval is made subject to the attached conditions of consent

## **2. Site Description and Locality**

The Subject Site is zoned R2, being located at 37 Beach Street, Clovelly. It is legally identified as Lot 1 in Deposited Plan 721642 (beings Lots 1-4 in Strata Plan 45039). By survey the Subject Site measures 445.8sqm, addressing Beach Street through a 12.19 metre frontage.

The Subject Site is regular in shape and is improved by an existing two storey RFB, readily identifiable through its brick exterior and building design signature to 1960's style RFB found across the Randwick Local Government Area.

Surrounding development consists of a mix of low and medium density dwellings, with three RFBs being located opposite the Subject Site on Beach Street. Supporting commercial uses are located approximately 70 metres north of the Subject Site along Clovelly Road.

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Figure 1 – 37 Beach Street and adjacent properties (source: Site inspection 6/3/2025)



Figure 2 – 37 Beach Street (source: Site inspection 6/3/2025)



Figure 3 – 37 Beach Street southern elevation toward rear of Subject Site (source: Site inspection 6/3/2025)



Figure 4 – 37 Beach Street rear – southern elevation toward Beach Street (source: Site inspection 6/3/2025)

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Figure 5 – 37 Beach Street rear carport (source: Site inspection 6/3/2025)



Figure 6 – 37 Beach Street rear – northern elevation toward Beach Street (source: Site inspection 6/3/2025)



Figure 7 – 37 Beach Street northern elevation toward rear of Subject Site (source: Site inspection 6/3/2025)



Figure 8 – Development opposite 37 Beach Street (source: Site inspection 9/5/2025)

### 3. Relevant history

**BA/743/1964** was determined circa 1964 and approved the construction of the existing RFB.

**DA/155/1991** was determined circa 1991 for strata subdivision of the existing RFB into four separate lots.

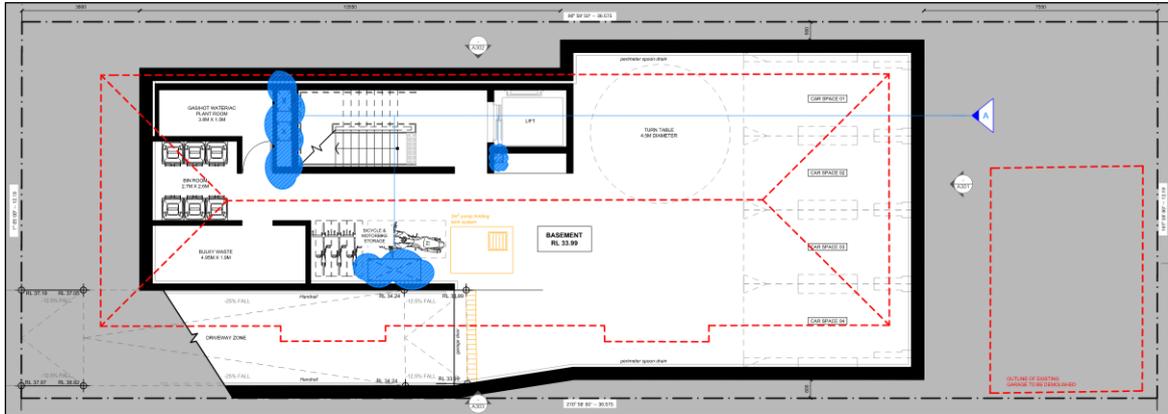
### 4. Application

The Application seeks development consent for demolition of an existing two storey, four unit RFB and construction of a new three storey, three unit RFB with basement parking. In detail the following is proposed

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**Basement**

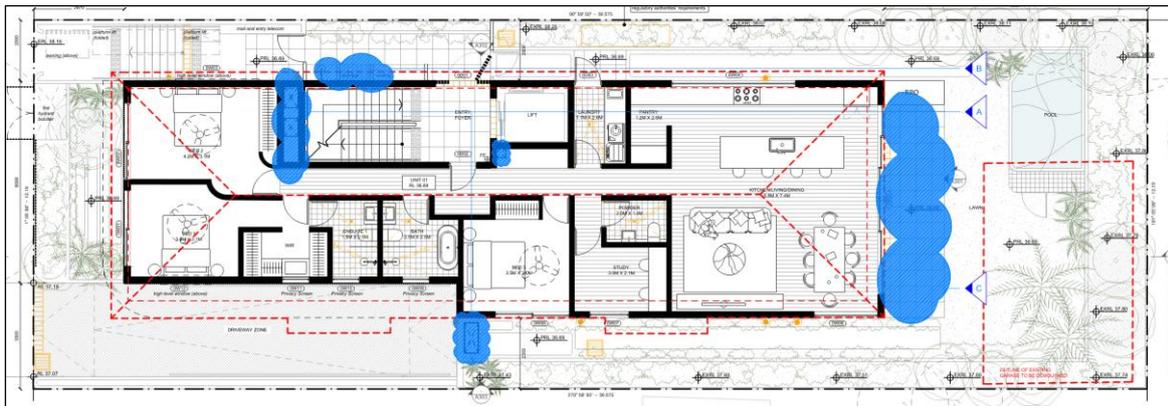
- Approximate four metre cut excavate area for new basement;
- Construction of new basement level with four car spaces, single motorcycle space, and three bicycle spaces; and
- Construction of 4.5m turntable.



**Figure 9** – Proposed basement plan (source: Common Office, dated 29/05/2025)

**Ground Floor**

- Demolition of rear carport;
- Construction of ground floor three bedroom unit with living/kitchen room and study;
- Associated rear private open space comprising terrace, lawn, and pool; and
- Front setback planting, fencing, hydrant booster, and entrance with mailbox/telecom.



**Figure 10** – Proposed ground floor plan (source: Common Office, dated 29/05/2025)

**First Floor**

- Construction of first floor three bedroom unit with living, kitchen, and balcony; and
- Elevated planting along eastern, southern, and western elevation.



Figure 11 – Proposed first floor plan (source: Common Office, dated 29/05/2025)

Second Floor

- Construction of two bedroom second floor unit with dual balcony and dining/living space; and
- Eastern and western elevation planting.



Figure 12 – Proposed second floor plan (source: Common Office, dated 29/05/2025)

Ancillary

- Lift and stairwell from basement up through the RFB to the second floor unit; and
- Ground floor and elevated landscaping and planting.



Figure 13 – Proposed Long Section (source: Common Office, dated 29/05/2025)

### 5. DEAP & Amendments to the Application

The Application was referred to Council’s design excellence panel for their review and comment. A summary of the DEAP comments and the Applicant’s response is provided below.

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**Table 1** Response to Randwick Design Excellence Advisory Panel (11 April 2025)

	DEAP Comment	Response
<b>1. Context and neighbourhood character</b>		
1.1	<i>The proposed development offers a sympathetic addition to the streetscape to replace the existing non-contributory residential flat building.</i>	/
1.2	The adjoining properties on the east side of Beach Street are predominantly single-family dwellings of one or two-storeys. However, on the west side of Beach Street, there is an established precedent of low scale residential flat buildings.	/
1.3	The character of buildings on both sides of the street is a diverse mix of styles, compositions and materials, ranging in age from early 20th century houses through mid-century apartment buildings and contemporary renovations and additions. There is no predominant style along the street, or across the immediate neighbourhood.	/
<b>2. Built form and scale</b>		
2.1	Working within the existing building envelope is commended, however due to some of the restrictions on top floor (and considering the proposal is below the allowable building height) there may be opportunity to liberate some of these constraints. The pitched and hipped roof forms, while endeavouring to relate to adjoining buildings, create an awkward series of forms, junctions and unusable space, while also constraining the amenity of internal and external spaces on the upper level.	The comments of the DEAP regarding the roof form are appreciated and noted.  However, the roof form is the result of working within the existing building envelope. This design strategy does not increase shadow impact to the southern neighbours.  Notwithstanding, the roof form has been simplified to maximise ceiling height to the southern side and simplify the southern roof construction.
2.2	The applicant should consider extending the raised portion of northeastern roof to the south and west to simplify the roof form and improve ceiling heights to living areas and Bedroom 2. This may also help to accommodate the lift overrun which doesn't appear to have been considered in the documents.	As discussed above, this compromise has been made in the effort to be a good neighbour and work within the anticipated planning constraints. While the recommendation of the DEAP may provide a more simplified form, our position is that in this instance amenity to future residents of the proposal can be provided without impeding that of the southern neighbours.  A lift overrun is not required.
2.3	The implied constraint of the existing mansard roof envelope is not a necessary constraint. The applicant is encouraged to explore the	Refer point 2.1 and 2.2 above.

Figure 14 – DEAP comments & Applicant response (pg 1)

	DEAP Comment	Response
	opportunity to improve amenity to the top floor with a simpler solution to the roofs, one that sits comfortably within the diverse streetscape, while also integrating more comfortably into the overall architectural language of the proposal.	
2.4	The first and top floor parapets read as unusually large and dominant elements within such a small building form. Reducing their bulk should result in a lighter, more permeable form, while improving internal amenity to terraces and living spaces.	Horizontal parapets have been reduced and a light metal balustrade placed on top of horizontal parapet (band) to provide 1m fall protection compliance but also to 'lighten' the appearance of the building to the streetscape.  <b>Refer DA300 [01]</b>
2.5	An overview by a suitably qualified services engineer is required to ensure the necessary plant and equipment is accommodated without compromising the proposed built form. In particular common accessible risers, air conditioning condensers, water tanks etc.	Erbas - a service engineer consultancy has provided a set of schematic layouts for Electrical, Mechanical, Fire and Hydraulic service requirements. These CAN letter submitted, state the adequacy of the scheme to accommodate service requirements.  <b>Refer letter by Service Engineer</b>
2.6	More attention and detail are required in the cross sections, especially in documenting relationships with neighbouring ground levels and buildings, including construction of boundary fences, retaining walls, planters, pools and basement walls. Structural advice should be incorporated, particularly to retaining walls and basement piling, to ensure built solutions do not impact on spatial and operational outcomes.	A selection of additional sections show the relationship between neighbouring buildings, existing fence and ground levels, retaining walls and proposed levels.  Information has been prepared by Ross Engineers for advised methodology and assumptions relating to reinforced basement piled extent and to retaining walls.  <b>Refer DA401 [01]</b> <b>Refer letter by Structural Engineer</b>
<b>3. Density</b>		
3.1	Appropriate to retain multiple dwellings to site and maintain existing density.	/
3.2	The single level of basement is considered appropriate, even if Council parking controls are not met. The applicant should provide a local traffic analysis to make the case for the reduced parking allowance, including proximity to amenity and shops, public transport, car share pods, cycleways and pedestrian networks.	The existing Traffic and Transport Management Report has been supplemented by Local Traffic Analysis and further information relating to circulation networks and local amenities provided by Wongola Consulting Engineers.  <b>Refer Local traffic Analysis by Traffic Consultant</b>
<b>4. Sustainability</b>		

Figure 15 – DEAP comments & Applicant response (pg 2)

	DEAP Comment	Response
4.1	Given the narrow width of the building, and its coastal location, emphasis should be on operable windows, ceiling fans and cross flow ventilation to minimise the use of air conditioning.	Each unit occupies a full floor and are "through apartments", which provide for the best form of cross ventilation.  All units have ceiling fans to bedrooms and living spaces and are provided with operable windows.  <b>Refer Window Schedule DA 602 [01]</b>
4.2	Dedicated bicycle parking should be provided near the ground floor entry for both residents and visitors.	Secure bicycle parking is provided in the basement at the required rate as stated in the Traffic and Transport Management Report.
4.3	The site-wide water management scheme remains cursory – it is unclear if the nominated detention tank is within the basement or under designated deep soil landscape. Preference should be given to landscape-focussed water management solutions, augmented by grey infrastructure as a secondary system, contributing to water reuse, noted below:	As recommended by the Stormwater Engineer:  <i>The discharge rate for the site is &lt; 25L/S and detention is not required. Soft Landscaping is designed to maximise natural infiltration through surface garden beds.</i>
4.4	Given the extensive site coverage and basement, all rainwater on site should be harvested, stored, treated and reused, for irrigation, car washing, toilets, laundry and the swimming pool.	As recommended by the Stormwater Engineer:  <i>Over 80% of the [proposed] roof discharges to a Rain Water Tank which will be used for internal toilet, laundry, irrigation and BASIX requirements.</i>  <b>Refer Detail 4 in Stormwater Plan</b>
4.5	Provisions for electric vehicle charging should be included in the basement carpark.	Electric Vehicle charging has been allowed for in the maximum capacity calculation prepared by the Service Engineer.  <b>Refer letter by Service Engineer</b>
4.6	Provision should be made on site for outdoor laundry drying and green waste composting.	All units have access to outdoor areas which can be used for drying laundry in addition to internal washing and drying laundry facilities.  Each unit is to have a FOGO caddy which can be emptied into one of the two 240L Green Waste bins in the basement and collected fortnightly as per the Operation Waste Management Plan.
<b>5. Landscape</b>		

3

Figure 16 – DEAP comments & Applicant response (pg 3)

	DEAP Comment	Response
5.1	Incorporating elevated planting as the building steps back will help integrate the building into the heavily tiered and landscaped street – this is encouraged by the Panel.	Elevated planting has been added to in accordance with advice and consultation with Dangar Barin Smith - the Landscape Architect.  <b>Refer DA203 [01]</b> <b>Refer letter by Landscape Architect</b>
5.2	Revising the upper level hip and mansard roofs should allow for additional planting at the upper level as well.	The revisions submitted to the roof form do not provide greater opportunity for planting however, as noted above planters have been included to the second floor.  <b>Refer DA203 [01]</b> <b>Refer letter by Landscape Architect</b>
5.3	All elevated planters should be carefully designed to ensure adequate depth and width for soil, and incorporate sufficient provisions for irrigation and drainage, to ensure viability of the landscape.	<b>Refer letter by Landscape Architect</b>
5.4	Upper level planters that are overly narrow or inaccessible for regular maintenance are not encouraged – it's preferable to increase the size of planters directly adjacent to internal and external living spaces, to maximise both amenity and ease of maintenance.	<b>Refer letter by Landscape Architect</b>
5.5	Consider opportunity to strategically use landscape solutions to the rear of the site to minimise the impact of overland flow and mitigate potential flooding to the ground floor apartment.	<b>Refer letter by Landscape Architect</b>
<b>6. Amenity</b>		
6.1	Refer to previous comments regarding built form and scale. The 2.4m ceiling height to habitable areas on the top floor is non-compliant under the ADG and needs to be redesigned. The roof design should be simplified to improve amenity to the upper level external and internal living areas.	The top unit (unit 3) does achieve a ceiling height greater than 2.7m to spaces north of the ridge line. The ceiling height to the south rakes towards a minimum height of 2.4m.  The reduced ceiling height as mentioned in Section 2 is an effort to work within the existing roof envelope and not increase solar impact to the southern neighbours.  This is demonstrated in the reflected ceiling plan diagram <b>DA250 [01]</b> .
6.2	Confirm that the windows within 3m of the Southern boundary to the second bedroom are able to remain operable to ensure natural ventilation requirements are able to be met.	The proposal will be sprinklered (due to proximity to neighbours), and windows within 3m of side boundary will have drenchers and/or fire screens which will allow windows to be

4

Figure 17 – DEAP comments & Applicant response (pg 4)

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	DEAP Comment	Response
		operable.
6.3	The ground floor apartment is well below ground level on all sides. The applicant should illustrate the this will not compromise residential amenity, especially in terms of natural light and ventilation.	Amended shadow diagrams illustrate that the ground floor unit living space has direct sunlight for the hours of 8am, 9am, 10am and 11am on the shortest day.  As mentioned in Point 4.6, due to the unit occupying the full floor the unit is well ventilated and capable of cross ventilated spaces throughout. Furthermore the ground floor landscape has been expertly designed to afford privacy and greenery while permitting light to the residents.
6.4	Due to the low number of dwellings and proximity to the beach and nearby open spaces, , the applicant could make the case that a communal open space is not necessary for this development. Instead, part of the proposed outcome could be to maximise the landscape and generous private open space to the ground floor apartment, striking a balance between usable, habitable areas and dense and diverse planting.	/
6.5	If the solution without communal open space is to be pursued, the applicant has a corresponding obligation to ensure that the upper-level apartments are correspondingly provisioned with equally generous open spaces and landscaping. In addition to referring to the notes on upper-level planters, upper-level terraces should be large enough to incorporate a large dining table, seating, barbecue and other amenities expected of residences of this type in this location.	As indicated by the DEAP in the comment above the site it located within very close proximity to local amenities and open spaces.  Each unit has a generous private outdoor space with barbeque and adequate space for dining and seating.
6.6	Given the site's coastal location, expected user amenities should be included at entry level, including resident and visitor bike parking, surfboard racking and an outdoor shower.	Additional storage and a shower have been included in the entry sequence to accommodate beach related activities such as surfing.  Refer DA201 [01]
6.7	The entry should also include space for package drop off, post boxes and seating.	Post boxes are included to the west of the entry gate threshold. An additional seated area has been included external to the entry foyer.  Refer DA201 [01]
<b>7. Safety</b>		
7.1	Pending review by services consultants, the applicant should confirm there is no requirement for significant exhaust at ground	The services review undertaken by Erbas illustrates the exhaust of the basement air is to the roof so as not to disturb the ground layout.

5

Figure 18 – DEAP comments & Applicant response (pg 5)

	DEAP Comment	Response
	level from the basement. This could impact the proposed landscaping and entry experience, the character of which is important for both streetscape and residential amenity.	
7.2	Ensure there are no fire related risks with having the egress stair opening directly onto the upper-level apartment.	Refer letter by BCA Consultant
7.3	Refer to previous comments regarding landscape - ensure there is no risk of flooding to ground floor apartment considering proposed changes in topography that may encourage greater runoff from northern neighbouring properties.	The question of flooding and stormwater management has been reviewed and considered. The immediately adjacent paving on the Ground Floor has been specified as "pedestal". This permits a set-down between internal and external levels and a greater safeguard against water penetration.  Refer letter by Stormwater Engineer
<b>8. Housing Diversity and Social Interaction</b>		
8.1	Three-bedroom apartments are appropriate for the area, considering the mostly low-scale residential (housing) context. Generous interior planning is in keeping with the surrounding housing stock.	/
<b>9. Aesthetics</b>		
9.1	The northern façade of the building is quite visible where it sits proud of the northern neighbour and should be articulated accordingly. Consider continue wrapping balcony language with wall tiles around to where lift is proposed as a more natural termination to the street expression.	This elevation has been updated to continue the tiled band to the north side elevation. The ground floor will be obscured when viewed from the street as a result of the level difference and planted beds.  Refer DA302 [01]
9.2	Full height masonry upstands to the street are visually dominant, consider reducing height to ~760mm (non-climbable height) with top rail to add a finer grain of detail.	The elevation has been further refined by a reduction in the upstand and introduction of a railed top piece to reduce the mass.  Refer DA300 [01]

6

Figure 19 – DEAP comments & Applicant response (pg 6)

	DEAP Comment	Response
9.3	Painted, rendered surfaces as the predominant building finish over multiple storeys is not supported by the Panel, especially considering the challenging coastal environment. While expansion joints might mitigate cracking, the salt air will quickly deteriorate applied finishes. Preference should be given to integrally coloured materials: tiles, concrete, etc.	The wall tile has been continued around to the north elevation as discussed above. Cement render will be specified and applied with mind to longevity and resistance to the coastal environment.
	<b>Summary Comments</b>	
	The proposed development is generally supported by the panel, and has the potential to provide a positive contribution to the street and neighbourhood.	/
	The architects have demonstrated careful consideration of the building within its context, with great efforts to maintain the existing roof form and height. It is important these implied constraints don't impact amenity to the upper-level apartments.	/
	The applicant is encouraged to explore a less convoluted roof form to maintain 2.7m high ceilings to habitable areas where possible.	The design team recognises and appreciates the comments of the design panel regarding the roof form. The amended form submitted is simpler.  However, the design team on weight believe that the benefit to the southern neighbour by not increasing solar impact justifies the additional complexity of the proposed roof.
	The northwestern façade is to be reconsidered to ensure the development is of a high quality particularly when viewed from the street. A services overview is also required to ensure the proposed built form is achievable.	See above comments.

Figure 20 – DEAP comments & Applicant response (pg 7)

## 6. Notification

The owners/residents of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Engagement Strategy. Three submissions were received from the following addresses, with a summary of matters raised and response provided below.

- 35 Beach Street, Clovelly;
- 39 Beach Street, Clovelly; and
- 3/32 Beach Street, Clovelly.

Issue	Comment
1. Additional level and increase FSR beyond that permitted by the control has been proposed.  Overdevelopment is a concern with regard to impact on neighbouring development. Privacy, shadows, bulk, tree loss.	1. FSR and proposed built form have been given consideration in this report.  However, a satisfactory outcome has been facilitated noting that the proposal intends to generally maintain the existing envelope.
2. Car parking proposed is insufficient for bedrooms. Applicant will lodge a modification for more bedrooms. Additional parking should be provided.	2. Application complies with Council's parking requirements.  Council cannot make a decision on a future application or changes outside of the subject proposal.
3. Existing traffic along Beach Street is a concern with regard to speeding vehicles, delivery trucks. Impacts from construction in the surrounding area. Conditions should be imposed. Council to be held responsible for any damages.	3. Suitable conditions of consent will be imposed to govern the construction process, the majority of which are to the satisfaction of the appointed certifier.

Issue	Comment
4. Amenity impacts from construction. Limit construction to Monday-Friday with no construction on weekends.	4. Standard construction hours condition to be imposed.
5. Potential damage to property from excavation. Requested that a structural engineer to record the condition of 35 Beach Street. Provide a copy of that report to the occupiers of 35 Beach Street.	5. Standard condition imposed for excavation and support of adjoining land and dilapidation report.  Dilapidations reports must be prepared by an engineer and provided to surrounding properties.
6. No objection to FSR breach.	6. Noted.
7. A low noise roller door should be installed.	7. Consideration to be included as consent condition.
8. Shadow impacts to roof solar panels of 39 Beach Street. Amendment requested to mitigate impacts.	8. Solar panels are not presently considered by C2 of RDCP 2013.  Notwithstanding, the solar panels at 39 beach Street would continue to receive adequate solar access.  Those solar panels are located on the roof of a ground level, on a site which is sloped down from 37 Beach Street.
9. Dilapidation report should be conditioned.	9. Condition imposed.

## 7. Relevant Environment Planning Instruments

### 7.1. SEPP (Housing) 2021

#### Chapter 2 – Affordable Housing – Part 3 Retention of Existing Affordable Rental Housing

##### Section 46 – Buildings to which Part applies

Pursuant to subsection (1) of section 46, Part 3 of SEPP (Housing) applies to low-rental residential buildings on land in the Greater Sydney Region.

Pursuant to subsection (2)(a), Part 3 does not apply to a building approved for subdivision under *Strata Schemes Development Act 2015*.

The existing RFB was strata subdivided circa 1991 and comprises Strata Plan 45039. Part 3 therefore does not apply to the Application.

#### Chapter 4 – Design of Residential Apartment Developments

Chapter 4 of SEPP (Housing) applies to RFBs which are at least three storeys and contain at least four dwellings.

The Application proposes a new RFB which is three storeys and contains three dwellings. Accordingly, Chapter 4 does not apply to the Application.

### 7.2. 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.

### 7.3. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the Application 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 Application achieves the relevant objectives and provisions under Chapter 2.

### 7.4. 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 only previously been used for residential purposes and as such is unlikely to contain any contamination. The nature and location of the application, being an RFB, is such that any applicable provisions and requirements of the SEPP have been satisfactorily addressed.

### 7.5. Randwick Local Environmental Plan 2012 (LEP)

The Subject Site is zoned Residential R2 Low Density Residential under RLEP 2012. Within that zone development for the purpose of a RFB is prohibited as a non-specified use.

<p><b>2 Permitted without consent</b></p> <p>Home occupations; Recreation areas</p> <p><b>3 Permitted with consent</b></p> <p>Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Pond-based aquaculture; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Semi-detached dwellings; Shops; Tank-based aquaculture</p> <p><b>4 Prohibited</b></p> <p>Funeral homes; Any other development not specified in item 2 or 3</p>
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**Figure 21** – R2 permitted and prohibited uses (source: RLEP 2012, ver. 15/12/23)

The Subject Site benefits from existing use rights as set out by Part 4, Division 4.11 of the Act.

Section 4.67 of the Act provides that *Environmental Planning and Assessment Regulation 2021 (the Regulations)* may make provisions for the carrying out of works to a building that benefits from existing use rights.

Clause 163 of the Regulations provides that an existing use may be rebuilt. Clause 166 of the Regulations provides the requirements for rebuilding of an existing use.

#### **166 Rebuilding of buildings and works**

- (1) Development consent is required for any rebuilding of a building or work used for an existing use.
- (2) The rebuilding must be—
  - (a) for the existing use of the building or work and for no other use, and
  - (b) carried out only on the land on which the building or work was erected or carried out immediately before the relevant day.

The Application seeks development consent for the rebuilding of an existing RFB. No other use is sought. The Application relates only to the land where the RFB exists.

Notwithstanding existing use rights, an assessment of the RFB against the R2 zone objectives is provided.

The Application 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.

An existing use assessment is provided below consistent with *Stromness Pty Limited v Woollahra Municipal Council [2006] NSWLEC 587* is provided below.

- **How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?**

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

#### Planners Comment

The development is within an R2 zone and directly adjacent is an R3 zone. It would be appropriate to assess the Application against what can be expected in both zones. The below **Figure** identifies the Subject Site, the surrounding zoning, and other RFB's within the locality. Remaining properties comprise dwellings.



**Figure 22** – Subject Site (blue) and surrounding RFBs (green) (source: Council mapping, accessed 23 May 2025)

The following bulk and scale standards can be expected for a dwelling house proposed where the Subject Site is:

Expected Height - 9.5 metres;  
 Expected FSR – if proposed as a dwelling house - 0.75:1. All other development = 0.5:1  
 Expected Front Setback – 3.5m (average of adjoining)  
 Expected Rear Setback – 8m  
 Expected Side Setback – 0-4.5m (1200mm) – 4.5-7m (2300mm) – 7m+ (5620mm at ridge)

The following bulk and scale standards can be expected for an RFB in the adjacent R3 zone:

Expected Height – 9.5 metres;

Expected FSR – 0.75:1;  
Expected Front Setback – Average of adjoining, minimum 3 metres;  
Expected Rear Setback – 5.4m  
Expected Side Setback – 2000mm all heights  
Expected external wall height – 8m

#### Proposed built form controls

The Application proposes the following.

Height – 8.91 Metres;  
FSR – 0.82:1;  
Front Setback – 3 metres  
Rear Setback – 8.65 metres  
Side Setback – 2000mm entire northern elevation;  
Southern elevation varies – all in exceedance of 2000mm.

Most prominently, the Application seeks to and achieves, a retention of the existing building envelope. Through this the RFB continues to address the surrounding streetscape and properties in a similar manner while providing improvements to privacy and visual amenity. The proposed built form provides expected elements of new development including variation of materiality, increased setbacks, physical recessing, and elevated planting to reduce its apparent bulk.

Building height remains below that which is expected and is acceptable.

FSR proposed is 0.82:1 (366.1sqm), being above that normally expected at 0.75:1 (334.35sqm), an increase of 31.75sqm. Proposed FSR is seen as acceptable through the aforementioned envelope being retained in the design. Further, the Applicant has provided a satisfactory clause 4.6 variation request for the proposed FSR exceedance.

The Application suitably complies with all setbacks that can be expected for an RFB. R2 setback compliance is suitable, however goes beyond where can be expected above 7 metres for a lower density typology. The Application further incorporates a pitched roof to the street, improving its cohesion.

Redevelopment of adjoining sites along the R2 side of Beach Street would still be able to occur in a reasonable manner where all expected amenities could be afforded to those properties within a generous footprint. The RFB would retain a larger general footprint, however such a footprint is often expected in relation to that land use. A mix of footprints would be suitable for the streetscape as it is presently defined by its mix of low and medium density land uses and building footprints.

Two RFBs are located directly adjacent the Subject Site (see below **Figure**) which exceed the maximum envelope controls. They similarly adjoin low density residential uses to the north. These RFBs are not carte blanche for the Application to exceed its prescribed controls, however they do lend greatly to the localities existing scale and character. It can be reasonably expected that redevelopment of the adjacent RFBs would seek a similar envelope retention. The subject form is only supported in this context noting the existing RFB use on the site in proximity to neighbouring developments of a similar scale and would not be supportable without existing use rights being in place.



**Figure 23** – Adjacent RFBs (source: Site visit 6/03/2025)

- **What is the relevance of the building in which the existing takes place?**

*Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

Planners Comment

The existing building is an RFB, proposed to be replaced with a new RFB. The Application as proposed suitably complies with Council’s relevant RFB controls under C2 of RDCP 2013.

While not entitled to similar bulk, the Application has provided a well-articulated RFB with a high level of amenity on a constrained site. The RFB proposed would be a significant improvement for the site and its surrounds (see impacts below).

- **What are the impacts on adjoining land?**

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

Planners Comment

The Application is considered to have the following impacts:

- Improvement to visual amenity;
- Improvement to visual privacy;
- Significant deep soil and landscaping increase;
- Significant internal amenity improvement;
- Improvement to street parking demand;
- Improvement to energy efficiency of the RFB;
- Improved waste storage;
- Improvement to solar access for rear private open space of 39 Beach Street during the morning and afternoon;

- Additional rear bulk – softened via setbacks, landscaping, and materiality;
- Minor reduction of solar access for rear private open space of 39 Beach Street during the evening; and
- Reduction of solar access to stair and bathroom window of 39 Beach Street.

• **What is the internal amenity?**

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

Planners Comment

- Greater than minimum northern solar access for first and second floor unit. Compliant access for ground floor;
- 2.7m ceiling height for ground and first floor unit. Partial non-compliant ceiling height for second unit living area (addressed via condition – see key issues).
- Four aspect ventilation;
- Natural lighting on all aspects;
- Private open space with access to views;
- Accessible, single floor apartments with lift and stair access;
- Spacious living areas;
- Multiple bathrooms per apartment;
- Laundry facilities inclusive;

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Cl. 4.1 Minimum Lot Size (subdivision)	275sqm	445.8sqm (no change)	(N/A no subdivision)
Cl. 4.3 Height of Building (Maximum)	9.5 Metres	8.91 Metres 45.99 – Ridge RL 37.08 - subfloor RL (below slab)	Yes
Cl. 4.4 Floor Space Ratio (Maximum)	0.5:1 (222.9sqm)	0.82 :1 (366.1sqm)	No – see Clause 4.6

7.5.1. *Clause 4.6 - Exceptions to development standards*

The non-compliances with the development standards are discussed in section 8 below.

7.5.2. *Clause 5.10 - Heritage conservation*

The Subject Site does not comprise, nor is within the immediate vicinity of a heritage item or heritage conservation area.

7.5.3. *Clause 6.7 - Foreshore scenic protection area*

The Subject Site is within the Foreshore Scenic Protection Area. Clause 6.7 of RLEP 2012 requires Council to be satisfied that the Application has minimal visual impact on the coastline and contributes to the scenic quality of the foreshore.

The Application maintains the general building envelope of the existing RFB. The height and bulk of the proposed RFB is suitable and integrates well into the existing streetscape.

The Application will not compromise the scenic qualities of the foreshore location and has been designed to protect existing views from neighbouring properties. On this basis, the development is satisfactory with regard to clause 6.7 of RLEP 2012.

## 8. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Application	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.5:1 (222.9sqm max)	0.82:1 (366.1sqm)	143.2sqm	64.2%

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.

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

The applicant’s written justification for the departure from the FSR 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 request argues that the Application is of a size and scale compatible with the desired future character of the locality. Reasoning given includes a consistent envelope and height plane with adjoining properties, streetscape improvements, improved materiality, and improved internal amenity.

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

The Applicant’s written request argues that the Application provides suitable built form articulation. Proposed planting, landscaping, and rainwater elements further improve the site’s environmental and energy response.

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

*(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 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 request argues that the Application would not have an adverse impact on adjoining sites.

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case.

The Application would provide suitable continuity of the RFB, which occupies the Subject Site. The adjacent R3 zone and RFBs further improve the Application's compatibility.

The Application provides a superior built form with recessing, modern materiality, screening, planting, windows, and skylights to respond to environmental needs.

As detailed in this report, concurrence is found in the identified lack of adverse impacts to adjoining sites.

## **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. Such grounds include improvement to the street presentation, comparable height and bulk to the locality, improved planting and sustainability, improved accessibility, and parking improvements.

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

Council agrees with regard to the improvements at the Subject Site of the existing RFB. Further lack of impact is considered sufficient environmental planning grounds to justify contravention. The Application suitably demonstrates this.

## **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.

## **9. Development control plans and policies**

### **9.1. Randwick Comprehensive DCP 2013**

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

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

## 10. 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 7 & 8 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 Application generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3/4 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The Application will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The Application promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the Application is considered to be in the public interest.

### 10.1. Discussion of key issues

#### External wall height and ceiling height

Part of the second floor apartment provides a ceiling height of 2.4 metres, being a substandard outcome for amenity. Primarily of concern to Council is part of that ceiling height applies to a portion of the second floor apartments primary living room, being a high use space.

To ameliorate the unsatisfactory living room ceiling height, a condition is recommended to increase the wall height of specifically the southern and eastern walls adjoining the second floor units primary

living space. The resultant amendments would provide satisfactory 2.7m ceiling height across all of the top floor units living space.

That condition would increase the wall height to 300mm beyond the maximum eight metres currently proposed. Assessment of the wall and ceiling height is provided below against those same objectives.

- *To ensure that the building form provides for interesting roof forms and is compatible with the streetscape.*

To address this objective, the streetscape must be first be identified. 37 Beach Street resides within an R2 zone where development for an RFB is prohibited outside of existing use rights. The adjacent side of Beach Street holds R3 medium density zoning. This adjacent zoning has created a streetscape characterised by both low and medium density residential types. Accordingly, low and medium density built form is both expected and indeed compatible with the streetscape.

The below **Figure** identifies the Subject Site, the surrounding zoning, and other RFB's within the locality.



**Figure 24** – Subject Site (blue) and surrounding RFBs (green) (source: Council mapping, accessed 23 May 2025)

The roof form would provide a design of visual interest. Intergration of the existing ridge and pitch provide a street presentation as would be expected within an R2 zone. Proposed elevated planting along the southern and street facing elevations provide a softening of the overall built form to improve streetscape compatability.

The roof form amendment as proposed by the condition would result in a 300mm difference to a portion of the rear southern and eastern roof. This impercieveable difference, which would have no streetscape impacts with significant amenity gain noting the change being orientated at the rear of the site.

- *To ensure ceiling heights for all habitable rooms promote light and quality interior spaces.*

The condition would ensure improved amenity for the ceiling height of the second floor units living space. The low use bedrooms would retain suitable ceiling height with light access provided via a skylight, window openings and the western balcony.

- *To control the bulk and scale of development and minimise the impacts on the neighbouring properties in terms of overshadowing, privacy and visual amenity.*

Privacy

As existing, the RFB provides significant overlooking and privacy impacts to its neighbouring properties. The below **Figures** demonstrate this current interface and relationship with neighbouring properties.

The RFB as proposed provides significant privacy improvement to adjoining neighbours via screened balconies, elevated sill heights, offset windows and obscured glazing.

The amended roof condition would not alter this improvement.

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**Figure 25** – Existing RFB southern elevation (source: Site visit 6/03/2025)



**Figure 26** – Existing RFB northern elevation (source: Site visit 6/03/2025)



**Figure 27** – View of 37 Beach Street from rear POS of 39 Beach Street (source: Site visit 13/05/2025)

#### Visual Amenity

The Application proposes a built form which is a significant visual and aesthetic improvement over the existing building. New and modern materiality, built form recessing, and elevated planting all within a substantially similar envelope result in an visual amenity improvement to the streetscape and neighbouring properties.

The amended roof condition would not alter the visual amenity improvement.

#### Shadows/Solar Access

Concern can reasonably be drawn over potential shadow impacts to the southern neighbour at 39 Beach Street due to the east-west orientation of the Subject Site. The proposed built form does not contribute unacceptable shadow impacts as detailed below.

Council's solar access and shadow controls are dual faceted, concerning the northern living room windows and private open space of surrounding development.

Northern windows for 39 Beach Street to be affected are demonstrated in the Applicant's submitted shadow drawings and reproduced in the below sun eye **Figures**.

- The eastern rear living room windows of 39 Beach Street would receive increased solar access through removal of the rear carport and partial loss through the rear of the proposed RFB. In total this can be considered to facilitate a generally consistent solar access outcome.
- The rear private open space of 39 Beach Street would see improved solar access via removal of the carport from morning to midday, with some reduction toward the evening. Morning solar access is considered preferable for recreational use and as such this is a positive result.
- Northern windows at 39 Beach Street would receive less solar access. Council has confirmed via site visit to 39 Beach that those northern windows to be affected adjoin a bathroom and stairwell (see below **Figures**). These are low use areas where shadow impacts generate a reduced amenity impact.

Given that the Application proposes an RFB elevated above an adjoining southern dwelling, on an east-west oriented site, the resultant solar impacts and improvement identified above are considered acceptable.

The amended roof condition seeks a 300mm increase to the height of part of the rear roof. Part of the bathroom window for 39 Beach Street will be marginally affected from 10-11am. When accounting for the amended roof condition, the above assessment would still continue to remain applicable. **Figure 28** below identifies the part of the roof to be affected by the 300mm condition.

D27/25

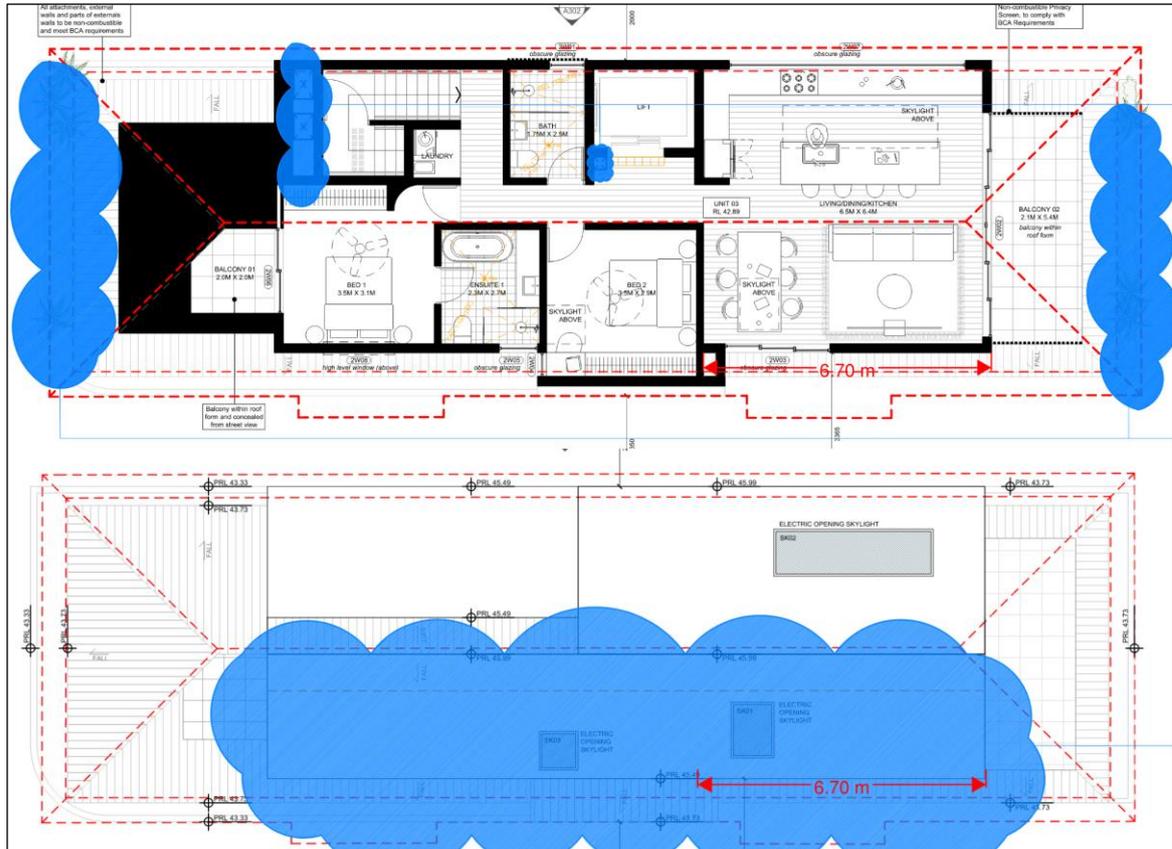


Figure 28 – Proposed second floor and roof – marked up

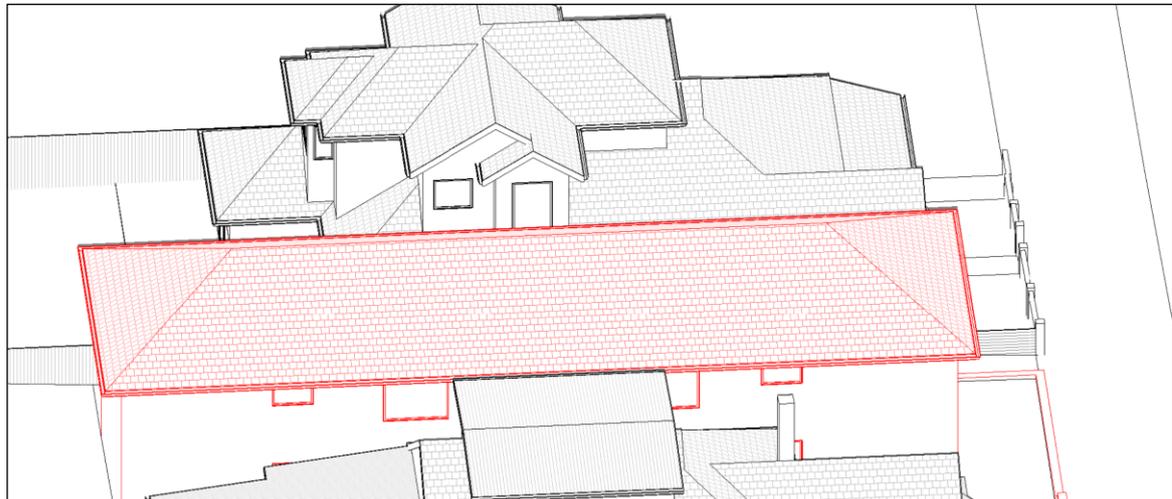


Figure 29 – Existing 11am sun eye diagram (source: CAD Draft, dated 4/10/2024)

D27/25

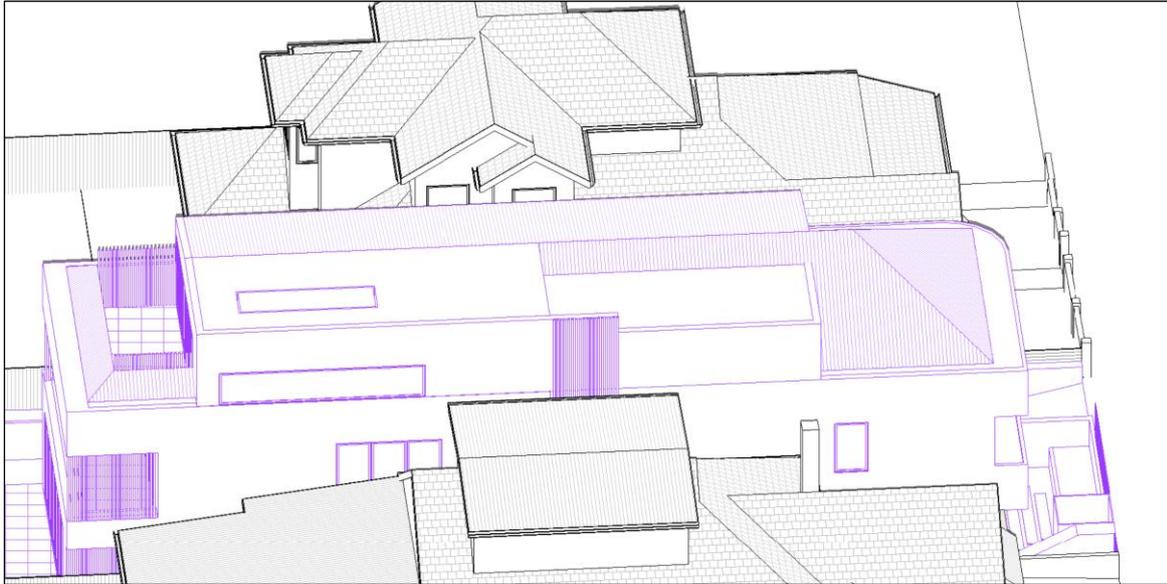


Figure 30 – Proposed 11am sun eye diagram (source: CAD Draft, dated 12/05/2025)

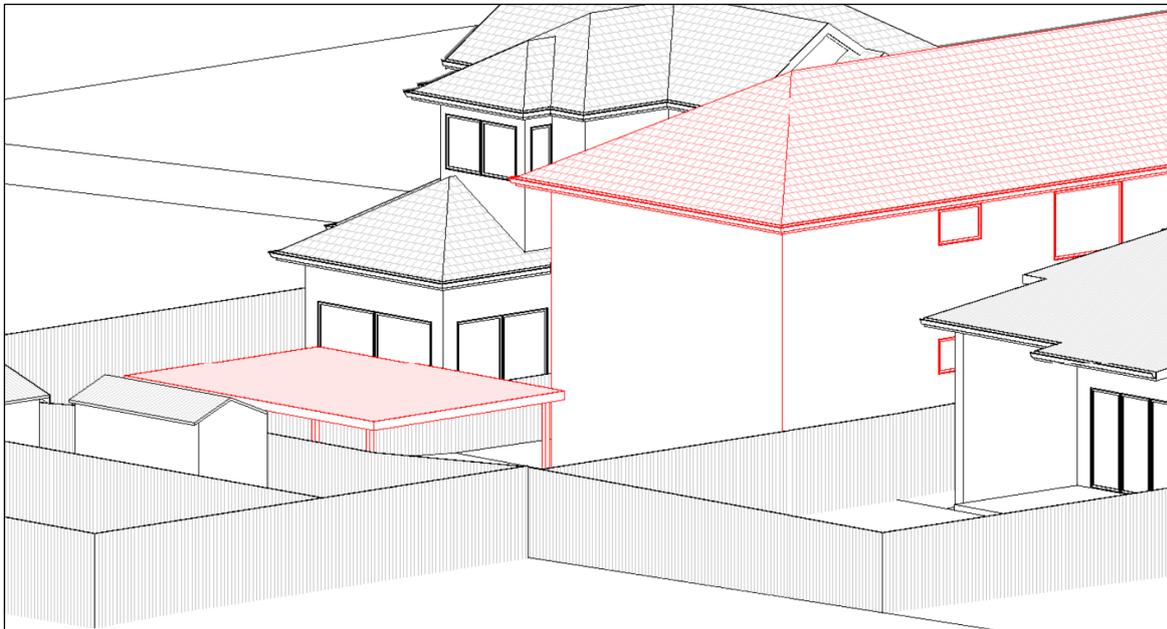


Figure 31 – Existing 8am sun eye diagram (source: CAD Draft, dated 4/10/2024)

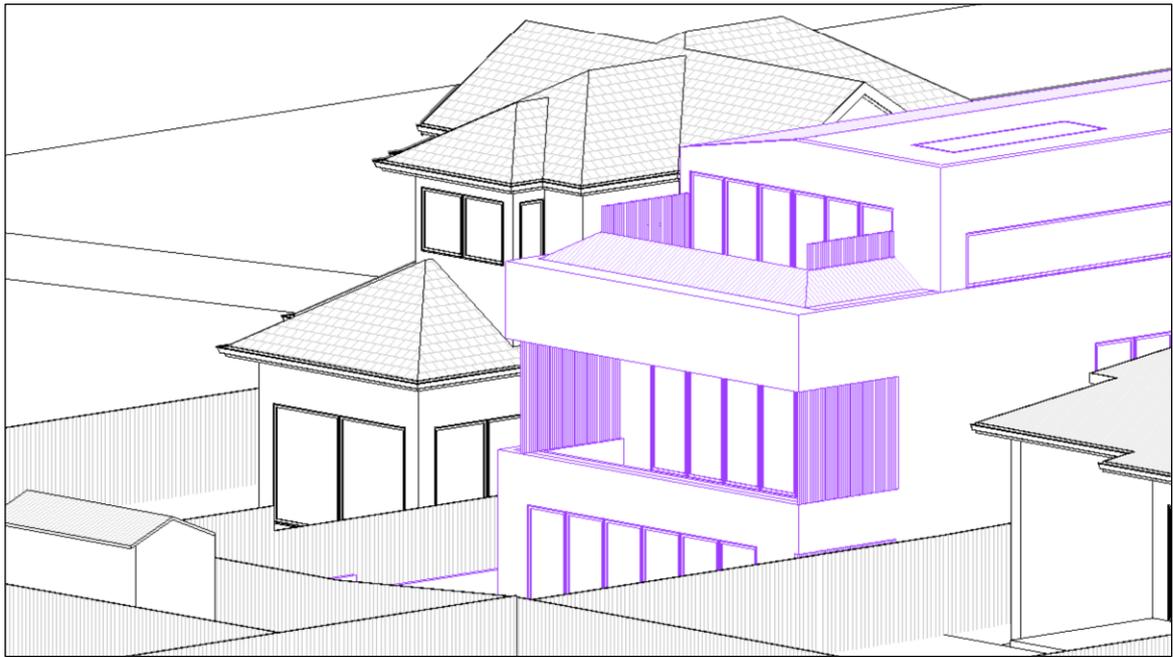


Figure 32 – Proposed 8am sun eye diagrams (source: CAD Draft, dated 12/05/2025)



Figure 33 – Affected stairwell window at 39 Beach Street (source: Site visit 13/05/2025)

D27/25



**Figure 34** – Affected stairwell windows at 39 Beach Street (source: Site visit 13/05/2025)



**Figure 35** – Affected bathroom window at 39 Beach Street (source: Site visit 13/05/2025)

Additionally, there is further merit to allow the raising of the living room ceiling height by 300mm, given the increased side setback presently provided on the southern elevation. Based on the width of the Subject Site, a 2000mm side setback is required by the RDCP 2013. The Application proposes a 3365mm southern side setback to the living room of the RFB.

The lack of identifiable impact, clearly identifiable improvements to surrounding development, in addition to the amenity improvement of the Application will make the proposed second floor unit ceiling height acceptable when amended via condition.

**Habitable Roof Space**

Council’s controls for habitable roof space require the second floor unit to comprise 83.3sqm. The Application proposes 92.5sqm for the second floor unit, a non-compliance by 9.2sqm. This non-compliance is considered minor, with reduction to compliance not considered to have substantial

improvements to the surrounding streetscape. Assessment of the proposed size of the second floor unit is provided below against the relevant objectives.

- *To broaden the dwelling mix by creating opportunities for larger sized units on the uppermost storey.*

The proposed second floor unit would contribute to the dwelling mix by providing a two bedroom unit of a size commensurate with modern living standards for an apartment.

- *To promote high amenity apartment design with flexible layout and good natural ventilation.*

The second floor unit provides ventilation on four aspects with high amenity through its views and living space (as conditioned).

- *To provide opportunities for creating interesting roof forms that contribute to the streetscape and neighbourhood character.*

The proposed roof form maintains a pitched streetscape presentation and suitably conceals the second story unit within the roof space. Rear portion of the roof are suitably concealed from the street and provide increased amenity for the first floor roof, without generating appreciable impacts to neighbouring properties and as such is supported in this instance.

## 11. Conclusion

That the Application for *demolition of existing buildings, tree removal and construction of a 3-storey residential flat building with basement level containing three (3) residential apartments, four (4) car parking spaces, installation of a swimming pool for the ground floor apartment, new front fencing and detached awning, associated ancillary and landscaping works (Variation to Floor Space Ratio Development Standard) be approved (subject to conditions) for the following reasons:*

- The Application suitably satisfies the considerations for existing use rights, including for demolition and rebuilding;
- The Application is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013;
- The Application is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents; and
- The scale and design of the Application is considered to be suitable for the location and is compatible with the desired future character of the locality.

The below non-standard conditions have been recommended.

D27/25

<p>2.</p>	<p><b>Amendment of Plans &amp; Documentation</b></p> <p>The Architectural Drawings approved under Condition 1 must be amended as follows. Amended documents must be provided to and approved by Council’s Manager Development Assessment prior to the issue of a construction certificate.</p> <ul style="list-style-type: none"> <li>Amend all relevant architectural drawings to increase the ceiling height of second floor unit’s the living/dining/kitchen area up to a continuous 2700mm. RL 45.49 may not increase by more than 300mm.</li> </ul> <p>The resulting roof form adjoining the southern elevation of the second floor unit living/dining/kitchen area must incorporate a mansard style roof.</p> <p>Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.</p>
<p>3.</p>	<p><b>Garage Roller Door</b></p> <p>Details must be included in the construction certificate regarding the type of garage roller door used.</p> <p>The principal certifier is to ensure that the chosen roller door is permeable and allows for ventilation into the basement garage and that it will not cause unreasonable noise or disturbance to neighbouring properties when in operation.</p> <p>Condition Reason: To ensure amenity of the site and surrounding area.</p>

Figure 36

## Appendix 1: Referrals

### 1. Design Excellence Panel Comments

#### Randwick Design Excellence Advisory Panel Final Endorsed Comments



DA INFORMATION	
Application Number	DA/138/2025
Address	37 Beach Street Clovelly
Meeting Date	07.04.2025
Panel Members	Rachel Yabsley (chair), Connie Argyrou, Tom Rivard
Report Date	11.04.2025

#### INTRODUCTION

This document provides a summary of advice and recommendations arising from the Design Excellence Advisory Panel (DEAP) meeting held in relation to the above application.

The DEAP comments are intended to assist Council in their design consideration of an application, including assessment against Chapter 4 of the Housing SEPP and the design principles for residential apartment development (as applicable).

The DEAP is appointed by Randwick City Council as an advisory group, not a decision-making body. The written and verbal comments are the professional opinions of the Panel members and constitute expert design quality advice. The Panel members are suitably qualified persons with expertise in architecture, planning, urban design, heritage, and/or landscape architecture.

To address the DEAP comments, the Applicant may be requested to submit amended plans. Prior to preparing any amended plans, the Applicant must discuss the DEAP comments (and any other matter(s) that may require amendment) with the relevant Council assessing officer. Any amended plans submitted to Council must be accompanied by a written response that details how each of the DEAP comments have been satisfactorily addressed.

#### PANEL COMMENTS

1. Context and Neighbourhood Character
  - The proposed development offers a sympathetic addition to the streetscape to replace the existing non-contributory residential flat building
  - The adjoining properties on the east side of Beach Street are predominantly single-family dwellings of one or two-storeys. However, on the west side of Beach Street, there is an established precedent of low scale residential flat buildings.
  - The character of buildings on both sides of the street is a diverse mix of styles, compositions and materials, ranging in age from early 20<sup>th</sup> century houses through mid-century apartment buildings and contemporary renovations and additions. There is no predominant style along the street, or across the immediate neighbourhood.
2. Built Form and Scale
  - Working within the existing building envelope is commended, however due to some of the restrictions on top floor (and considering the proposal is below the allowable building height) there may be opportunity to liberate some of these constraints. The pitched and hipped roof forms, while endeavouring to relate to adjoining buildings, create an awkward series of forms,

junctions and unusable space, while also constraining the amenity of internal and external spaces on the upper level.

- The applicant should consider extending the raised portion of northeastern roof to the south and west to simplify the roof form and improve ceiling heights to living areas and Bedroom 2. This may also help to accommodate the lift overrun which doesn't appear to have been considered in the documents.
  - The implied constraint of the existing mansard roof envelope is not a necessary constraint. The applicant is encouraged to explore the opportunity to improve amenity to the top floor with a simpler solution to the roofs, one that sits comfortably within the diverse streetscape, while also integrating more comfortably into the overall architectural language of the proposal.
  - The first and top floor parapets read as unusually large and dominant elements within such a small building form. Reducing their bulk should result in a lighter, more permeable form, while improving internal amenity to terraces and living spaces.
  - An overview by a suitably qualified services engineer is required to ensure the necessary plant and equipment is accommodated without compromising the proposed built form. In particular common accessible risers, air conditioning condensers, water tanks etc.
  - More attention and detail are required in the cross sections, especially in documenting relationships with neighbouring ground levels and buildings, including construction of boundary fences, retaining walls, planters, pools and basement walls. Structural advice should be incorporated, particularly to retaining walls and basement piling, to ensure built solutions do not impact on spatial and operational outcomes.
3. Density
- Appropriate to retain multiple dwellings to site and maintain existing density.
  - The single level of basement is considered appropriate, even if Council parking controls are not met. The applicant should provide a local traffic analysis to make the case for the reduced parking allowance, including proximity to amenity and shops, public transport, car share pods, cycleways and pedestrian networks.
4. Sustainability
- Given the narrow width of the building, and its coastal location, emphasis should be on operable windows, ceiling fans and cross flow ventilation to minimise the use of air conditioning.
  - Dedicated bicycle parking should be provided near the ground floor entry for both residents and visitors.
  - The site-wide water management scheme remains cursory – it is unclear if the nominated detention tank is within the basement or under designated deep soil landscape. Preference should be given to landscape-focussed water management solutions, augmented by grey infrastructure as a secondary system, contributing to water reuse, noted below:
  - Given the extensive site coverage and basement, all rainwater on site should be harvested, stored, treated and reused, for irrigation, car washing, toilets, laundry and the swimming pool.
  - Provisions for electric vehicle charging should be included in the basement carpark.
  - Provision should be made on site for outdoor laundry drying and green waste composting.
5. Landscape
- Incorporating elevated planting as the building steps back will help integrate the building into the heavily treed and landscaped street – this is encouraged by the Panel.
  - Revising the upper level hip and mansard roofs should allow for additional planting at the upper level as well.
  - All elevated planters should be carefully designed to ensure adequate depth and width for soil, and incorporate sufficient provisions for irrigation and drainage, to ensure viability of the landscape.

- Upper level planters that are overly narrow or inaccessible for regular maintenance are not encouraged – it's preferable to increase the size of planters directly adjacent to internal and external living spaces, to maximise both amenity and ease of maintenance.
  - Consider opportunity to strategically use landscape solutions to the rear of the site to minimise the impact of overland flow and mitigate potential flooding to the ground floor apartment.
6. Amenity
- Refer to previous comments regarding built form and scale. The 2.4m ceiling height to habitable areas on the top floor is non-compliant under the ADG and needs to be redesigned. The roof design should be simplified to improve amenity to the upper level external and internal living areas.
  - Confirm that the windows within 3m of the Southern boundary to the second bedroom are able to remain operable to ensure natural ventilation requirements are able to be met.
  - The ground floor apartment is well below ground level on all sides. The applicant should illustrate the this will not compromise residential amenity, especially in terms of natural light and ventilation.
  - Due to the low number of dwellings and proximity to the beach and nearby open spaces, , the applicant could make the case that a communal open space is not necessary for this development. Instead, part of the proposed outcome could be to maximise the landscape and generous private open space to the ground floor apartment, striking a balance between usable, habitable areas and dense and diverse planting.
  - If the solution without communal open space is to be pursued, the applicant has a corresponding obligation to ensure that the upper-level apartments are correspondingly provisioned with equally generous open spaces and landscaping. In addition to referring to the notes on upper-level planters, upper-level terraces should be large enough to incorporate a large dining table, seating, barbecue and other amenities expected of residences of this type in this location.
  - Given the site's coastal location, expected user amenities should be included at entry level, including resident and visitor bike parking, surfboard racking and an outdoor shower.
  - The entry should also include space for package drop off, post boxes and seating.
7. Safety
- Pending review by services consultants, the applicant should confirm there is no requirement for significant exhaust at ground level from the basement. This could impact the proposed landscaping and entry experience, the character of which is important for both streetscape and residential amenity.
  - Ensure there are no fire related risks with having the egress stair opening directly onto the upper-level apartment.
  - Refer to previous comments regarding landscape - ensure there is no risk of flooding to ground floor apartment considering proposed changes in topography that may encourage greater runoff from northern neighbouring properties.
8. Housing Diversity and Social Interaction
- Three-bedroom apartments are appropriate for the area, considering the mostly low-scale residential (housing) context. Generous interior planning is in keeping with the surrounding housing stock.
9. Aesthetics
- The northern façade of the building is quite visible where it sits proud of the northern neighbour and should be articulated accordingly. Consider continue wrapping balcony language with wall tiles around to where lift is proposed as a more natural termination to the street expression.
  - Full height masonry upstands to the street are visually dominant, consider reducing height to ~760mm (non-climbable height) with top rail to add a finer grain of detail.

- Painted, rendered surfaces as the predominant building finish over multiple storeys is not supported by the Panel, especially considering the challenging coastal environment. While expansion joints might mitigate cracking, the salt air will quickly deteriorate applied finishes. Preference should be given to integrally coloured materials: tiles, concrete, etc.

#### SUMMARY

The proposed development is generally supported by the panel, and has the potential to provide a positive contribution to the street and neighbourhood. The architects have demonstrated careful consideration of the building within its context, with great efforts to maintain the existing roof form and height. It is important these implied constraints don't impact amenity to the upper-level apartments. The applicant is encouraged to explore a less convoluted roof form to maintain 2.7m high ceilings to habitable areas where possible. The northwestern façade is to be reconsidered to ensure the development is of a high quality particularly when viewed from the street. A services overview is also required to ensure the proposed built form is achievable.

The Panel would appreciate the opportunity to review this project again, after suggested advice has been considered and incorporated.

## 2. Internal referral comments:

### 2.1. Development Engineer

#### General Comments

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

#### Drainage Comments

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

The stormwater must be discharged (by gravity):

- i. Directly to the kerb and gutter in front of the subject site in Beach Street; or
- ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system).

With reference to Council's "Private Stormwater Code", Appendix A "On-Site Detention Map" illustrates that the site is subject to the following requirement:

*"On-site detention is generally not required in these areas unless the discharge to the kerb and gutter exceeds 25 litres/s for the critical 20-year ARI design storm."*

#### Flooding Comments (not impacted)

The site lies within the catchment for the Council commissioned and adopted 'Waverly Flood Study'. The study does not predict the site will be impacted by flooding for all storm events up to and including the 1% AEP (1 in 100yr) storm event and the property has not been tagged as a "flood control lot".

No flood controls are therefore applicable and there are no objections to the proposal from a flooding perspective.

#### Parking Comments

##### Standard assessment Under Part B7 of DCP

Parking Requirements for the future development will be assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- 0.5 spaces per studio unit
- 1.0 space per 1-bedroom unit
- 1.2 spaces per 2-bedroom dwelling
- 1.5 spaces per 3-bedroom unit
- 1 visitor space per 4 units (but none where development is less than 4 dwellings)

$$\begin{aligned} \text{Parking required under DCP} &= (2 \times 1.5) + (1 \times 1.2) + 3/4 \text{ (visitor)} \\ &= 3 + 1.2 + 0 \\ &= 4.2 \end{aligned}$$

$$\text{Parking proposed} = 4 \text{ spaces (not compliant)}$$

*Development Engineering has reviewed the Local Traffic Analysis by Wongala Consulting Engineers. The report advises that the parking shortfall of 0.2 is to be supplemented by the local public transport that is abundantly provided throughout Clovelly Road (80m away). Development Engineering raises no objection to this parking shortfall.*

#### Motorbike Parking

Motorbike Parking is to be provided at 5% of the vehicle parking requirement.

$$\begin{aligned} \text{Motorbike Parking Required} &= 0.05 \times 4.2 \\ &= 0.21 \end{aligned}$$

$$\text{Motorbike Parking proposed} = 1 \text{ (compliant)}$$

#### Bicycle Parking

For Flats/multi dwelling bicycle parking to be provided at 1 space per 2 units plus 1 visitor space per 10 units.

$$\begin{aligned} \text{Bicycle Parking Required} &= 3/2 + 3/10 \\ &= 1.8 \end{aligned}$$

$$\text{Bicycle Parking proposed} = 3 \text{ (compliant)}$$

#### Service and Delivery Parking

Service and Delivery Parking is to be provided at the rate of 1 space per 50 units up to 200 dwellings, plus 1 space per 100 dwellings thereafter. Therefore, Service and Delivery Parking is not required for the subject development.

#### Carpark Layout

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of Australian Standard 2890.1:2004.

### **Service Authority Comments**

Section 3 Part F5 of Council's DCP 2013 states;

- i) *All overhead service cables, including power lines, telecommunications cables and associated infrastructure on the development site and in the street/s immediately adjacent to the development are to be placed underground in accordance with the requirements of the relevant power supply authority, at the applicant's cost where:*

*- the development comprises the erection of a new mixed use or medium density residential building containing 40 or more apartments or is a substantial non-residential development; and*

*- there is at least one full span located immediately adjacent to the development, with no responsibility for other property connections.*

- ii) *If the applicant considers that the undergrounding of the power lines will not achieve the objectives set out in 1.1, the applicant must submit written and detailed justification with its DA documentation for consideration by Council.*

The subject **is not** subject to this clause. A suitable condition has been included in this report.

**Undergrounding of site feed power lines**

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

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

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

**Waste Management Comments**

Comments on the number of Waste Bins

Appendix 3 in Part B6 of Council’s DCP specifies a waste bin requirement rate for residential flat buildings houses of 1 x 240L bin per 2 rooms for normal garbage and 1 x 240L bin per 2 rooms for recycling.

i.e. Garbage/recycling Bins Required = Number of units/2 (rounded up to nearest whole number))

There are no specific requirements for green waste in Part B6 of the DCP however since March of 2021 Council has introduced a Garden Organic Food organic (FOGO) collection service. As some landscape areas are also proposed it is recommended that a minimum of 2 x 240L bins also be provided for FOGO.

Total Number of BINS required = 2 (normal) + 2 (recycling) + 2 (FOGO)  
 = 6 x 240L BINS

Total Number of BINS proposed = 6 x 240L BINS (compliant)

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

**CLAUSE 4.6 REQUEST FOR VARIATION OF FLOOR SPACE RATIO  
DEVELOPMENT STANDARD UNDER CLAUSE 4.4 OF RANDWICK  
LOCAL ENVIRONMENTAL PLAN 2012**



**PROPERTY: 37 BEACH STREET, CLOVELLY**

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**D27/25**

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37 Beach Street, Clovelly

## 1.0 INTRODUCTION

This Clause 4.6 Request is made pursuant to the provisions of Clause 4.6 of Randwick Local Environmental Plan 2012 (**LEP 2012**).

Variation under Clause 4.6 of LEP 2012 is requested in relation to the Floor Space Ratio (**FSR**) Development Standard under Clause 4.4 of LEP 2012 in support of a Development Application (**DA**) seeking approval for the *“Proposed Demolition of an Existing Residential Flat Building and Construction of a New Residential Flat Building comprising 3 Units, Proposed Landscaping and Basement Carpark Level containing 4 Car Spaces and Associated Facilities”* on a property known as 37 Beach Street, Clovelly (subject site).

I note that the proposed residential flat building is prohibited under the R2 Low Density Residential Zone. I, however, further note that the existing residential flat building benefits from Existing Use Rights on the subject site. This has also been discussed in detail in my accompanying Statement of Environmental Effects (**SEE**).

In light of the Existing Use Rights, and in accordance with the judgment in *Saffioti v Kiama Municipal Council* [2018] NSWLEC 1426, this Clause 4.6 Request and accompanying SEE have considered LEP 2012 and the Randwick Comprehensive Development Control Plan 2023 (**DCP 2023**).

The Objectives of Clause 4.6 under LEP 2012 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes arising from a proposed development.

I consider that variation of the FSR Development Standard is well founded in the circumstances of the current DA and requiring strict adherence to the Development Standard is unreasonable and unnecessary in the circumstances of the current DA.

Clause 4.6 of LEP 2012 allows a Consent Authority to grant a variation to a development standard as stated below.

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37 Beach Street, Clovelly

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#### **Clause 4.6 – Exceptions to Development Standards**

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority 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.*
- (4) *The consent authority must keep a record of its assessment carried out under subclause (3).*
- (5) *(Repealed)*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if:*
  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

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- (7) *(Repealed)*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following-*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated*
  - (c) *clause 5.4.*
  - (caa) *clause 5.5.*
  - (ca) *clause 6.16(3)(b)*

In the case of *Al Maha Pty Ltd v Strathfield Council* [2017] NSWLEC 1083 (Al Maha), Presiding Commissioner C Dickson of the Land and Environment Court (Court) held that:

*"[63] It is clear from a reading of cl 4.6 of WLEP 2012 that the onus is on the applicant to meet the tests of cl 4.6 in seeking flexibility to the Height or FSR standards by demonstrating that the breaches of the 2 development standards are justified. Ms Ogg provided a written request under cl 4.6(3) which seeks to justify the contravention of the FSR Standard (FSR Request).*

*[64] In Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7, Preston CJ outlines that Commissioners on appeal exercising the functions of the consent authority have power to grant consent to developments that contravene the building height standard, or the FSR standard (cl 4.6(2)). However, they cannot grant such a development consent unless they:*

- (1) *are satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)) (Repealed since date of judgement)*
- (2) *are satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(3)(a))*
- (3) *have considered a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with they are satisfied that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a))*
- (4) *have considered a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development*

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*standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl. 4.6(3)(b))*

In addition to the above mentioned Court judgments, there are other relevant Court judgements relating to the application of a Clause 4.6 Request including, but not limited to, *Winton Property Group v North Sydney Council* [2001] NSWLEC 46, *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, *Moskovich v Waverley Council* [2016] NSWLEC 1015, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

This Clause 4.6 Request seeks to address the matters raised in (2) - (4) in Al Maha at [64] and the provisions of Clause 4.6 of LEP 2012.

I note that the FSR Development Standard is not specifically excluded from the operation of Clause 4.6 of LEP 2012.

I also note the accompanying SEE prepared in support of the proposed development.

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## 2.0 THE DEVELOPMENT STANDARD AND THE VARIATION SOUGHT

### **Clause 4.4 - Floor Space Ratio**

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

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

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

### **Comment:**

I previously considered that there is a 0.5:1 FSR Standard applicable to the subject site, which is reflective of the fact that the subject site is zoned Low Density Residential.

I previously considered that the proposed development has a proposed FSR of 0.82:1 (by calculation of the area of subject site) or 0.83:1 (by Deposited Plan), which are significantly in breach of the FSR Standard by 64% to 66%, depending on the calculation of the area of the subject site. But the Court has previously held that the degree of breach is not seminal in the decision as to whether a Clause 4.6 Request be supported.

Upon uploading of the Development Application (DA) onto the NSW Planning Portal, Council returned the DA and advised as follows: -

“As per Clause 4.4A(3) of Randwick Local Environmental Plan 2012, a lot size greater than 300sqm and less than 450sqm created before the commencement of Randwick Local Environmental Plan 2012 (Amendment No 9) within an R2

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zone has a maximum FSR of 0.75:1. The Clause 4.6 provided is to be amended reflect this.”

Applying an FSR Standard of 0.75:1, the proposed development would result in a minor breach of 9.3% to 10.7%.

The fact that a proposed dwelling house/semi-detached dwelling of an FSR of 0.75:1 could be erected on the subject site, being equivalent to the proposed FSR of the proposed development, and the fact that the proposed development complies with the Height of Buildings Standard are 2 positive indicators that the proposed Height, Bulk and Scale are compatible with the locality. Please also refer to additional positive indicators in this Clause 4.6 Request.

For the reasons referred to in the Clause 4.6 Request relating to the FSR Standard, I consider that the Clause 4.6 Request is well founded and variation of the FSR Standard is supportable.

I also consider that this Clause 4.6 Request and accompanying SEE demonstrate that the proposed development complies with the Objectives of the FSR Standard and also demonstrate positive Environmental Planning Grounds.

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### 3.0 PROPOSAL WILL BE IN PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE DEVELOPMENT STANDARD

Based on Clause 4.4 of LEP 2012, the Objectives of the Floor Space Ratio Development Standard are as follows:

#### **Objectives**

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

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

#### **Comment:**

Notwithstanding the aforementioned breach, I consider that the proposed FSR will achieve the Objectives of the FSR Development Standard, for the following reasons:

- In relation to Objective (a), I consider the size and scale of the proposed development is compatible with the desired future character for the following reasons: -
  - i. There are numerous positive elements in terms of architecture, urban design and planning including, but not limited to, the following:
    - There will be a substantial increase in the quality and area of landscaping compared to the existing residential flat building, which is currently characterised by concrete paved areas over the great majority of the subject site.
    - From the streetscape, there will be a significant increase in the quality and area of landscaping, with an attractive metal fence which allows visibility of the landscaping behind.

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- There will be substantial increase in passive surveillance of the street compared to the existing flat building.
  - The proposed maximum height complies with the 9.5m Height of Buildings Standard.
  - The proposed maximum height is at a level which is reflective of the stepping down of the adjoining developments from north to south.
  - The proposed development has a combination of curved and rectilinear forms, with significant articulation.
  - There is an attractive palette of colours and materials as noted in the Photomontage and Schedule of Materials.
  - The proposed development when viewed from the streetscape is domestic in scale.
  - The front and rear setbacks are consistent with the existing setbacks. The proposed southern boundary setback is well in excess of Council's Side Setback Control and the northern setback is equivalent to the existing side setback.
  - The proposed development incorporates positive ESD elements including a rainwater tank, skylights on the roof and a car turntable.
  - The proposed internal amenity of the proposed units is considered to be of a high standard.
  - A significant increase in security and safety will be provided.
- ii. For the reasons referred to in this Clause 4.6 Request and SEE, I consider that the Height, Bulk and Scale of the proposed development will achieve a proposed development compatible with adjoining developments in the immediate locality.
- In relation to Objective (b), I consider that the proposed development is well articulated and responds to the environmental and energy needs for the following reasons: -
    - i. There will be a substantial increase in the quality and area of landscaping compared to the existing residential flat building, which is currently characterised by concrete paved areas over the great majority of the subject site.

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- ii. From the streetscape, there will be a significant increase in the quality and area of landscaping, with an attractive metal fence which allows visibility of the landscaping behind.
  - iii. The proposed development incorporates positive ESD elements including a rainwater tank, skylights on the roof and a car turntable.
  - iv. The proposed internal amenity of the proposed units is considered to be of a high standard.
  - v. A significant increase in security and safety will be provided.
  - vi. The proposed building envelope is largely consistent with the existing building envelope.
  - vii. In terms of Sustainability Legislation, the existing 1960's residential flat building clearly does not satisfy the current legislation regarding sustainable buildings. In contrast, the proposed development enjoys the benefit of a BASIX Certificate and NatHERS Certificate, which evidence the fact that the new proposed building satisfies the relevant Sustainability Legislation. Furthermore, the proposed development incorporates positive ESD elements including rainwater tank, roof skylights and a car turntable.
- In relation to Objective (c), I note that I am not a Heritage Expert and defer to the advice of Council's Heritage Officer. I, however, wish to note that the subject site is not a Contributory Item or a Heritage Item, nor is it in a Conservation Area. Furthermore, the proposed residential flat building is significantly separated from the nearest Heritage Item.
  - In relation to Objective (d), I consider the proposed development does not unreasonably impact on the amenity of adjoining and neighbouring lands in terms of visual bulk, loss of privacy, overshadowing and views. In regard to the aspects, I wish to note the following: -
    - i. **Visual Bulk** – I consider that the proposed development will be of high standard design when viewed from the private and public domain. When one views the Photomontage and the full set of Architectural Plans, I strongly consider that the proposed development is evidence of a high standard design in terms of architecture, urban design and planning. In contrast to the unattractive 1960's residential flat building of little merit,

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the proposed development will result in a building of an attractive visual appearance, with positive architectural, urban design and planning outcomes. Further, in terms of Visual Bulk, I note the following: -

- The front setback complies with Council's Front Setback Control and is consistent with the existing front setback. Furthermore, the proposed front setback area will be significantly improved in terms of provision of Landscaped Area.
- The proposed rear setback complies with the Rear Setback Control and is consistent with the existing front setback area. In addition, the proposed rear setback will be substantially improved by the provision of deep soil landscaping.
- The proposed side boundary setback on the southern boundary is well in excess of the Side Boundary Setback Control, whilst the proposed northern boundary setback is equivalent to the existing northern boundary setback.
- The proposed maximum height complies with the 9.5m Height of Buildings Standard.
- The proposed maximum height is at a level which is reflective of the stepping down of the adjoining developments from north to south.
- The proposed FSR of 0.82:1 is equivalent to the 0.75:1 FSR Standard of a dwelling house/semi-detached dwelling over the subject site in accordance with Clause 4.4A(3) of the LEP 2012.

For the reasons referred to above and elsewhere in this Clause 4.6 Request, I consider that the proposed development is entirely compatible with adjoining developments in the immediate locality.

- ii. **Loss of Privacy** – It could be fairly said that the existing windows on the northern and southern elevations of the existing building generate adverse overlooking impact on the adjoining dwellings and their private open space areas to the north and to the south. In contrast, the proposed development provides a range of privacy measures to resolve the issue of the existing overlooking impact, and these privacy measures include privacy screens, obscure glazing, highlight windows and the like. In terms of the proposed rear balconies on the proposed

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First Floor Level and Second Floor Level, there are also to be provided privacy screens on the northern and southern edges of each of the proposed rear balconies. By any measure, there will be a significant reduction in the level of overlooking impact into the adjoining properties to the north and south, particularly to the adjoining property to the south.

- iii. **Overshadowing** – I note the Shadow Diagrams prepared by Cad Draft Pty Ltd evidences the following: -
- At 9.00am at midwinter, the shadows cast by the proposed development will largely only increase overshadowing impact on the adjoining existing roof at 39 Beach Street. Please refer to Drawing No. A101. There will be a very slight increase in overshadowing in 2 upper first floor windows on the northern elevation of 39 Beach Street, but this increased overshadowing impact is very minor to miniscule. I have been advised that these 2 existing first floor windows are associated with bedrooms.
  - At 12.00noon, the first floor bedroom window will be receiving sunlight, as well as the first floor bedroom window of 39.
  - At 3.00pm, whilst there will be increased overshadowing impact on the first floor bedroom windows on the northern elevation of 39 Beach Street, but these 2 windows will still received sunlight.
  - The ground floor windows on the northern elevation of 39 Beach Street are already overshadowed throughout the period from 9.00am to 3.00pm at midwinter and the proposed development will not increase such overshadowing impact. In fact, the western ground floor window on the northern elevation of 39 will actually have a minor increase in Solar Access.
  - Overall, the proposed development will not have unreasonable overshadowing impact on the north elevation of the adjoining dwelling to the south at 39 Beach Street.
  - In terms of Private Open Space Area of the adjoining property at 39 to the south, the Shadow Diagrams evidence the fact that there will be ample Private Open Space Area enjoying sun in the period between 9.00am to 3.00pm at midwinter. In fact, the proposed development will ensure compliance with Council's

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Solar Access Control in relation to the Private Open Space Area to the south at 39 Beach Street.

- iv. Views** – My assessment on the issue of View Loss from the public domain and adjoining properties, has led to the following conclusions: -
- In terms of Public Views, there will be no loss any significant public views and vistas.
  - In terms of Private Views, the adjoining properties to the north and south will not suffer unreasonable View Loss arising from the proposed development. These adjoining properties to the north and south do not have important views over the subject site.
  - In terms of View Loss from the adjoining flat developments at 26-30 Beach Street on the opposite side of Beach Street, the proposed development has a maximum height equivalent to the existing top most point of the existing roof ridge. Thus, any views enjoyed from the adjoining residential flat buildings on the opposite side of Beach Street looking towards the east over the subject site will not be unreasonably obstructed by the proposed development.

For the reasons referred to in this Clause 4.6 Request and accompanying SEE, I consider that the proposed development satisfies the Objectives of the FSR Development Standard and demonstrates positive Environmental Planning Grounds.

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37 Beach Street, Clovelly

#### **4.0 COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES?**

For the reasons outlined in this Clause 4.6 Request, I consider that strict compliance with the FSR Development Standard under LEP 2012 is unreasonable and unnecessary in the circumstances of the proposed development.

I wish to particularly note that compliance with the Objectives of the FSR Development Standard has been achieved by the proposed development, notwithstanding the proposed breach of the FSR Development Standard.

Furthermore, for reasons discussed under section 5.0 of this Clause 4.6 Request, I consider that there are numerous positive Environmental Planning Grounds that further justify the contravention of the FSR Standard.

As such, for the reasons discussed, I consider that strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development.

CLAUSE 4.6 – VARIATION OF FLOOR SPACE RATIO DEVELOPMENT STANDARD  
37 Beach Street, Clovelly

## 5.0 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENTION OF THE DEVELOPMENT STANDARD?

For the reasons outlined in this Clause 4.6 Request SEE, I consider that there are numerous positive Environmental Planning Grounds to justify variation of the FSR Development Standard.

The adjectival phrase “*environmental planning grounds*” is not defined but would refer to grounds that relate to the subject matter, scope and purpose of the Environmental Planning and Assessment Act 1979 (the Act), including the Objects in Section 1.3 of the Act.

The positive Environmental Planning Grounds which justify a contravention of the FSR Development Standard are expressed in this Clause 4.6 Request and the accompanying SEE. I wish to particularly note the following positive Environmental Planning Grounds or, in other words, the Positive Outcomes arising from the proposed development:

- The proposed development clearly represents a significant improvement in the architectural presentation of the proposed development compared to the existing development, when viewed from the street and adjoining properties. On this point, when viewed from the street, the proposed development has the visual appearance of a high standard residential building of an attractive schedule of materials and colours, in contrast to the existing 1960’s residential flat building.
- For the reasons referred to in this Clause 4.6 Request, I consider that the Height, Bulk and Scale of the proposed development are eminently reasonable and compatible with the immediate locality.
- As noted above, I consider that the proposed external finishes are of an attractive mix of colours and materials including, but not limited to, the following:
  - i. Render and paint to external walls.
  - ii. Wall tiles.
  - iii. Aluminium battens.
  - iv. Sheet metal roof.
  - v. Aluminium window.
  - vi. Aluminium permeable fence/screen.

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vii. Metal balustrade.

- In terms of Sustainability Legislation, the existing 1960's residential flat building clearly does not satisfy the current legislation regarding sustainable buildings. In contrast, the proposed development enjoys the benefit of a BASIX Certificate and NatHERS Certificate, which evidence the fact that the new proposed building satisfies the relevant Sustainability Legislation. Furthermore, the proposed development incorporates positive ESD elements including rainwater tank, roof skylights and a car turntable.
- Further in terms of the Visual Presentation to the street, I refer you to the Photomontage prepared by the Architects for the proposed development which represents a very positive improvement in the visual presentation of the proposed development when viewed from the street compared to the existing 1960's residential flat building.
- In terms of Landscaped Area, I refer to the "Landscape Calculations – 1" comparing the existing Landscaped Area compared to the existing Landscaped Area. By any measure, the proposed Landscaped Area represents a very significant increase compared to the existing Landscaped Area. For example, I note that following:
  - i. The proposed Landscaped Area is to be significantly increased compared to the existing Landscaped Area.
  - ii. The proposed Deep Soil Landscaped Area represents a significant increase compared to the existing Deep Soil Landscaped Area.
  - iii. The Private Open Space Areas represent a significant increase compared to the existing Private Open Space Areas.
- Further in terms of the Landscaped Area, I note that the existing rear yard is currently occupied by concrete and an unsightly carport structure will be replaced by expansive Landscaped Area and a proposed swimming pool.
- As previously advised, the significant increase in the area and quality of landscaping on the subject site will significantly increase biodiversity on the subject site.

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- In terms of on-site carparking, the existing metal carport only accommodates approximately 3 carparking spaces which is a deficiency in on-site parking for the existing 4 units. The proposed development will provide 4 carparking spaces in the proposed Basement Level which will satisfy the Council's Carparking Control. Please refer to "Traffic and Parking Assessment" report.
- The proposed lift will significantly improve the accessibility of the proposed residential flat building compared to the existing 1960's flat building which has no lift.
- In terms of Private Open Space, each proposed unit will have a very adequate Private Open Space Area compared to the inadequate Private Open Space Areas for the existing units.
- There will be a significant increase in passive surveillance of the street.

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**6.0 IS THE OBJECTION TO THE DEVELOPMENT STANDARD WELL  
FOUNDED?**

I consider that this objection to the FSR Development Standard is well founded for the reasons outlined in this Clause 4.6 Request and the accompanying SEE.

For the reasons referred to in this Clause 4.6 Request, I consider that the proposed development will not have an adverse impact on adjoining properties or the public domain and will achieve the Objectives of the FSR Development Standard.

I also consider that the proposed development will result in a range of Positive Outcomes for the reasons referred to within this Clause 4.6 Request and the accompanying SEE.

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## **7.0 CONCLUSION**

Notwithstanding the breach of the FSR Development Standard, I consider that this request for variation of the FSR Development Standard is well founded for the reasons referred to in this Clause 4.6 Request.

I also consider that the proposed development will satisfy the Objectives of the FSR Development Standard and will not generate unreasonable adverse impacts on the public domain or adjoining private properties.

Furthermore, I consider that the proposed development will result in a range of positive Environmental Planning Grounds.

For the reasons outlined in this Clause 4.6 Request, I fully support variation of the FSR Development Standard.

I commend the current DA to Council.

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**Appendix 3: DCP Compliance Table**

**Part B4: Landscaping and Biodiversity**

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013

**Part B6: Recycling and Waste Management**

Council is satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**Part B7: Transport, Traffic, Parking and Access**

Council is satisfied that the proposed development meets the parking requirements in accordance with Part B7 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**Part B8: Water Management**

Council is satisfied that the proposed development meets the water management requirements in accordance with Part B8 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

**Part B10: Foreshore Scenic Protection Area**

DCP Clause	Controls	Application	Compliance
	<ul style="list-style-type: none"> <li>i) Consider visual presentation to the surrounding public domain, including streets, lanes, parks, reserves, foreshore walkways and coastal areas. All elevations visible from the public domain must be articulated.</li> <li>ii) Integrated outbuildings and ancillary structures with the dwelling design (coherent architecture).</li> <li>iii) Colour scheme complement natural elements in the coastal areas (light toned neutral hues).</li> <li>iv) Must not use high reflective glass</li> <li>v) Use durable materials suited to coast</li> <li>vi) Use appropriate plant species</li> <li>vii) Provide deep soil areas around buildings</li> <li>viii) Screen coping, swimming and spa pools from view from the public domain.</li> <li>ix) Integrate rock outcrops, shelves and large boulders into the landscape design</li> <li>x) Any retaining walls within the foreshore area (that is, encroaching upon the Foreshore Building Line) must be constructed or clad with sandstone.</li> </ul>	<ul style="list-style-type: none"> <li>i) Visual presentation remains generally consistent with regard to height and bulk. Improved articulation and materiality proposed through the Application.</li> <li>ii) No outbuildings or ancillary structures proposed.</li> <li>iii) Colours proposed are lighter tones, complimentary to the coast.</li> <li>iv) Not proposed.</li> <li>v) Materials are appropriate.</li> <li>vi) Species suitable, 57.6% native.</li> <li>vii) Deep soil provided.</li> <li>viii) Suitable planting proposed to screen pool.</li> <li>ix) N/A</li> <li>x) N/A</li> </ul>	<p>Yes</p>

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
<b>2.</b>	<b>Site Planning</b>		
<b>2.1</b>	<b>Site Layout Options</b>		
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> <li>• Two block / courtyard example</li> <li>• T-shape example</li> <li>• U-shape example</li> <li>• Conventional example</li> </ul>	445.8sqm site area.  Convention configuration.  Proposed RFB layout suitable in relation to site constraints.	Yes
<b>2.2</b>	<b>Landscaped open space and deep soil area</b>		
<b>2.2.1</b>	<b>Landscaped open space</b>		
	A minimum of 50% of the site area is to be landscaped open space.	Minimum = 222.9sqm.  Proposed = 212.36sqm ground floor 17.09sqm first floor 7sqm second floor  Total = 236.45sqm.	Yes
<b>2.2.2</b>	<b>Deep soil area</b>		
	(i) A minimum of 25% of the site area should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	Minimum = 108sqm.  Proposed = 110sqm	Yes
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	Areas counted achieve the definition.	Yes
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Achieved.	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Basement below avoided for calculation.	Yes
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Deep soil is contiguous.	Yes
<b>2.3</b>	<b>Private and communal open space</b>		
<b>2.3.1</b>	<b>Private open space</b>		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling.	i) Private open space for all three dwellings is accessible from living areas.	Yes

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(ii) Open to a northerly aspect where possible so as to maximise solar access. (iii) Be designed to provide adequate privacy for residents and where possible can also contribute to passive surveillance of common areas.	ii) Location of POS appropriate with sufficient portion toward the northern aspect. iii) Side privacy screening proposed where appropriate.	
	<b>For residential flat buildings:</b> (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m.	vi) Achieved. vii) Achieved in excess for ground floor. First floor balcony at 12sqm with 1.8m width. Second floor rear balcony 11.2sqm with 2.1m width. Additional front balcony provided at 2m x 2m.	Suitable
<b>2.3.2</b>	<b>Communal open space</b>		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	No communal open space proposed. Three apartments and constrained site make provision of communal space not realistically feasible, nor very necessary. The rear yard could be considered as communal space. In such an instance it would be accessed by passing the ground floor unit and would impact that ground floor unit's general privacy and amenity. Given the scale of the development, no communal open space is suitable.	No – suitable given site and scope.
<b>3. Building Envelope</b>			
<b>3.1</b>	<b>Floor space ratio</b>		
<b>3.3</b>	<b>Building depth</b>		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Proposed depth suitable for all units. Purpose of control is to allow for natural light and ventilation.	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
		All units receive high level of solar access and are ventilated on all four aspects.	
<b>3.4</b>	<b>Setbacks</b>		
<b>3.4.1</b>	<b>Front setback</b>		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	<p>i) 3 Metres.</p> <p>ii) Not in transition.</p> <p>iii) None proposed.</p> <p>iv) Proposed.</p>	<p>Yes</p>
<b>3.4.2</b>	<b>Side setback</b>		
	<p><b>Residential flat building</b></p> <p>(i) Comply with the minimum side setback requirements stated below: - 14m ≤ site frontage width &lt;16m: 2.5m</p> <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> <li>- Create articulations to the building facades.</li> <li>- Reserve open space areas and provide opportunities for landscaping.</li> <li>- Provide building separation.</li> <li>- Improve visual amenity and outlook from the development and adjoining residences.</li> <li>- Provide visual and acoustic privacy for the development and the adjoining residences.</li> <li>- Ensure solar access and natural ventilation for the development and the adjoining residences.</li> </ul> <p>(iii) A fire protection statement must be submitted where windows are</p>	<p>i) Complies all levels, north and south elevation.</p> <p>ii) South elevation provides additional side setbacks along all levels.</p> <p>3400mm provided along part of the southern ground floor.</p> <p>2900mm provided along the majority of the southern elevation first floor.</p> <p>3365mm provided along the majority of the second floor southern elevation.</p> <p>2 metres maintained throughout entire northern elevation.</p> <p>Appropriate given sufficient open space, landscaping and building separation.</p> <p>Articulation suitable.</p>	<p>Yes</p>

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<p>proposed on the external walls of a residential flat building within 3m of the common boundaries. The statement must outline design and construction measures that will enable operation of the windows (where required) whilst still being capable of complying with the relevant provisions of the BCA.</p>	<p>iii) No windows in proximity to common boundaries.</p>	
<b>3.4.3</b>	<b>Rear setback</b>		
	<p>For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.</p>	<p>Minimum = 5.4 metres Proposed = 8.65 metres</p>	<p>Yes</p>
<b>4. Building Design</b>			
<b>4.1 Building façade</b>			
	<p>(i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs.</p>	<p>i) Addressing to Beach Street is appropriate.  ii) Front walls parallel to street.  iii) Appropriate articulation, with each level clearly defined by way of recessing, balconies, planting, material changes and windows.  iv) Appropriate as proposed.  v) No major visible building services on drawings.</p>	<p>Yes</p>
<b>4.2 Roof design</b>			
	<p>(i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms.</p>	<p>i) Roof form appropriate. Maintains streetscape pitch of existing RFB.  ii) Roof addresses the street, pitched complimentary to adjoining dwellings and streetscape. Remainder of roof designed to provide increased ceiling heights.  iii) Streetscape pitch provided.  iv) Roof appropriate in relation to the size of the development.</p>	<p>Yes</p>

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<p>(v) Use clerestory windows and skylights to improve natural lighting and ventilation of internalised space on the top floor of a building where feasible. The location, layout, size and configuration of clerestory windows and skylights must be sympathetic to the overall design of the building and the streetscape.</p> <p>(vi) Any services and equipment, such as plant, machinery, ventilation stacks, exhaust ducts, lift overrun and the like, must be contained within the roof form or screened behind parapet walls so that they are not readily visible from the public domain.</p> <p>(vii) Terraces, decks or trafficable outdoor spaces on the roof may be considered only if:</p> <ul style="list-style-type: none"> <li>- There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences.</li> <li>- The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences.</li> <li>- Any stairway and associated roof do not detract from the architectural character of the building, and are positioned to minimise direct and oblique views from the street.</li> <li>- Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.</li> </ul> <p>(viii) The provision of landscape planting on the roof (that is, "green roof") is encouraged. Any green roof must be designed by a qualified landscape architect or designer with details shown on a landscape plan.</p>	<p>v) Skylights proposed.</p> <p>vi) Not proposed outside of roof form.</p> <p>vii) Not proposed.</p> <p>viii) Second floor balcony plantings proposed.</p>	
<b>4.3</b>	<b>Habitable roof space</b>		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> <li>- Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation.</li> <li>- Has a maximum floor space of 65% of the storey immediately below.</li> <li>- Wholly contain habitable areas within the roof space.</li> </ul>	<p>Unit 3 proposed within the roof space.</p> <p>Four aspects achieved.</p> <p>83.3sqm minimum. 92.5sqm proposed.</p> <p>Contained sufficiently within roof form.</p>	<p>Acceptable.</p> <p>See key issues discussion regarding size</p>

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement.</li> <li>- Design windows to habitable roof space as an integrated element of the roof.</li> <li>- Submit computer generated perspectives or photomontages showing the front and rear elevations of the development.</li> </ul>	<p>Presents as a roof to the street. Pitched.</p> <p>Windows integrated into roof form.</p> <p>3d models provided.</p>	
<b>4.4</b>	<b>External wall height and ceiling height</b>		
	(ii) Where the site is subject to a 9.5m building height limit under the LEP, a maximum external wall height of 8m applies.	<p>8m – Northern wall</p> <p>8m – Southern wall.</p>	Yes
	(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.	<p>2700mm for ground and first floor.</p> <p>2700mm-2400mm for second floor.</p> <p>To be made compliant via condition – details under key issues.</p>	See key issues discussion – conditioned
<b>4.5</b>	<b>Pedestrian Entry</b>		
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Provided on opposite sides of the Subject Site.	Yes
	<p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> <li>- Locate building entries so that they relate to the pedestrian access network and desired lines.</li> <li>- Design the entry as a clearly identifiable element in the façade composition.</li> <li>- Integrate pedestrian access ramps into the overall building and landscape design.</li> <li>- For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible.</li> <li>- Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent</li> </ul>	<p>ii) Entrance design follows the design of the existing RFB, being appropriate by way of constraints of the Subject Site.</p>	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<p>to the primary entry (and at 90 degrees to the street rather than along the front boundary).</p> <ul style="list-style-type: none"> <li>- Provide weather protection for building entries.</li> </ul> <p>Postal services and mailboxes</p> <ul style="list-style-type: none"> <li>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</li> <li>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</li> <li>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</li> </ul>	<p>Mailboxes provided along pedestrian entrance. Walkway would be unobstructed by the mailboxes.</p>	<p>Yes</p>
<b>4.6</b>	<b>Internal circulation</b>		
	<ul style="list-style-type: none"> <li>(i) Enhance the amenity and safety of circulation spaces by:                             <ul style="list-style-type: none"> <li>- Providing natural lighting and ventilation where possible.</li> <li>- Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors.</li> <li>- Allowing adequate space for the movement of furniture.</li> <li>- Minimising corridor lengths to give short, clear sightlines.</li> <li>- Avoiding tight corners.</li> <li>- Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(i) Provided stairs and lifts for circulation are appropriate.</li> </ul>	<p>Yes</p>
	<ul style="list-style-type: none"> <li>(ii) Use multiple access cores to:                             <ul style="list-style-type: none"> <li>- Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites.</li> <li>- Articulate the building façade.</li> <li>- Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(ii) 3 dwellings proposed, accessible via one core. Appropriate for scale of development.</li> </ul>	<p>Yes</p>
	<ul style="list-style-type: none"> <li>(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.</li> </ul>	<ul style="list-style-type: none"> <li>(iii) N/A</li> </ul>	<p>N/A</p>
<b>4.7</b>	<b>Apartment layout</b>		
	<ul style="list-style-type: none"> <li>(i) Maximise opportunities for natural lighting and ventilation through the following measures:                             <ul style="list-style-type: none"> <li>- Providing corner, cross-over, cross-through and double-height maisonette / loft apartments.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(i) N/S/E/W aspects provided for all proposed dwellings.</li> </ul>	<p>Yes</p>

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Limiting the depth of single aspect apartments to a maximum of 6m.</li> <li>- Providing windows or skylights to kitchen, bathroom and laundry areas where possible.</li> </ul> Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.		
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	(ii) Generous living spaces and rooms provided.	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	(iii) POS provided for all units.	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	(iv) Kitchens located are rear of dwelling, away from circulation.	Yes
<b>4.8</b>	<b>Balconies</b>		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m <sup>2</sup> and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Appropriate balconies/courtyard provided.	Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m <sup>2</sup> . All ground floor apartments are to have direct access to a terrace.	Far in excess of minimum requirements provided.	Yes
<b>4.9</b>	<b>Colours, materials and finishes</b>		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iii) Use the following measures to complement façade articulation: <ul style="list-style-type: none"> <li>- Changes of colours and surface texture</li> <li>- Inclusion of light weight materials to contrast with solid masonry surfaces</li> <li>- The use of natural stones is encouraged.</li> </ul> (iv) Avoid the following materials or treatment:	(i) Schedule provided. (ii) Materiality and colours are appropriate. (iii) Materials selection generally appropriate. Some reduction of rendering on north elevation would be good. (iv) Suitable as proposed. (v) Materials appropriate. (vi) Materials appropriate.	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> <li>- Reflective wall cladding, panels and tiles and roof sheeting</li> <li>- High reflective or mirror glass</li> <li>- Large expanses of glass or curtain wall that is not protected by sun shade devices</li> <li>- Large expanses of rendered masonry</li> <li>- Light colours or finishes where they may cause adverse glare or reflectivity impacts</li> </ul> <p>(v) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration.</p> <p>(vi) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
<b>4.12</b>	<b>Earthworks Excavation and backfilling</b>		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	<p>(i) Approximate four metre cut proposed.</p> <p>(ii) Proposed to facilitate basement.</p> <p>(iii) Slope not significant.</p> <p>Variation to the earthwork control is appropriate to facilitate basement parking.</p> <p>Basement parking is generally expected alongside development for an RFB. The controls for earthworks are restrictive in this respect and act antithetical to the desired amenity facilities of an RFB.</p> <p>Without basement parking the development would be unable to reasonably achieve parking and service requirements.</p>	Yes
	<p><b>Retaining walls</b></p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures</p>	<p>(iv) Parts of the basement walls are built to the boundary, with other parts up to 600mm. Conditioned where relevant regarding excavation.</p>	Conditioned

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(vi) visible from the neighbouring properties and the public domain. Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).	(v) N/A  (vi) Retaining walls not proposed.	
<b>5. Amenity</b>			
<b>5.1 Solar access and overshadowing</b>			
<b>Solar access for proposed development</b>			
	(i) Dwellings must receive a minimum of 3 hours sunlight in living areas and to at least 50% of the private open space between 8am and 4pm on 21 June.	(i) Appropriate solar access would be received.	Yes
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	(ii) All POS would receive appropriate solar access.	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	(iii) All apartments have four aspects.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar access and energy efficiency is maximised.	(iv) Not proposed.	Yes
<b>Solar access for surrounding development</b>			
	(i) Living areas of neighbouring dwellings must receive a minimum of 3 hours access to direct sunlight to a part of a window between 8am and 4pm on 21 June.  (ii) At least 50% of the landscaped areas of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight to a part of a window between 8am and 4pm on 21 June.  (iii) Where existing development currently receives less sunlight than this requirement, the new development is not to reduce this further.	(i) Southern neighbours living room windows will continue to receive similar solar access to the existing.  (ii) Ample solar access to southern neighbour's private open space in excess of minimum.  (iii) Southern neighbours living room windows to continue to receive similar solar access.  Increase in solar access to southern neighbour's private open space.	Yes
<b>5.2 Natural ventilation and energy efficiency</b>			

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	(i) Appropriate daylight achieved via aspects and roof skylights.	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	(ii) None proposed on drawings.	N/A
	(iii) All habitable rooms must incorporate windows opening to outdoor areas. The sole reliance on skylight or clerestory windows for natural lighting and ventilation is not acceptable.	(iii) Provided.	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	(iv) Achieved.	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	(v) Achieved.	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	(vi) Achieved.	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	(vii) Not proposed.	N/A
<b>5.3</b>	<b>Visual privacy</b>		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings. (ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen	(i) Windows appropriate by way of positioning, obscured glazing and privacy screening.  (ii) Balconies proposed at the front and rear.  Front balcony looks toward street. It has no direct window views.  Rear balconies provide side privacy screening.  (iii) Orientation proposed is appropriate.	Yes

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> <li>- Translucent glazing</li> <li>- Fixed timber or metal slats</li> <li>- Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings</li> <li>- Screen planting and planter boxes as a supplementary device for reinforcing privacy protection</li> </ul>	(iv) Planting and screening provided.  (v) Suitably provided.	
<b>5.4</b>	<b>Acoustic privacy</b>		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> <li>- Double glazing</li> <li>- Operable screened balconies</li> <li>- Walls to courtyards</li> <li>- Sealing of entry doors</li> </ul>	(i) Layout proposed is appropriate.  (ii) Locations appropriate.  (iii) Acoustic privacy of RFB would be appropriate.	Yes
<b>5.5</b>	<b>View sharing</b>		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain. (iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.	Proposed RFB generally retains the envelope of the existing RFB.  No significant view impacts foreseen.	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(v) Adopt a balanced approach to privacy protection and view sharing, and avoid the creation of long and massive blade walls or screens that obstruct views from the neighbouring dwellings and the public domain. (vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.		
<b>5.6</b>	<b>Safety and security</b>		
	(i) Design buildings and spaces for safe and secure access to and within the development.	(i) Access is suitable as proposed.	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	(iii) Provided through lift and stairs within RFB.	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	(iv) Achieved.	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	(v) Not proposed.	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	(vi) Garage door provided.	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	(vii) Entry telecom provided with mailbox.	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	(viii) Capable of being provided.	Yes
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	(ix) Achieved with windows on all aspects.	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	(x) No unreasonable light sources proposed.	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	(xi) Capable of being provided.	Yes
<b>6.</b>	<b>Car parking and access</b>		
<b>6.1</b>	<b>Location</b>		

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	No rear lane or secondary street.	N/A
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Suitable as proposed.	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	400mm from southern boundary – separated by driveway.  Maintains similar driveway location to existing.	Suitable.
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	(a) Provided in basement.  (b) N/A – basement.  (c) Positioned on side of RFB. Location the same as the existing vehicular entrance. Appropriate given 12m site width.	Yes
<b>6.2</b>	<b>Configuration</b>		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	(i) Provided via turntable.	Yes
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	(ii) 3.5m width.	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design.	(iv) Condition for roller to be permeable and allow airflow.  Airflow provided via staircase and entry door.	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	<p>(c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding.</p> <p>(d) Use landscaping to soften or screen any car park enclosing walls.</p> <p>(e) Provide safe and secure access for building users, including direct access to dwellings where possible.</p> <p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> <li>- Installing security doors to avoid 'black holes' in the facades.</li> <li>- Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum.</li> <li>- Concealing service pipes and ducts within those areas of the car park that are visible from the public domain.</li> </ul>	<p>Suitable ventilation proposed for single basement level.</p> <p>(a) Ventilation proposed.</p> <p>(b) Ventilation suitable as proposed.</p> <p>(c) Would not protrude.</p> <p>(d) Suitable landscaping proposed across development.</p> <p>(e) Direct access via stairs and lift from basement.</p> <p>(f) Design is appropriate and would be a visual improvement from the existing.</p>	
<b>7. Fencing and Ancillary Development</b>			
<b>7.1 Fencing</b>			
	<p>(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering.</p> <p>(ii) Sandstone fencing must not be rendered and painted.</p> <p>(iii) The following materials must not be used in fences:</p> <ul style="list-style-type: none"> <li>- Steel post and chain wire</li> <li>- Barbed wire or other dangerous materials</li> </ul> <p>(iv) Expansive surfaces of blank rendered masonry to street frontages must be avoided.</p>	<p>(i) Materials appropriate.</p> <p>(ii) Not proposed.</p> <p>(iii) Not proposed.</p> <p>(iv) Not proposed.</p>	Yes
<b>7.2 Front Fencing</b>			
	<p>(i) The fence must align with the front property boundary or the predominant fence setback line along the street.</p>	<p>(i) Aligns suitably</p>	Yes
	<p>(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-</p>	<p>(ii) Appropriate in relation to slope.</p> <p>Partial solid and open fence proposed in front of ground floor unit.</p>	Suitable

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DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	thirds are partially open, except for piers.		
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	(iii) Open front portions proposed.	Yes
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	See (ii)	Yes
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.	Fence appropriate in relation to slope.	Yes
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	Metal fencing proposed.	Suitable
	(vii) Gates must not open over public land.	N/A	N/A
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.		
<b>7.3</b>	<b>Side and Rear Fencing</b>		
	(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing). (ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits. (iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.	Low boundary fences proposed at street to	Yes

DCP Clause	Control	Application	Compliance (Yes/No/NA/Conditioned)
	(iv) Side or common boundary fences must be finished or treated on both sides.		
<b>7.6</b>	<b>Storage</b>		
	(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling. (ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles. (iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: (a) Studio apartments – 6m3 (b) 1-bedroom apartments – 6m3 (c) 2-bedroom apartments – 8m3 (d) 3 plus bedroom apartments – 10m3	(i) Suitable storage for each unit. (ii) Bin and bulky waste storage in basement. (iii) (c) One proposed. (d) Two proposed. 28sqm total. Ample storage provided for three units.	Yes
<b>7.7</b>	<b>Laundry facilities</b>		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit. (ii) Provide internal laundry for each dwelling unit. (iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Laundries provided. Suitable open space provided to allow for drying of clothing.	Yes

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**Responsible officer:** Dean Lidis, Environmental Planning Officer

**File Reference:** DA/138/2025

## Draft Development Consent Conditions



<b>Folder /DA No:</b>	DA/138/2025
<b>Property:</b>	37 Beach Street, CLOVELLY NSW 2031
<b>Proposal:</b>	Demolition of existing buildings, tree removal and construction of a 3-storey residential flat building with basement level containing three (3) residential apartments, four (4) car parking spaces, installation of a swimming pool for the ground floor apartment, new front fencing and detached awning, associated ancillary and landscaping works (Variation to Floor Space Ratio Development Standard).
<b>Recommendation:</b>	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>
Site Plan DA100 [01]	Common Office	29/05/2025	30/05/2025
Basement Plan DA200 [01]	Common Office	29/05/2025	30/05/2025
Ground Plan DA201 [01]	Common Office	29/05/2025	30/05/2025
First Plan DA202 [01]	Common Office	29/05/2025	30/05/2025
Second Plan DA203 [01]	Common Office	29/05/2025	30/05/2025
Roof Plan DA204 [01]	Common Office	29/05/2025	30/05/2025
Driveway Plan DA205 [01]	Common Office	29/05/2025	30/05/2025
Second Plan RCP DA250 [01]	Common Office	29/05/2025	30/05/2025
West Elevation DA300 [01]	Common Office	29/05/2025	30/05/2025
East Elevation DA301 [01]	Common Office	29/05/2025	30/05/2025
North Elevation DA302 [01]	Common Office	29/05/2025	30/05/2025
South Elevation DA303 [01]	Common Office	29/05/2025	30/05/2025
Long Section DA400 [01]	Common Office	29/05/2025	30/05/2025
Short Section DA401 [01]	Common Office	29/05/2025	30/05/2025
Short Section Sketches DA402 [01]	Common Office	29/05/2025	30/05/2025
Materials Schedule DA504 [01]	Common Office	29/05/2025	30/05/2025
Window Schedule – Ground DA600 [01]	Common Office	29/05/2025	30/05/2025
Window Schedule – First DA601 [01]	Common Office	29/05/2025	30/05/2025
Window Schedule – Second & Roof DA602 [01]	Common Office	29/05/2025	30/05/2025

<i>BASIX Certificate No.</i>	<i>Dated</i>	<i>Received by Council</i>
1782563M	06 February 2025	21 February 2025

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

Condition	
	<p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>
2.	<p><b>Amendment of Plans &amp; Documentation</b> The Architectural Drawings approved under Condition 1 must be amended as follows. Amended documents must be provided to and approved by Council's Manager Development Assessment prior to the issue of a construction certificate.</p> <ul style="list-style-type: none"> <li>Amend all relevant architectural drawings to increase the ceiling height of second floor unit's living/dining/kitchen area up to a continuous 2700mm. RL 45.49 may not increase by more than 300mm.</li> </ul> <p>The resulting roof form adjoining the southern elevation of the second floor unit living/dining/kitchen area must incorporate a mansard style roof.</p> <p>Condition Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.</p>
3.	<p><b>Garage Roller Door</b> Details must be included in the construction certificate regarding the type of garage roller door used.</p> <p>The principal certifier is to ensure that the chosen roller door is permeable and allows for ventilation into the basement garage and that it will not cause unreasonable noise or disturbance to neighbouring properties when in operation.</p> <p>Condition Reason: To ensure amenity of the site and surrounding area.</p>

### BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
4.	<p><b>Consent Requirements</b> The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
5.	<p><b>External Colours, Materials &amp; Finishes</b> The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.</p> <p>Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Manager Development Assessments prior to issuing a construction certificate for the development.</p> <p>Condition Reason: To ensure colours, materials and finishes are appropriate and compatible with surrounding development.</p>
6.	<p><b>Section 7.12 Development Contributions</b> In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$3,625,000 the following</p>

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Condition

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applicable monetary levy must be paid to Council: \$36,250.00.

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

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

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

Where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment

**CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

Council's Development Contributions Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at [www.randwick.nsw.gov.au](http://www.randwick.nsw.gov.au).

Condition Reason: To ensure relevant contributions are paid.

7. **Long Service Levy Payments**

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

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

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

8. **Security Deposits**

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

- \$6,000.00 - Damage / Civil Works Security Deposit

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

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

	Condition
	<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>
<p>9.</p>	<p><b>Sydney Water</b> 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"> <li>• Building plan approvals</li> <li>• Connection and disconnection approvals</li> <li>• Diagrams</li> <li>• Trade waste approvals</li> <li>• Pressure information</li> <li>• Water meter installations</li> <li>• Pressure boosting and pump approvals</li> <li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li> </ul> <p>Sydney Water's Tap in™ in online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></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>
<p>10.</p>	<p><b>Building Code of Australia</b> In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
<p>11.</p>	<p><b>Building Code of Australia</b> 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>

Condition	
	<p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
12.	<p><b>BASIX Requirements</b>            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><b>Site stability, Excavation and Construction work</b>            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> <p>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.</p> <p>Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.</p> <p>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.</p> <p>Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.</p> <p>Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (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.</p> <p>Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.</p>
14.	<p><b>Building Code of Australia – Swimming Pools</b>            Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools.</p>

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<p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p>
<p>15. <b>Swimming Pool Safety</b></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"> <li>• 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.</li> <li>• 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.</li> <li>• Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.</li> <li>• 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.</li> </ul> <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p>
<p>16. <b>Arborist Report</b></p> <p>Details of the recommendations under section 9 of the <i>Arboricultural Impact Assessment Report</i> prepared by <i>Martin Peacock Tree Car</i> dated 18 November 2024 must be included in the construction certificate.</p> <p>Condition Reason: To ensure the recommendations of the arborist report are implemented.</p>
<p>17. <b>Electricity Substation</b></p> <p>The applicant must liaise with Ausgrid prior to obtaining a construction certificate (for any above ground works), to determine whether or not an electricity substation is required for the development. Any electricity substation required for the site as a consequence of this development shall be located within the site and shall be screened from view. The proposed location and elevation shall be shown on relevant construction certificate and landscape plans.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
<p>18. <b>Survey Infrastructure</b></p>

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Condition

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Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:

- (a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site.
- (b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor.
- (c) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required.

The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

**Note:** Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any [survey mark](#) unless authorised to do so by the [Surveyor-General](#).

Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.

19. **Traffic Conditions**

Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation.

Condition Reason: To ensure adequate sightlines for pedestrians and drivers are provided

20. **Traffic Conditions**

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.

Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

21. **Design Alignment levels**

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Condition

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The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:

- **RL 37.26m AHD at the northern driveway edge.**
- **RL 37.07m AHD at the southern driveway edge.**
- **RL 38.16m AHD at the pedestrian entrance.**

The design alignment levels at the property boundary as issued by Council and their relationship to the kerb must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any request to vary the design alignment levels must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.

Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6888.

Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

22. **Design Alignment levels**

The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of **\$768** calculated at **\$63.00** per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.

23. **Design Alignment levels**

The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.

24. **Stormwater Drainage & Flood Management**

Stormwater drainage plans have not been approved as part of this development consent. Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in

Condition
<p>accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.</p> <p>b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system.</p> <p>c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:</p> <ul style="list-style-type: none"> <li>i. Roof areas</li> <li>ii. Paved areas</li> <li>iii. Grassed areas</li> <li>iv. Garden areas</li> </ul> <p>d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.</p> <p>e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.</p> <p>f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.</p>

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

25. **Stormwater Drainage & Flood Management**

Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

26. **Stormwater Drainage & Flood Management**

The written approval of Council is required to be obtained in relation to all drainage and infrastructure works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the *Roads Act 1993*. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.

All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a professional engineer is to be provided to Council upon completion of the works.

Relevant Council Assessment and Inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement

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of the works.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

27. **Stormwater Drainage & Flood Management**

The site stormwater drainage system is to be provided in accordance with the following requirements;

- a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the *Principal Certifier* and details are to be included in the construction certificate.
- b) The stormwater must be discharged (by gravity) either:
  - i. Directly to the kerb and gutter in front of the subject site in Beach Street; or
  - ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system).

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If the owner/applicant is able to demonstrate to Council that the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by gravity to Council's street drainage system in front of the property.

Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.

- c) Should stormwater be discharged to Council's street drainage system the maximum discharge from the site must not exceed 25L/S for all storm events up to the 1 in 20 year storm event. All stormwater run-off from the site exceeding this amount is to be retained on the site for gradual release to the street drainage system, to the satisfaction of the Principal Certifier.

An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an average recurrence interval of 100 years (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1 in 100 year storm.

- d) Should stormwater be discharged to an infiltration system the

Condition
<p>following requirements must be met;</p> <p>i. Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code.</p> <p>ii. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system.</p> <p style="padding-left: 40px;">Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.</p> <p>iii. Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure)</p> <p>iv. Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (e.g. road, laneway or reserve).</p> <p>e) Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.</p> <p style="padding-left: 40px;">Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.</p> <p>f) Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.</p> <p style="padding-left: 40px;">The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.</p> <p>g) Should a charged system be required to drain any portion of the site, the charged system must be designed such that;</p> <p style="padding-left: 40px;">i. There are suitable clear-outs/inspection points at pipe bends and junctions.</p> <p style="padding-left: 40px;">ii. The maximum depth of the charged line does not exceed 1m below the gutter outlet.</p> <p>h) Generally, all internal pipelines must be capable of discharging a 5% AEP (1 in 20 year) storm flow. However, the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be</p>

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	150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.
i)	<p>A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.</p> <p>Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>• The base of the pit being located a minimum 300mm under the invert level of the outlet pipe.</li> <li>• The pit being constructed from cast in-situ concrete, precast concrete or double brick.</li> <li>• A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.</li> <li>• A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).</li> <li>• The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.</li> <li>• A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar).</li> <li>• Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned".</li> </ul> <p><i>Sketch details of a standard sediment/silt arrestor pit may be obtained from Council's Drainage Engineer.</i></p>
j)	<p>The floor level of all habitable, retail, commercial and storage areas located adjacent to any detention and/or infiltration systems with above ground storage must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be provided.</p> <p><i>(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).</i></p>
k)	<p>The maximum depth of ponding in any above ground detention areas and/or infiltration systems with above ground storage shall be as follows (as applicable):</p> <ol style="list-style-type: none"> <li>i. 150mm in uncovered open car parking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area)</li> <li>ii. 300mm in landscaped areas (where child proof fencing is not</li> </ol>

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provided around the outside of the detention area and sides slopes are steeper than 1 in 10)
iii. 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10
iv. 1200mm in landscaped areas where a safety fence is provided around the outside of the detention area
v. Above ground stormwater detention areas must be suitably signposted where required, warning people of the maximum flood level.

*Note: Above ground storage of stormwater is not permitted within basement car parks or store rooms.*

- l) A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
- m) A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
- n) Mulch or bark is not to be used in on-site detention areas.
- o) Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.

#### 28. **Site seepage & Dewatering**

The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Sub-soil drainage must not be connected or discharged directly or indirectly to Council's street gutter.
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) Sub-soil drainage systems (if provided) must comply with one or more of the following requirements:-
  - i. The system may be connected directly to Council's underground drainage system (but only with the prior written approval of Council, as required under the *Roads Act 1993*).
  - ii. Any sub-soil drainage systems must be restricted from entering the basement areas of the building and the stormwater drainage system, by tanking/waterproofing the basement areas of the building.

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<p>iii. Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.</p> <p>d) Details of the proposed stormwater drainage system including methods of sub-soil drainage, tanking/waterproofing (as applicable) must be prepared or approved by a suitably qualified and experienced <i>Professional Engineer</i> to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. <b>A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier</b></p>

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

29. **Waste Management**

Waste Management provisions must be implemented in accordance with the Operational Waste Management Plan submitted with the development application (Prepared by Elephants Foot Consulting dated 27/11/2024).

Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.

30. **Waste Management**

The garbage room shall be sized to contain a total of 6 x 240 litre bins (comprising of 2 garbage bins, 2 recycling bins & 2 FOGO bins) and with adequate provisions for access to all bins. Details showing compliance are to be included in the construction certificate.

Condition Reason: To ensure adequate waste management for the life of the development.

31. **Waste Management**

A bulky waste storage room must be provided in proximity to the bin room.

Condition Reason: To ensure adequate waste management for the life of the development.

32. **Waste Management**

The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.

Condition Reason: To ensure adequate waste management for the life of the development.

33. **Public Utilities**

A *Public Utility Impact Assessment* must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.

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

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

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**BEFORE BUILDING WORK COMMENCES**

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34. **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.

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

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

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

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36.	<p><b>Dilapidation Reports</b></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>
37.	<p><b>Construction Site Management Plan</b></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"> <li>• location and construction of protective site fencing and hoardings</li> <li>• location of site storage areas, sheds, plant &amp; equipment</li> <li>• location of building materials and stock-piles</li> <li>• tree protective measures</li> <li>• dust control measures</li> <li>• details of sediment and erosion control measures</li> <li>• site access location and construction</li> <li>• methods of disposal of demolition materials</li> <li>• location and size of waste containers/bulk bins</li> <li>• provisions for temporary stormwater drainage</li> <li>• construction noise and vibration management</li> <li>• construction traffic management details</li> <li>• provisions for temporary sanitary facilities</li> <li>• measures to be implemented to ensure public health and safety.</li> </ul> <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>
38.	<p><b>Construction Site Management Plan</b></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>

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39.	<p><b>Construction Noise &amp; Vibration Management Plan</b> Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise &amp; Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise &amp; Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.</p> <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 &amp; Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise &amp; 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 &amp; 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>
40.	<p><b>Public Liability</b> 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>
41.	<p><b>Construction Traffic Management</b></p> <p>An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Beach Street for</p>

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the duration of the demolition & construction works.

The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.

42. **Construction Traffic Management**

A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.

The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- A description of the demolition, excavation and construction works
- A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- Any proposed road and/or footpath closures
- Proposed site access locations for personnel, deliveries and materials
- Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- Provision for loading and unloading of goods and materials
- Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- Proposed hours of construction related activities and vehicular movements to and from the site
- Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority)
- Any activities proposed to be located or impact upon Council's road, footways or any public place
- Measures to maintain public safety and convenience

*The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.*

Condition	
	Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.
43.	<p><b>Construction Traffic Management</b></p> <p>Any necessary approvals must be obtained from NSW Police, Roads &amp; Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.</p> <p>All conditions and requirements of the NSW Police, Roads &amp; Maritime Services, State Transit Authority and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and that any requirements of relevant external agencies are met.</p>
44.	<p><b>Public Utilities</b></p> <p>Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.</p> <p>The owner/builders must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>

### DURING BUILDING WORK

Condition	
45.	<p><b>Site Signage</b></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"> <li>showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>stating that unauthorised entry to the work site is prohibited.</li> </ol> <p>The sign must be—</p> <ol style="list-style-type: none"> <li>maintained while the building work is being carried out, and</li> <li>removed when the work has been completed.</li> </ol> <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> <li>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</li> <li>Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> <p>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>

Condition

46. **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"> <li>• Monday to Friday - 7.00am to 5.00pm</li> <li>• Saturday - 8.00am to 5.00pm</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>
Excavations in rock, sawing of rock, use of jack-hammers, driven-type piling/shoring or the like	<ul style="list-style-type: none"> <li>• Monday to Friday - 8.00am to 3.00pm</li> <li>• (maximum)</li> <li>• Saturday - No work permitted</li> <li>• Sunday &amp; public holidays - No work permitted</li> </ul>

*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.

47. **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.

48. **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:

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Condition

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- *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.

49.

**Overhead Hoardings**

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

- goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway
- building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment
- it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land
- as may otherwise be required by SafeWork NSW, Council or the Principal Certifier.

Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.

50.

**Public Safety & Site Management**

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

- a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time.
- b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident.
- c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction.
- d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.
- f) 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.

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Condition

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

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

51.

**Site Accessway**

A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.

Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.

Condition reason: To minimise and prevent damage to public infrastructure.

52.

**Dust Control**

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

*Dust control measures and practices may include:*

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

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

53.

**Excavations and Support of Adjoining Land**

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

Condition	
	<p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
54.	<p><b>Complaints Register</b> 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>
55.	<p><b>Building Encroachments</b> 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>
56.	<p><b>Survey Report</b> 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"> <li>• prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,</li> <li>• prior to construction (pouring of concrete) of new floor levels,</li> <li>• prior to issuing an Occupation Certificate, and</li> <li>• as otherwise may be required by the Principal Certifier.</li> </ul> <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>
57.	<p><b>Project Arborist</b></p> <p>Demolition of existing pavements and structures within TPZ areas shall avoid disturbance of the underlying sub grade. Where possible, the existing footing of the front boundary wall shall be left in situ to minimise root disturbance within the TPZ area of Tree T1. Where the footing requires removal, the footing shall be broken up into small sections mechanically and removed by hand.</p> <p>No over excavation shall be permitted within TPZ areas when constructing the basement, swimming pool and landscape retaining walls. Excavation works and root pruning within the TPZ areas of trees T1-T7 shall be supervised/undertaken by the Project Arborist.</p> <p>New trees shall be grown and supplied in accordance with AS:2303 2018 Tree stock for landscape use. The planting and aftercare of the trees shall be undertaken by a qualified horticulturalist (minimum AQF level 3). Planting pits for</p>

	Condition
	<p>advanced size trees shall be excavated using hand tools and where roots &gt;25mm diameter are encountered the location of the planting pit shall be adjusted unless root pruning is approved by the Project Arborist.</p> <p>Condition Reason: To ensure works are completed to arborist specifications.</p>
58.	<p><b>Site Seepage &amp; Stormwater</b></p> <p>Details of the proposed connection and or disposal of any site seepage or construction site stormwater to Council's stormwater drainage system must be submitted to and approved by Council's Development Engineering Coordinator, prior to commencing these works, in accordance with section 138 of the <i>Roads Act 1993</i>.</p> <p>Details must include the following information:</p> <ul style="list-style-type: none"> <li>• Stormwater/De-Watering Management Plan (prepared by a suitably qualified Environmental Consultant);</li> <li>• Detailed plans and specifications;</li> <li>• Hydraulic engineering details of the proposed disposal/connection of groundwater or site stormwater to Council's drainage system</li> <li>• Volume of water to be discharged</li> <li>• Location and size of drainage pipes</li> <li>• Duration, dates and time/s for the proposed works and disposal</li> <li>• Details of water quality and compliance with the requirements of the <i>Protection of the Environment Act 1997</i></li> <li>• Details of associated plant and equipment, including noise levels from the plant and equipment and compliance with the requirements of the <i>Protection of the Environment Act 1997</i> and associated Regulations and Guidelines</li> <li>• Copy of any required approvals and licences from other Authorities (e.g. A water licence from the Department of Planning/Department of Water &amp; Energy).</li> <li>• Details of compliance with any relevant approvals and licences</li> </ul> <p>Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties, public health, and Council's stormwater assets.</p>
59.	<p><b>Road/Asset Opening Permit</b></p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <ol style="list-style-type: none"> <li>a) A <i>Road / Asset Opening Permit</i> must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> must be complied with.</li> <li>b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.</li> <li>c) Relevant <i>Road / Asset Opening Permit</i> fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,</li> </ol>

	Condition
	<p>d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> or occupation of the development (whichever is sooner).</p> <p>e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.</p> <p>f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.</p> <p>g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.</p> <p>h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.</p> <p>i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.</p> <p>j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.</p> <p>k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.</p> <p>Condition Reason: To ensure protection and/or repair of Council's Road &amp; footpath assets and ensure public safety.</p>
60.	<p><b>Traffic Management</b></p> <p>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>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
61.	<p><b>Traffic Management</b></p> <p>All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>

Condition	
62.	<p><b>Stormwater Drainage</b></p> <p>Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.</p> <p>The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.</p> <p>Condition Reason: To control and manage stormwater run-off during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>

### BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
63.	<p><b>Occupation Certificate Requirements</b></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>
64.	<p><b>Post-construction Dilapidation Report</b></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> <ul style="list-style-type: none"> <li>(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</li> <li>(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.</li> </ul> <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>
65.	<p><b>Fire Safety Certificate</b></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>

	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>
66.	<p><b>Structural Certification</b></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>
67.	<p><b>Sydney Water Certification</b></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 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a> &gt; <i>Building and developing</i> &gt; <i>Developing your Land</i> &gt; <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>
68.	<p><b>BASIX Requirements</b></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>
69.	<p><b>Street and/or Sub-Address Numbering</b></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>

Condition	
	<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>
70.	<p><b>Noise Control Requirements &amp; Certification</b></p> <p>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 the development satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i>; Environment Protection Authority Noise Policy for Industry and the conditions of this development consent.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>
71.	<p><b>Swimming Pool Safety</b></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>
72.	<p><b>Swimming Pool Safety</b></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>
73.	<p><b>Swimming Pool Safety</b></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 <a href="http://www.swimmingpoolregister.nsw.gov.au">www.swimmingpoolregister.nsw.gov.au</a>.</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>
74.	<p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b></p> <p>The owner/developer must meet the full cost for a Council approved contractor to:</p> <ol style="list-style-type: none"> <li>a) Reconstruct a full width concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements.</li> <li>b) Reconstruct kerb and gutter for the full site frontage except opposite the vehicular entrance and exit points, to Council's specifications and requirements.</li> </ol>

Condition	
	<p>c) Carry out a minimum 0.5m wide full depth asphalt adjustment from the lip of the gutter along the full site frontage, to Council's specifications and requirements.</p> <p>d) Reconstruct a 1.8m wide concrete footpath along the full site frontage. Any unpaved areas on the nature strip must be turfed and landscaped to Council's specification.</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>
75.	<p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b></p> <p>Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb &amp; 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>
76.	<p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b></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> <p>b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.</p> <p>c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.</p> <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>
77.	<p><b>Council's Infrastructure, Vehicular Crossings &amp; Road Openings</b></p>

	Condition
	<p>The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.</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>
78.	<p><b>Survey Infrastructure – Restoration</b></p> <p>Where a Surveyor-General's Approval for Survey Mark Removal has been granted by NSW Spatial Services, documentary evidence of restoration of the removed survey mark must be prepared by a Registered Surveyor and submitted to the appointed certifying authority and the Council prior to the issue of an occupation certificate.</p> <p>The documentary evidence is to consist of a letter Signed by a Registered Land Surveyor confirming that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal under condition "Survey Infrastructure – Identification and Recovery" have been complied with.</p> <p>Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.</p>
79.	<p><b>Sydney Water</b></p> <p>A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains, and if required, will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC).</p> <p>Go to <a href="http://sydneywater.com.au/section73">sydneywater.com.au/section73</a> or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council <b>prior to the issuing of an Occupation Certificate.</b></p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.</p>
80.	<p><b>Carparking</b></p> <p>The proposed carpark shall be finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking and numbering/labelling with such works completed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To ensure the completed carpark is fit for purpose and ready for occupation.</p>
81.	<p><b>Stormwater Drainage</b></p> <p>A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that any onsite detention/infiltration system is maintained and that no works which could affect the design function of any detention/infiltration system are</p>

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Condition

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undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.
- c. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier.

Condition Reason: To ensure stormwater run-off is effectively managed for the life of the development.

82. **Stormwater Drainage**

A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):

- Finished site contours at 0.2 metre intervals;
- The location of any detention basins/tanks with finished surface/invert levels;
- Confirmation that orifice plate/s have been installed and orifice size/s (if applicable);
- Volume of storage available in any detention areas;
- The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- Details of any infiltration/absorption systems; and
- Details of any pumping systems installed (including wet well volumes).

Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.

83. **Stormwater Drainage**

The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.

The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.

Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.

Condition	
84.	<p><b>Waste Management</b></p> <p>Prior to the occupation of the development, the owner or applicant is required to contact Council's Strategic Waste Team, to make the necessary arrangements for the provision of waste services for the premises.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>
85.	<p><b>Waste Management</b></p> <p>The waste storage areas shall be clearly signposted.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>
86.	<p><b>Landscape Certification</b></p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the landscape plans approved under Condition 1.</p> <p>Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>

### OCCUPATION AND ONGOING USE

Condition	
87.	<p><b>Use of parking spaces</b></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>
88.	<p><b>Management of Strata parking on-site</b></p> <p>A <i>Strata Parking Management Plan</i> must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.</p> <p>Strategies and measures may include:</p> <ul style="list-style-type: none"> <li>• Adoption of parking by-laws;</li> <li>• Installation of suitable barriers, bollards, low-height fencing and gates;</li> <li>• Installation of signage and notices;</li> <li>• Intercom or key card systems;</li> <li>• Security systems and security personnel;</li> <li>• Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management</li> </ul> <p>Condition Reason: To ensure that on-site parking is managed appropriately, and is</p>

	Condition
	for the use of occupants or visitors of the development only.
89.	<p><b>Fire Safety Statement</b></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 &amp; 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>
90.	<p><b>External Lighting</b></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>
91.	<p><b>Stormwater Detention/Infiltration System</b></p> <p>Any detention areas/infiltration systems must be regularly cleaned and maintained to ensure it functions as required by the design.</p> <p>Condition Reason: To ensure adequate stormwater management for the life of the development.</p>
92.	<p><b>Residential Parking Permits</b></p> <p>All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.</p> <p>Condition Reason: To ensure the development does not adversely impact the on-street parking demand.</p>
93.	<p><b>Residential Parking Permits</b></p> <p>A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.</p> <p>Condition Reason: To ensure the development does not adversely impact the on-street parking demand.</p>

**DEMOLITION WORK  
BEFORE DEMOLITION WORK COMMENCES**

Condition

Condition	
94.	<p><b>Demolition Work</b> 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"> <li>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.</li> <li>b) The Demolition Work Plan must include the following details (as applicable): <ul style="list-style-type: none"> <li>• The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor</li> <li>• Details of hazardous materials in the building (including materials containing asbestos)</li> <li>• Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)</li> <li>• Measures and processes to be implemented to ensure the health &amp; safety of workers and community</li> <li>• Measures to be implemented to minimise any airborne dust and asbestos</li> <li>• Methods and location of disposal of any hazardous materials (including asbestos)</li> <li>• Other measures to be implemented to ensure public health and safety</li> <li>• Date the demolition works will commence/finish.</li> </ul> </li> </ol> <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 10m<sup>2</sup> 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 <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a> in the Building &amp; 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>

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**DURING DEMOLITION WORK**


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Condition	
95.	<p><b>Demolition Work</b> 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>

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**Condition**

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

- A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> 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](http://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. D28/25

**Subject:** 342 Alison Road, Coogee (DA/1191/2024)

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### Executive Summary

<b>Proposal:</b>	Alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first-floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works.
<b>Ward:</b>	North Ward
<b>Applicant:</b>	Urban Moose Design Pty Ltd
<b>Owner:</b>	Mrs E D Selvanayagam and Mr H A Jordan
<b>Cost of works:</b>	\$1,205,485.00
<b>Reason for referral:</b>	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. 1191/2024 for Alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first-floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works. at No. 342 Alison Road, Coogee, subject to the development consent conditions attached to the assessment report.

### Attachment/s:

-  [RLPP Dev Consent Conditions \(general\) - DA/1191/2024 - 342 Alison Road, COOGEE NSW 2034 - DEV - Urban Moose Design Pty Ltd](#)

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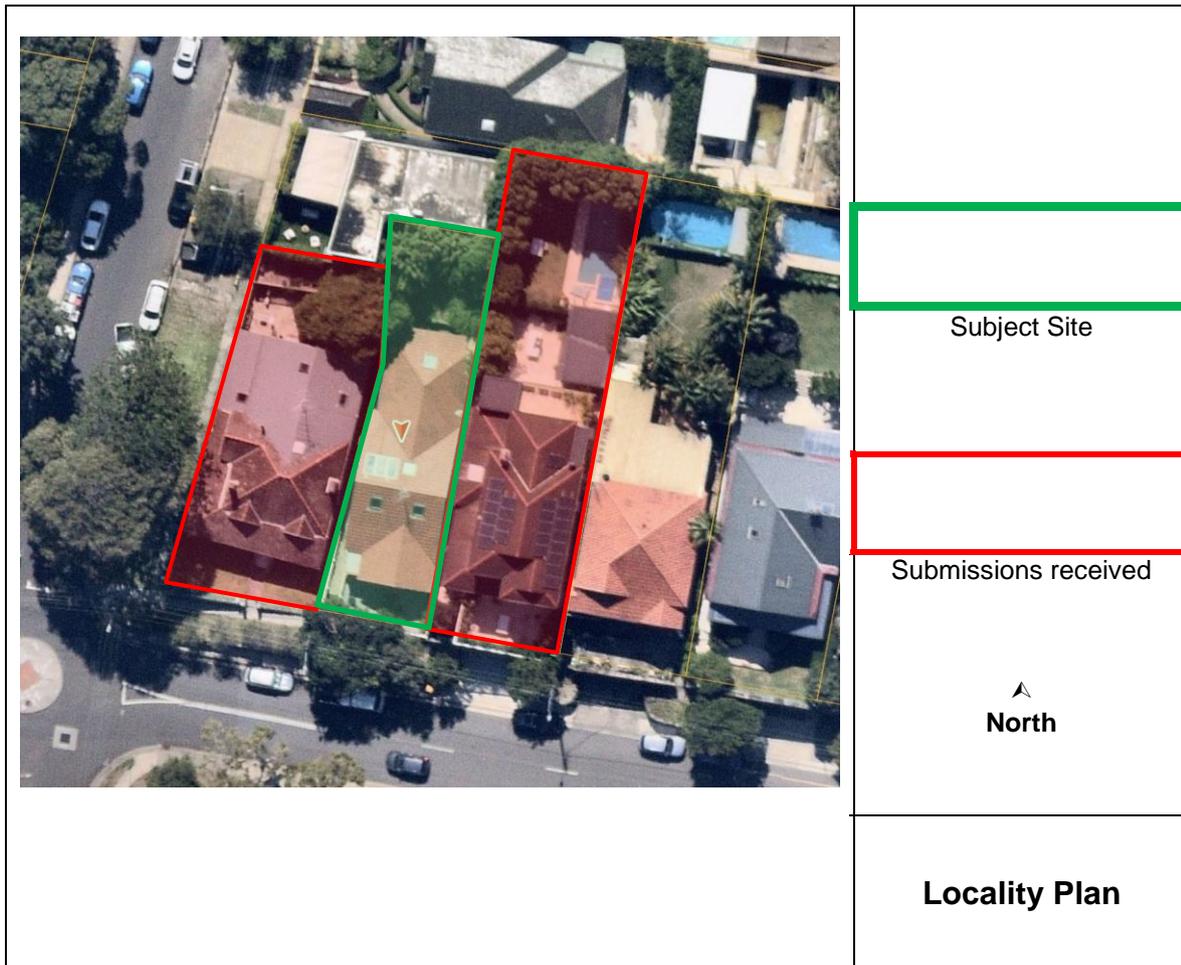


Figure 1: The subject site (RCC Interactive Mapping, 2025)

**1. Executive summary**

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

- The development involves demolition of a heritage item (i.e. sandstone retaining wall).

DA/1191/2024 seeks development consent for alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first-floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works.

This report will assess DA/1191/2024 (*the application*) for 342 Alison Road, Coogee (*the subject site*) against the relevant heads of consideration under s4.15(1) of *Environmental Planning and Assessment Act 1979*.

The key issues triggering this referral relates to the impact that the proposed works may have upon the significance of the adjoining heritage item known as ‘Alison Road sandstone retaining walls and embankment’ which is listed under Schedule 5 of the RLEP as a Heritage Item as Item No. L37.

In terms of the planning considerations, the proposal generally complies with the objectives and controls of the LEP and DCP, however the key issues relate to setbacks, view sharing concerns to adjoining neighbours. See the Key Issues section of the report for related discussion.

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

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 342 Alison Road and legally described as Lot A within DP 312448. The site is located on the northern side of Alison Road between the intersections of Brook Street to the west and Hamilton Street to the east, in Coogee.

The site is irregular in shape with a frontage width to Alison Road measuring 10.185m, eastern side boundary length of 37.185m, a combined western side boundary length of 37.555m and rear northern boundary width of 10.06m, for a total site area of 347.8m<sup>2</sup>.

The site is predominately orientated south to north with an overall topographical fall of approximately 3.81m from the rear yard to the footway front entry.

The subject site is presently occupied by a one storey rendered brick dwelling with slate roof. Adjoining to the east at No.344 Alison Road is a freestanding two storey plus garage level brick and clad residence with slate roof. Adjoining the east at No. 340 Alison Road is a single storey brick dwelling with slate roof and to the north and rear is a two storey plus garage level rendered residence with address at No.67B Brook Street.

The locality is zoned ‘R2 Low Density Residential’ and characterised by a mixture of one and two storey detached dwelling houses of varied styles and age, a number of those presenting as three storeys to the street due to garage structures cut into the natural terrain as a result of this particular area comprising a sloped topography. The terrain has generally been altered over time with various road cuttings and embankments presenting a stepped nature between allotments.

The subject site is not a heritage listed item and not within a designated Heritage Conservation Area (HCA), however fronting the property is Heritage Item No. L37 known as ‘Alison Road sandstone retaining walls and embankment’. For the above reason the subject proposal is referred to Council’s Heritage Planner. See Heritage comments under Section 4.

In addition, it is noted the subject site is within a Class 5 Acid Sulfate Soils zone and within 385m of a classified Class 4 ASS zone. See assessment against Clause 6.1 of the RLEP below.

Figures 2 to 17 below illustrate the current site:

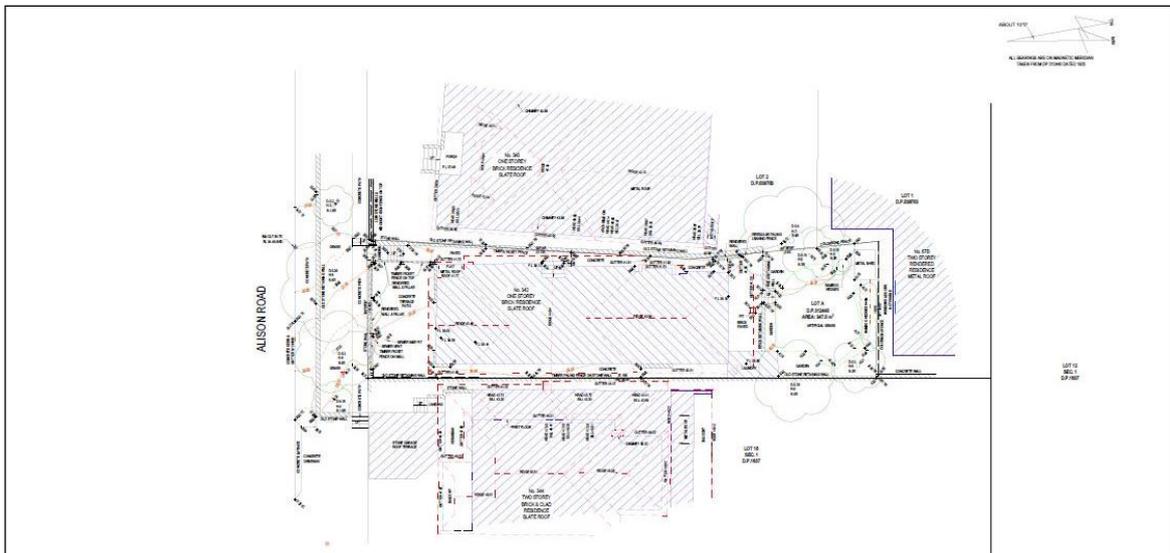


Figure 2: Survey plan (Sydney Surveyors, April 2023)

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Figure 3: Oblique aerial view southeast (Nearmap, April 2025)



Figure 4: Street frontage (RCC site inspection, March 2025)



**Figure 5:** Pedestrian footpath steps west approach with view to site entry gate (*RCC site inspection, March 2025*)



**Figure 6:** Eastern side setback and ground floor level terrace overlooking Alison Road (*RCC site inspection, March 2025*)

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**Figure 7:** Western side setbacks passageway looking northward (*RCC site inspection, March 2025*)



**Figure 8:** Western side setbacks passageway looking southward (*RCC site inspection, March 2025*)



Figure 9 and 10: Rear yard (L) and rear laundry facility (R) (RCC site inspection, March 2025)



Figure 11: Rear of dwelling viewed from rear yard (RCC site inspection, March 2025)

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**Figure 12:** View to west-adjointing tree and fence condition (*RCC site inspection, March 2025*)



**Figure 13:** View to rear eastern corner boundary from rear yard (*RCC site inspection, March 2025*)



**Figure 14:** Existing side setbacks as seen from the east-adjointing No. 344 ground level looking southward over the subject roof top (*RCC site inspection, May 2025*)



**Figure 15:** Alison Rd footpath out front subject site looking eastward (*RCC site inspection, March 2025*)

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**Figure 16:** Adjoining No. 344 garage access (*RCC site inspection, May 2025*)



**Figure 17:** Castellated stone capping. See Heritage referral comments (*RCC site inspection, May 2025*)

### 3. Relevant history

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

**SC/59/1925** – Land re-subdivision into 2 lots. Approved 20/05/1925.

**BA/1089/1967** – Alterations and Additions. Approved 25/10/1967.

**BA/281/1987** – An attic in the roof of the of the existing dwelling. Approved 1/4/1987.

**DA/345/2011** – Alterations to the front facade of the existing dwelling house and the construction of a new double garage with terrace above to the front of the site. Approved 23/09/2011.

**DA/539/2017\*** – Alterations to the front facade of the existing dwelling house and construction of a new front double garage with terrace above. Approved 22/01/2018.

**\*Assessing officer's comments:** The above approval involved a similar basement garage and Council land works to the subject DA. The subject development application assessment has taken into consideration DA/539/2017, which (following the COVID-19 pandemic two-year extension period) lapsed on January 22, 2025. It is noted the subject DA is assessed independently of the previous approval and on its own merits pursuant to the applicant development controls below.

**DA/1050/2024** – Alterations, garage and first floor additions to an existing single storey single dwelling and swimming pool. Cancelled by Council's Duty Planner 4/11/2024 due to inadequate information.

### 4. Proposal

The proposal seeks development consent for *Alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works.*

The proposed development specifically involves:

#### Demolition works:

- Demolition of existing external and internal walls and windows and doors removal
- Removal of roof structure to accommodate new upper-level addition
- Remove existing terrace balustrading

#### Basement Garage works:

- Secure parking for 2 vehicles
- Ground floor lift access
- Storage

#### Ground Floor works:

- Internal layout reconfiguration accommodating:
  - Entry space
  - New open plan kitchen and pantry, living and dining area
  - Rumpus Room
  - Guest Bed / Study with Ensuite
  - Bathroom
- Stairs
- Basement lift access
- Refurbished front facing terrace and associated balustrading

#### First Floor works:

- 3 bedrooms (including main), Ensuite, Walk-in-robe, shared Bathroom and linking corridor space

- Associated joinery components
- Stairwell
- Linen room
- Front and rear facing balconies

Ancillary and external works:

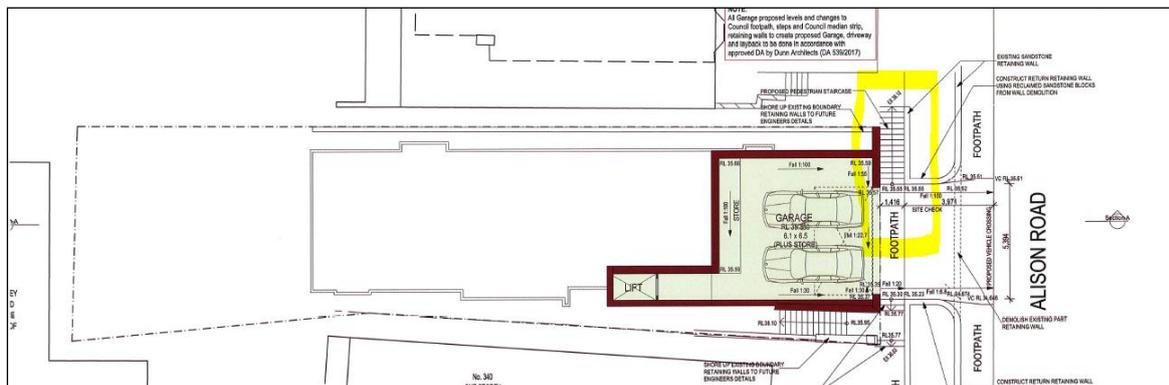
- Inground swimming pool and associated facilities and fencing
- General landscaping improvements and screen planting
- Front fence alterations
- Street tree removal
- Excavation works under terrace level for basement level garage

Council land works:

- Demolish part existing sandstone retaining wall to Alison Rod to facilitate vehicle access
- Tree removal to facilitate vehicle access
- Council steps connecting new driveway level to landing outside No 344\*

**\*Deleted components post lodgement**

It is noted that the originally submitted plans (Issue K dated December 2024) proposed Council steps on the eastern edge of the garage opening connecting the newly excavated driveway level to the entry landing level outside the property gate of the adjoining No. 344 Alison Road. See **Figure 18** below.



**Figure 18:** Issue K Proposed Garage Plan with Council steps highlighted (*Urban Moose*)

NB – Following receipt of submissions and a preliminary review of the proposal, Council advised the Applicant of neighbour concerns. Subsequently, the applicant provided an amended set of plans that deleted the proposed Council steps. As such, the subject DA has been assessed on the amended plans (Issue D) below.

**Figures 19 to 32** below illustrate the proposed development:

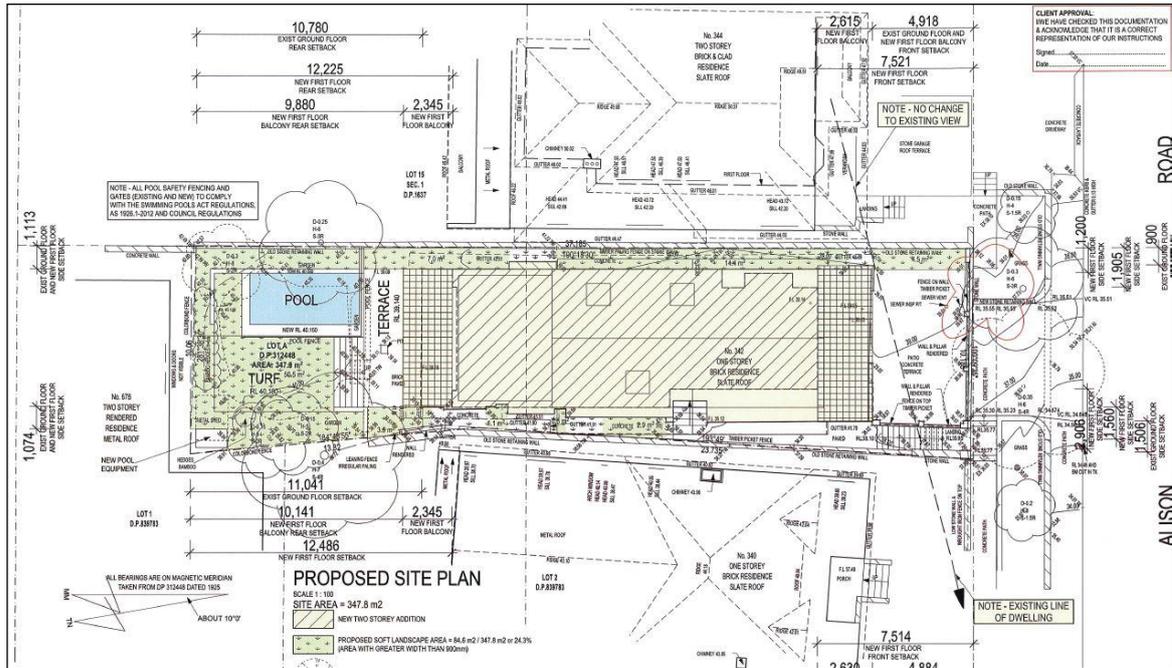


Figure 19: Proposed Site Plan (Urban Moose)

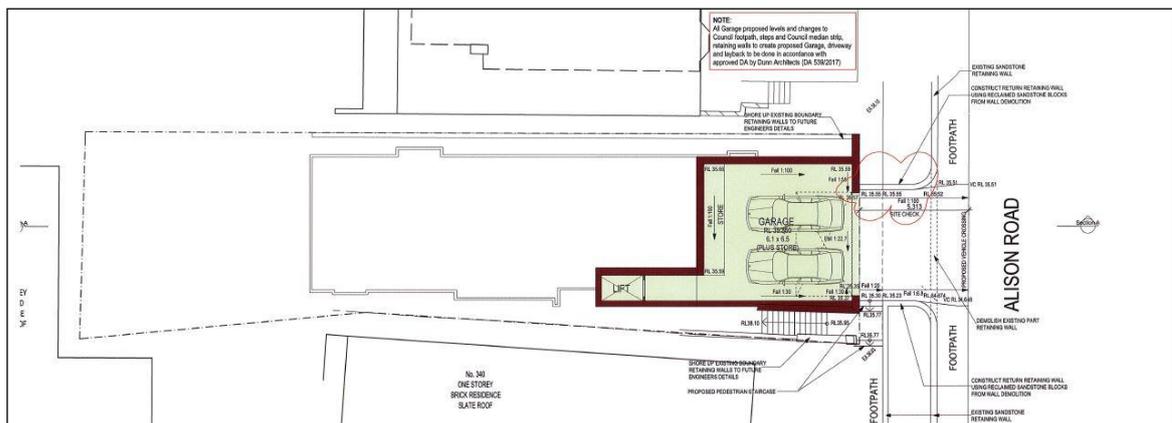


Figure 20: Proposed Garage Plan (Urban Moose)

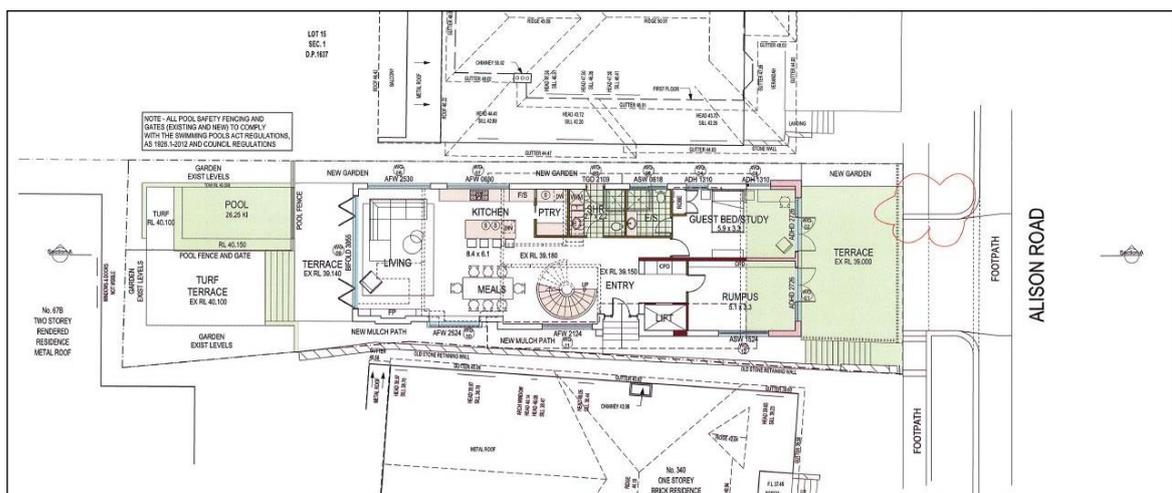


Figure 21: Proposed Ground Floor Plan (Urban Moose)



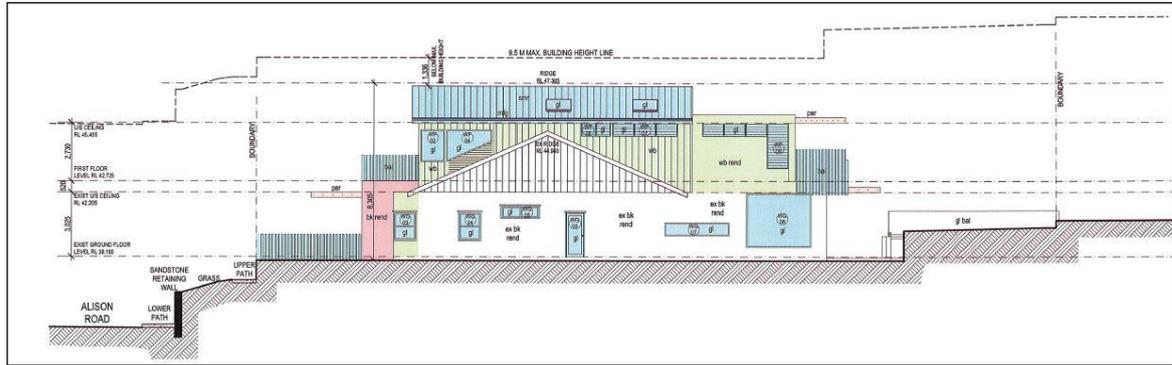


Figure 26: Proposed East (Side) Elevation (*Urban Moose*)

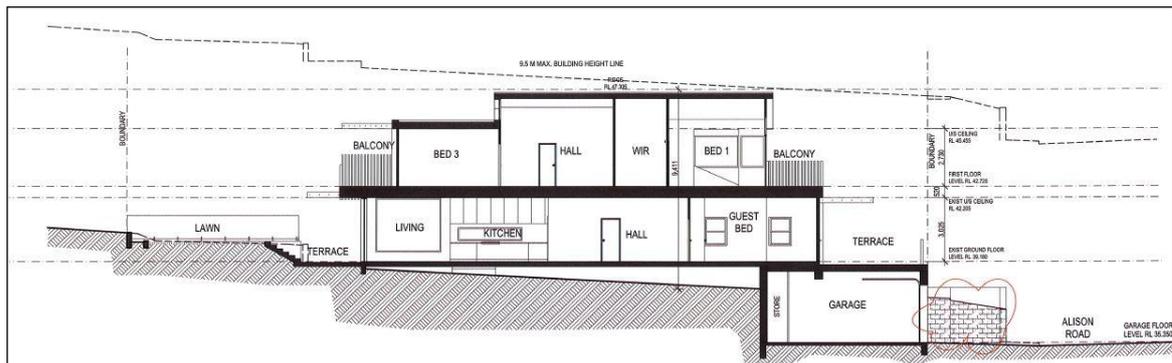


Figure 27: Proposed Section AA (*Urban Moose*)

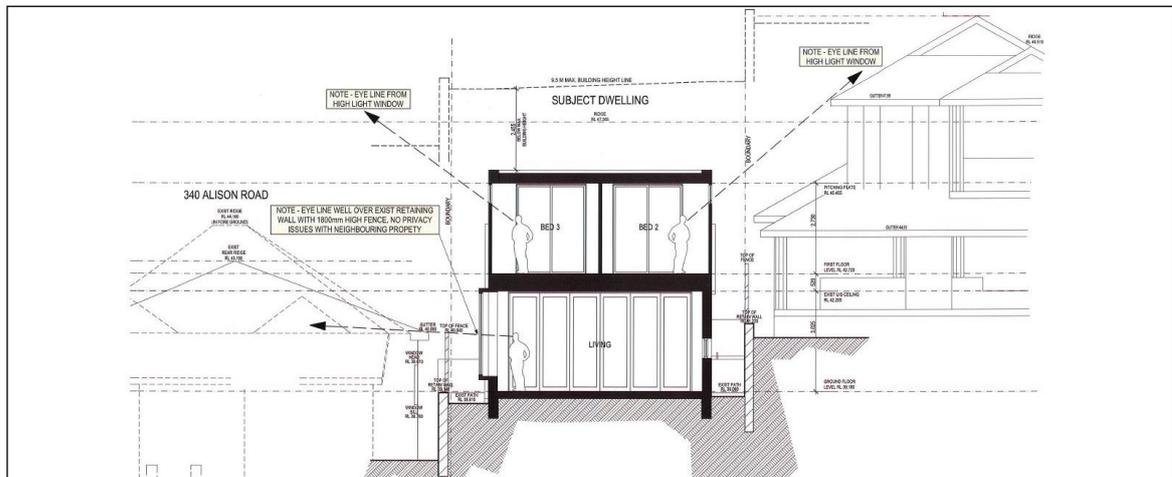


Figure 28: Proposed Cross Section BB (*Urban Moose*)

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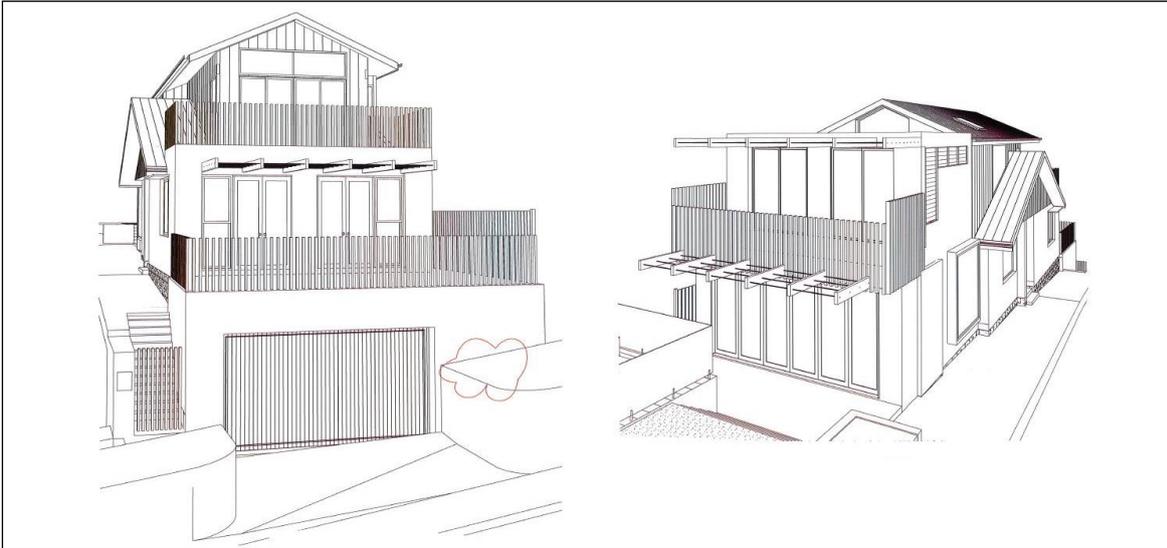


Figure 29: 3D perspective views (L) front and (R) rear (Urban Moose)



Figure 30: Isometric – southwest view (Urban Moose)

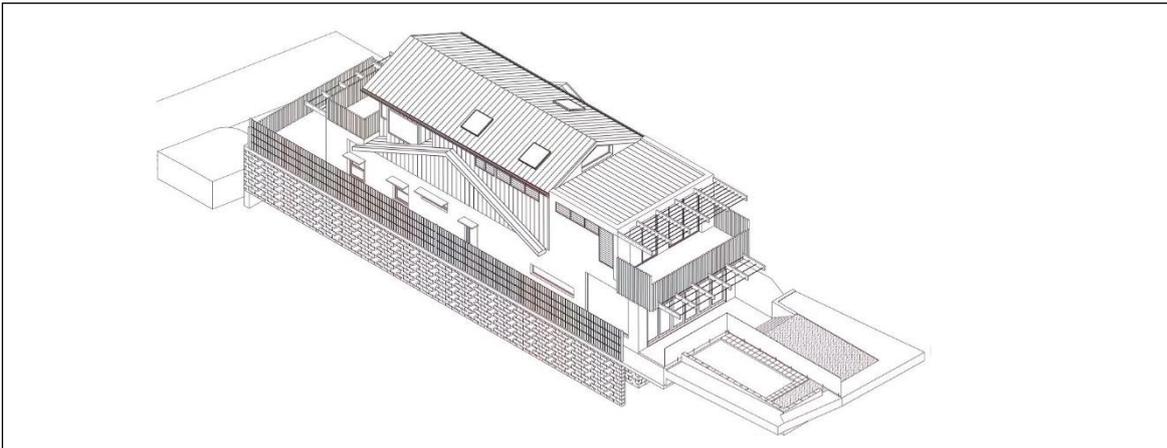
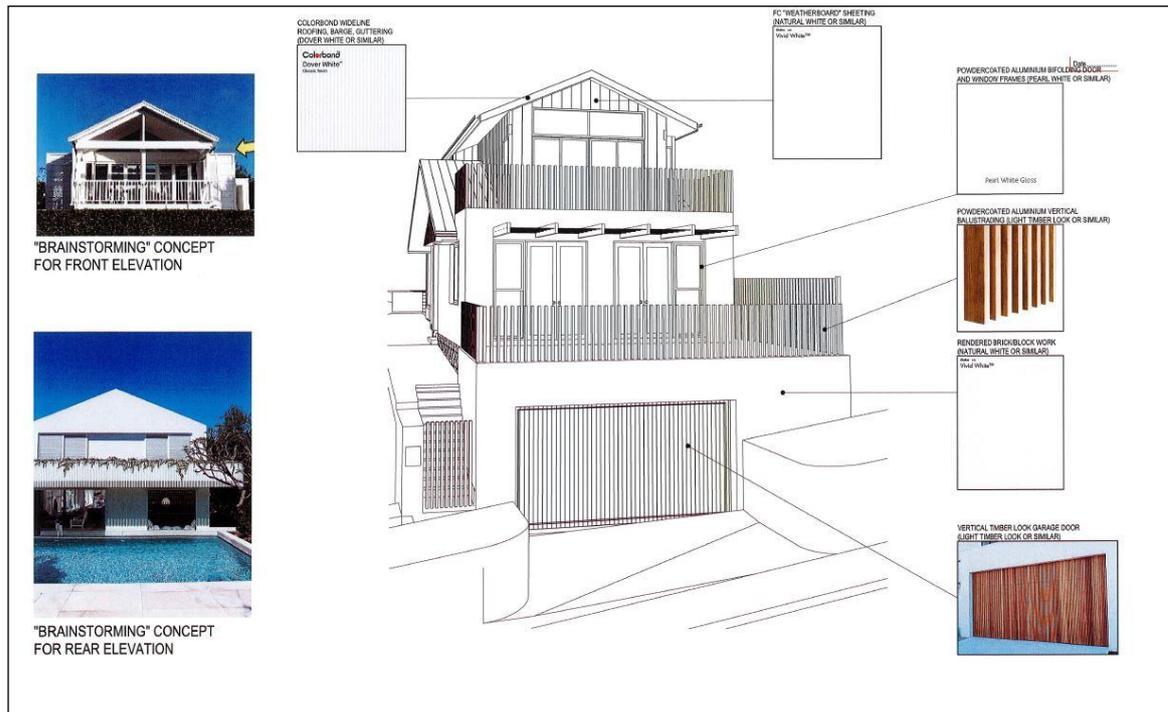


Figure 31: Isometric – northeast view (Urban Moose)



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Figure 32: Proposed materials and finishes (*Urban Moose*)

**5. Notification**

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

- 344 Alison Road
- 340 Alison Road - It is noted two submissions are received from joint owners at this same address, filed in TRIM as D05592404 and D05592616 respectively.

Issue	Comment
<p>340 Alison Road COOGEE (west-adjointing single storey residence) TRIM No. D05592404</p>	
<p><b>1. Existing boundary walls</b></p> <p>Concerns are raised about the integrity of the existing boundary walls due to the works and how adjoining land may be protected.</p>	<p>Dilapidation report, excavation and support of adjoining land, noise and vibration, construction site management plan etc to be conditioned in order to ensure the protection of adjoining owner’s property.</p> <p>See Consent Conditions section.</p>
<p><b>2. Increased overshadowing concerns</b></p> <p>Concerns are raised in relation to potential impacts on light quality and quantity reaching the eastern side of their house, noting roof form and setbacks may contribute to this.</p>	<p>Submitted solar diagrams indicate adequate solar access maintained to 340 Alison Road in accordance with the requirements of the applicable controls under DCP Clause 5.1.</p>

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Issue	Comment
340 Alison Road COOGEE (west-adjointing single storey residence) TRIM No. D05592404	
<p><b>3. Piling and potential land disturbance</b></p> <p>Concerns raised about lack of detail on this</p>	<p>To be organised by appointed certifier and builder in collaboration with the design architect and engineering consultant.</p> <p>Standard dilapidation report and construction works conditions shall be imposed.</p> <p>See Consent Conditions section.</p>
<p><b>4. Removal of sandstone wall</b></p> <p>Concerns raised unclear about aesthetics, practicality and extent of removal of the Council sandstone wall</p>	<p>The proposed removal of the sandstone wall to facilitate the parking access was previously approved under DA/539/2017.</p> <p>The subject development proposal is assessed and supported on a planning basis.</p> <p>The application was referred to Council specialists and support on Heritage grounds, Engineering and Asset Management subject to imposed conditions to ensure the desired outcome.</p>
<p><b>5. Construction timeframe?</b></p> <p>Request for an indicative timeframe / timeline for the development (construction period) out of concerns they may sell within 12 months and would disrupt the marketing campaign.</p>	<p>Council is unable to advise as this is not a planning consideration.</p>

Issue	Comment
340 Alison Road COOGEE (west-adjointing single storey residence) TRIM No. D05592616	
<p><b>1. Retaining walls – general integrity and maintenance</b></p> <p>Concerns increasing land subsidence due to excavation and ground works will further compromise the structural integrity of the common boundary retaining wall.</p>	<p>Dilapidation report, excavation and support of adjoining land, noise and vibration, construction site management plan etc to be conditioned in order to ensure the protection of adjoining owner’s property.</p> <p>See Consent Conditions section.</p>
<p><b>2. Protection of trees and plants</b></p> <p>Concern raised that excavation and works in general will impact the avocado tree (T5) adjacent the common boundary that currently provides shade and amenity.</p>	<p>Council’s Landscape Development Officer assessed the proposal and details required tree protection measures to be added to any consent.</p> <p>See Consent Conditions section.</p>

Issue	Comment
340 Alison Road COOGEE (west-adjoining single storey residence) TRIM No. D05592616	
<p><b>3. Visual Privacy concerns</b></p> <p>Due to proposed side and west facing windows.</p>	<p>Noted and acknowledged.</p> <p>Conditions imposed accordingly to mitigate visual privacy impacts.</p>
<p><b>4. Recommendations</b></p> <ul style="list-style-type: none"> <li>• Extensive and adequate piling and shoring</li> <li>• Hand excavation where possible</li> <li>• Frosted windows</li> <li>• Shallower roof pitch</li> </ul>	<p>Any construction methodology is to be organised by appointed certifier and builder in collaboration with the design architect and engineering consultant.</p> <p>Standard dilapidation report and construction works conditions shall be imposed.</p> <p>All other planning matters are adequately assessed with appropriate conditions.</p> <p>See Consent Conditions section.</p>
<p><i>"I seek to understand if under state regulation if this DA has met CDC by Randwick. And to be provided with details of the Certifier."</i></p>	<p>This request is separate and not relevant to the assessment of this DA</p>

Issue	Comment
344 Alison Road COOGEE (east-adjoining two and three storey residence) TRIM No. D05592412	
<p><b>1. Proposed stairs to street verge</b></p> <p>Safety and practicality concerns and question the need for it considering a new dedicated pathway has been built by Council</p>	<p>The amended plans have these steps removed. As such, this objection is no longer applicable.</p> <p>The applicant proposed to return the sandstone wall in a manner that matches that of No.344</p>
<p><b>2. "History of DA approval for Garage to 344 Alison Road Coogee"</b></p> <p>The objector notes a similar street stair application was refused by Council due to a non-compliance with the gradient and requests Council adopt the same approach in the assessment of the subject DA.</p>	<p>The amended plans have these steps removed. As such, this objection is no longer applicable.</p>

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Issue	Comment
344 Alison Road COOGEE (east-adjointing two and three storey residence) TRIM No. D05592412	
<p><b>3. Garage construction impacts</b></p> <p>Concerns raised about shoring and excavation works associated with garage excavation will impact on their land.</p>	<p>Dilapidation report, excavation and support of adjoining land, noise and vibration, construction site management plan etc to be conditioned in order to ensure the protection of adjoining owner’s property.</p> <p>See Consent Conditions section.</p>
<p><b>4. “Building setback and natural light implications”</b></p> <p>Concerns raised about reduced light due to upper-level addition</p>	<p>The proposal has been assessed against the applicable building envelope controls.</p> <p>See DCP section below and discussion of Key Issues.</p>
<p><b>5. View sharing</b></p> <p>Western outlook / view loss concerns are raised from their first floor</p>	<p>The proposal has been assessed against the applicable building envelope controls and Tenacity Test in relation to view impacts.</p> <p>See DCP section below and discussion of Key Issues.</p>
<p><b>6. Proposed amendments:</b></p> <ul style="list-style-type: none"> <li>• Remove street stairs</li> <li>• Replace stair with heritage wall</li> <li>• Modify design to minimise roof encroachment along common boundary</li> </ul>	<p>Noted, the suggested planning matters are adequately assessed with appropriate conditions.</p> <p>See Consent Conditions section.</p>

**6. Relevant Environment Planning Instruments**

**6.1. SEPP (Sustainable Buildings) 2022**

A BASIX certificate has been submitted in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2021* and 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 (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 only previously been used for residential accommodation/residential purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving alterations and additions to a dwelling) are such that any applicable provisions and requirements of the above SEPP have been satisfactorily addressed.

### 6.3. SEPP (Biodiversity and Conservation) 2021

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

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

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

### 6.4. SEPP (Transport and Infrastructure) 2021

#### Chapter 2 – Infrastructure

Clause 2.48 of the Transport and Infrastructure SEPP applies to development comprising or involving any of the following:

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

The proposed development involves development likely to affect an electricity transmission or distribution network (proximity to transmission lines), and as such, clause 2.48 is applicable. The application has been referred to Ausgrid (the relevant electricity supply authority) and suitable conditions have been provided. See Section 4 Referral Comments below.

### 6.5. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R2 Low Density Residential under Randwick Local Environmental Plan 2012 and the proposal is permissible with Council's 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 contained in the RLEP 2012 apply to the proposal:

Description	Council Standard	Proposed	Compliance (Yes/No/NA)
Cl. 4.3 Height of Building (Maximum)	9.5m	8.275m	Yes
Cl. 4.4 Floor Space Ratio (Maximum)	0.75:1	0.68:1	Yes

6.5.1. Clause 5.10 - Heritage conservation

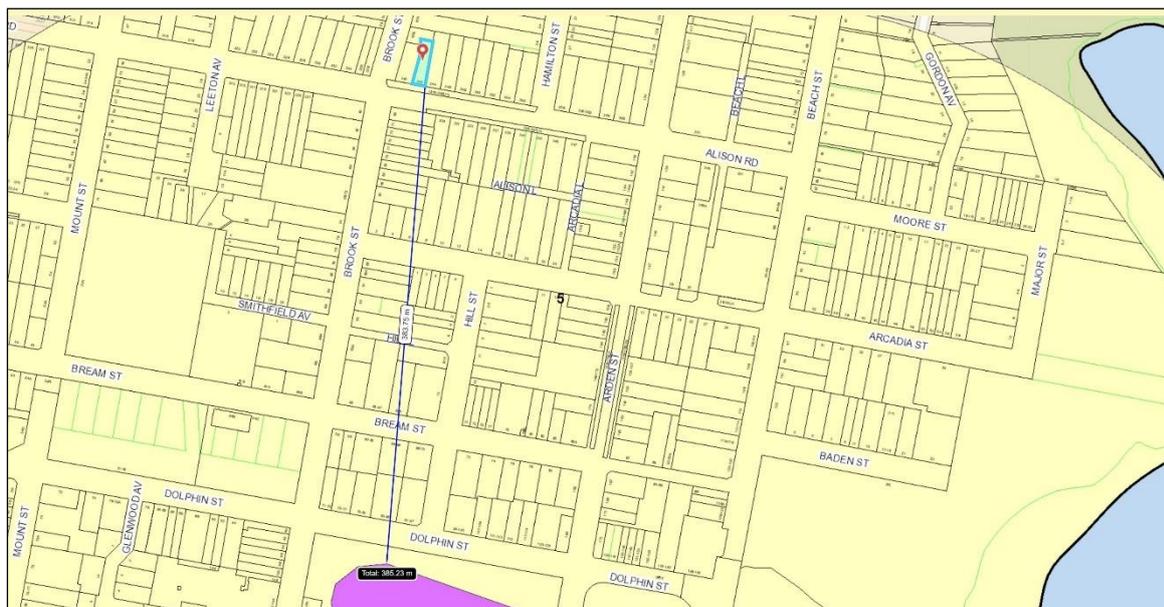
Clause 5.10(1) of RLEP 2012 includes the objective of conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

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.

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 Referrals section of this report.

6.5.2. Clause 6.1 – Acid Sulfate Soils

The subject site is identified as being within a Class 5 Acid Sulfate Soils (ASS) zone and within 384m of a Class 4 ASS zone, pursuant to the Acid Sulfate Soils Map referred to in Clause 6.1 of RLEP 2012 (2013 EPI 36). See **Figure 33** below.



**Figure 33:** Acid Sulfate Soils overlay (RCC Interactive Mapping)

The applicable LEP Clause pursuant to Part 6 Additional local provisions has been reproduced below:

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Carrying out of works under Class 5 is described as follows:

Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

(3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*

(4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if—*

(a) *a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*

(b) *the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*

(5) *Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—*

(a) *emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,*

(b) *routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*

(c) *minor work, being work that costs less than \$20,000 (other than drainage work).*

(6) *Despite subclause (2), development consent is not required under this clause to carry out any works if—*

(a) *the works involve the disturbance of less than 1 tonne of soil, and*

(b) *the works are not likely to lower the watertable.*

**Assessing officer's comment:** It is noted the site coverage associated with the dwelling remains unaltered and although the subject site is technically within 500m of a Class 4 land, the site remains at a substantial geographical and level difference. The works are not below 5m height datum and are unlikely to lower the water table at ground level below 1m Australian Height Datum (AHD).

As such, Council is to this end satisfied no further assessment or investigation related to ASS is considered unnecessary in this case, therefore the proposal satisfies the RLEP Clause 6.1.

### 6.5.3. Clause 6.2 – Earthworks

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

The proposal involves excavation works up to 1.9m depth (based off existing ground levels described in the section drawing AA and Previous DA/539/2017) to accommodate the basement garage at the front of the property, together with excavation works >1m for the inground swimming pool at the rear.

The development satisfies clause 6.2(3) in that:

- Conditions of consent are imposed to minimise impact on drainage patterns, soil stability, and adjoining structures;
- The proposed excavation area is suitably scaled for the subject site and is unlikely to have an adverse impact on the likely future use or redevelopment of the land;
- The site has been used for residential purposes for an extended period of time and is unlikely to contain contaminated soil;
- Subject to conditions, the proposed excavation will not result in any adverse impact on the amenity of adjoining properties;
- Conditions of consent are imposed to manage the removal of demolition and excavation waste;

- The proposal is unlikely to disturb relics – the site is not in a heritage conservation area nor is listed as a heritage item; and
- The scale and siting of the proposal minimises impact on waterways, water catchments, and environmentally sensitive areas.

**7. Development control plans and policies**

**7.1. Randwick Comprehensive DCP 2013**

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

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

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

**8. Environmental Assessment**

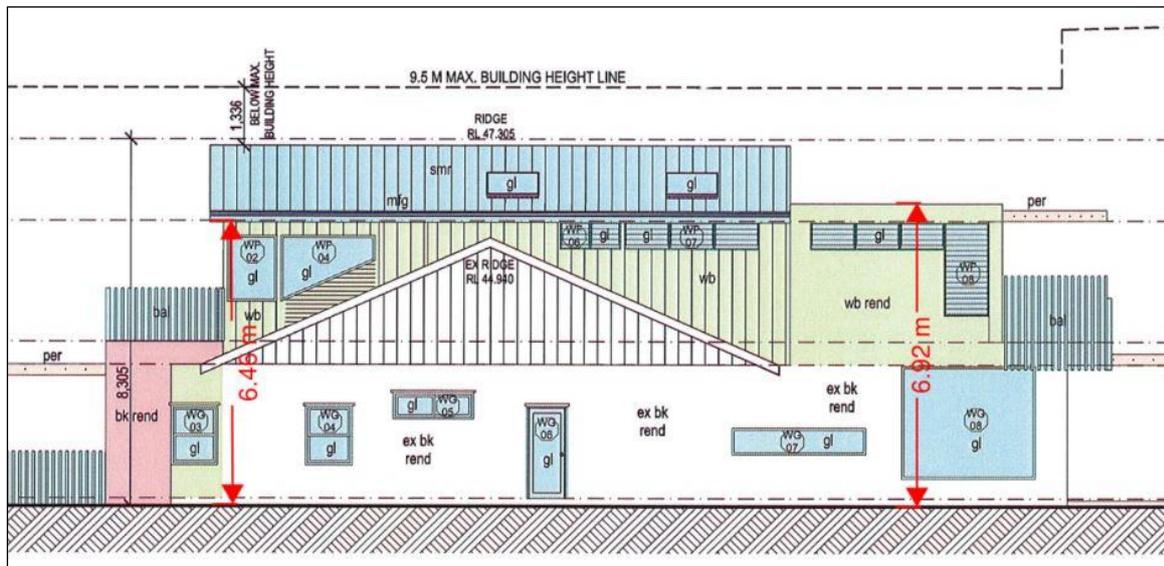
The site has been inspected and the application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as amended.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion 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 under Section 8.1.
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>



The eastern side setback comprises a 1.9 to 1.2m articulated portion of wall (bay window) at Bed 1 towards the front of the dwelling, whereas most of the elevation to the rear of bed 1 comprises a 1.1m side setback. This proposal seeks a variation to the setback control where heights >4.5m to 7m are required to have a minimum side setback 1.525m for the given subject site frontage of 10.185m.

Given the proposal is an alteration and additions that is designed to integrate with the existing ground floor footprint, that proposes no increased site coverage and generally dispersed within the permitted building envelope limits, and with no apparent or unreasonable impacts given the context and development character of the locality, a merit assessment against the aims and objectives of the control to determine the acceptance of the side setback non-compliance is therefore warranted.



**Figure 35:** Proposed maximum wall height below 7m

Section 3.3 of the RDCP 2023 details objectives in relation to setbacks which include;

**Objectives**

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

An assessment of eastern side setback non-compliance against the objectives has been undertaken to establish if the proposal is acceptable and the side setbacks demonstrate sufficient planning merit, and is as follows:

- *Maintain or establish a consistent rhythm of street setbacks and front gardens that contributes to the character of the neighbourhood,*

**Assessing Officer’s comment:** Not strictly applicable, the side setbacks of the building do not impact the streetscape setback or front garden setting of the dwelling. The proposed dwelling is sufficiently set back front the street front. The proposal retains the existing ground floor front setback, and the upper-level setback is proposed in alignment with the east adjoining No.344 upper level wall.

The proposal satisfies this control.

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

**Assessing Officer's comment:** As noted above the alterations and additions to the dwelling maintains the established streetscape character which predominately comprised a mix of elevated single level homes and two storey dwellings with basement garage level which the subject proposal seeks to replicate.

It is also noted that the dwelling as modified by this proposal complies with all other controls in relation to FSR and Building Height and Site Coverage and will be consistent with the established and developing character of the area.

The proposal satisfies this control.



**Figure 36:** Current dwellings presenting as two storeys or elevated single storey homes plus garage level observed at No's 344, 346 and 348 (from left to right) (Google Maps, 2021)

- *Ensure adequate separation between neighbouring buildings for visual and acoustic privacy and solar access,*

**Assessing Officer's comment:** The proposal satisfies the objectives of the DCP in relation to visual and acoustic privacy, subject to conditions in relation to window and balcony screen height alterations to comply with the DCP privacy controls, see condition 2(d). Solar access is also complied with to the subject and adjoining sites in accordance with the DCP controls providing the minimum 3hrs of direct solar access to adjoining properties per the control requirements.

The proposal satisfies this control.

- *Reserve adequate areas for the retention or creation of private open space and deep soil planting, and*

**Assessing Officer's comment:** The addition to the existing upper level and the maintenance of the existing upper-level setbacks do not impact either private open space or deep soil planting as the building does not propose an increase to the existing built up on area. Further, the proposal improves on the amount of total deep soil area for the site as assessed under DCP Clause 2.5 below.

The proposal satisfies this control.

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

**Assessing Officer's comment:** Assessed below against the Tenacity Test. The proposal is not an over-development and as such is determined to satisfy this control.

**Conclusion:** Given the above assessment it is demonstrated in this instance that the addition to the existing upper level satisfies the objectives of this section of the DCP and the portioned non-compliance should be supported on merit. It is also noted to require strict compliance with the numeric controls would be onerous and impractical without any benefit as a result of compliance with the relevant objectives.

### Views

Concerns have been raised in the submissions from the owners of the adjoining No. 344 Alison Road that the proposal will have an impact on their views from the upper level of property, as demonstrated by the photos provided which show the existing view from the side of their premises. See below.

#### View loss assessment

Having regard determining any view loss/impacts as a result of the development, views are assessed as follows:

The NSW Land and Environment Court has developed a planning principle relating to view sharing based on the case of *Tenacity Consulting v Warringah Council (2004) NSWLEC 140*. Where view loss is likely to occur development proposals must address the view impact requirements of RDCP 2013 and the planning principle.

The "Tenacity Test" requires an assessment of view loss to be undertaken in the following four (4) steps:

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

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

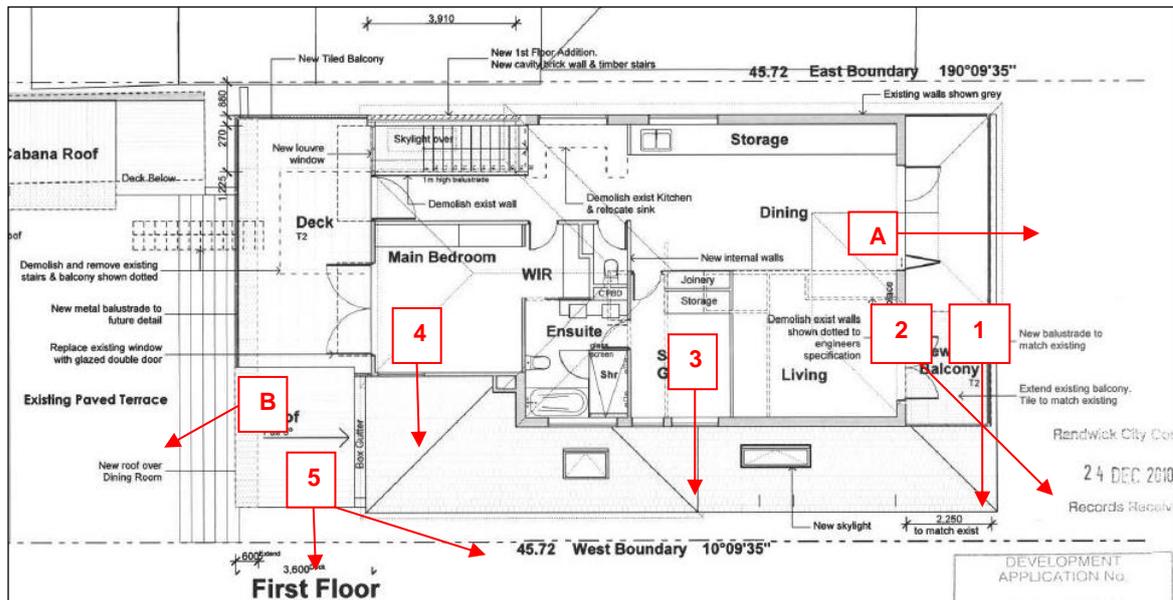
**Step 3:** assess the extent of impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

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

To assess whether the extent of view loss resulting from the proposal is reasonable and acceptable, an analysis has been undertaken with reference to the Tenacity test and with consideration of the

respective controls under the RDCP 2013. The following is a view loss assessment against each "Step" of the Tenacity Test..

**NB – Views in question are from the upper-level front balcony and adjacent bay window, walk-in robe, main bedroom and rear terrace at No.344 Alison Road Coogee.**



**Figure 37:** Viewpoint positions on first floor plan No. 344 Alison Road (DA/1147/2010).

It is noted the neighbour’s upper-level layout is reconfigured compared to the stamped plans shown in **Figure 37** above.

The view positions are as follows:

- Position 1 – from the first-floor balcony
- Position 2 – from first floor dining area
- Position 3 – from first floor walk-in robe
- Position 4 – from main bedroom
- Position 5 – from rear first floor balcony
- Position A – from first floor living area
- Position B – from rear first floor balcony

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**Position 1:** From No. 344 first floor balcony looking westward overlooking subject site (*RCC site inspection, May 2025*)



**Position 2:** From No. 344 first floor bay window looking southwest (*RCC site inspection, May 2025*)



**Position 3:** From No. 344 first floor walk-in-robe looking west (*RCC site inspection, May 2025*)



**Position 4:** Outlook from first floor main bedroom corner window (*RCC site inspection, May 2025*)



**Position 5:** Outlook from first floor rear balcony (*RCC site inspection, May 2025*)

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**Position 5:** Outlook from first floor rear balcony (*RCC site inspection, May 2025*)

**Step 1 – Assessing Officer’s comments:** The existing views in question comprise district and skyline views that are distant and across many rooftops of single storey dwellings, with no discernible landmarks or items considered of value when referencing Step 1 and what is classified as a “valued” view. The reasons below are considered to outweigh any reasonableness to refuse or modify the proposed development.

**Step 2 - Assessing Officer’s comments:** The views in question are obtained from the sides of the objector’s premises (being the side of the first-floor balcony and adjacent bay window, walk-in wardrobe, main bedroom window and rear balcony) looking westward and across the subject and adjoining properties. These views are primarily an outlook and district view that only exist due to the adjoining properties located to the west being sited on lower sites comprising single storey dwellings (No’s 342 and 340 Alison Rd respectively) that have not yet reached their development potential where two storeys are permitted. Upon observation there are no significant or easily discernible landmarks in this direction, nor that meet the category of high value items under Step 1.

Further, the view in question is a portion of the main panorama enjoyed from the rear balcony which is orientated eastward where more valued water and horizon views are unaffected by the development proposal.

In this instance, the side views must be regarded as vulnerable given that they are viewed across numerous property boundaries, and they rely on the current built nature of the adjoining properties being maintained and not developed to their potential as has the objector’s property and other two storey dwellings within the vicinity.

**Positions A and B** below illustrate the views currently enjoyed from the objectors’ premises that remain unaltered.



**Position A:** Outlook from first floor living space looking space to key water views (*RCC site inspection, May 2025*)



**Position B:** Outlook from first floor balcony looking north west (*RCC site inspection, May 2025*)

**Step 3 - Assessing Officer's comments:** Given the nature of the views in question which are distant district views, are not completely unobstructed and are already impacted by nearby canopy trees. The view impact resulting from the proposed is not unexpected and considered to be moderate. An argument cannot be sustained that the amenity of the occupants of the objector's premises relies heavily on maintaining this view, which as noted above are vulnerable and borrowed as they rely solely on the existing built nature of those southern properties being maintained as single storey dwellings, which is not reasonable considering the current strategic planning overlays for this zone where two storey development is permitted.

**Step 4 - Assessing Officer's comments:** The proposal overall is reasonable as it complies with the relevant development standards and there are no significant breaches that would result if strict compliance was required in this view being maintained. As noted above the actual views/vistas in question are considered moderate value views given the distance and extent of the view, and the views being obtained from the side of a balcony, a walk-in robe and bedroom secondary corner window (i.e. not from any principal living areas). Additionally, these views/vistas are viewed across numerous property boundaries and are therefore, be considered vulnerable as they taken across rely on the adjoining properties not being developed to the same extent of most of the other two storey dwellings in this street, including the objector's own two storey dwelling.

**Conclusion:** In light of the above, and considering the proposed development is assessed to comply with the overall building envelope controls in line with the strategic planning objectives applied to the site, the potential view loss impacts resulting from the proposal are considered reasonable and acceptable, thus the subject development application can be supported

### Garage

The objectives of Part 6 of the RDCP in relation to Car Parking and Access seek to;

- a) *Ensure car parking and access facilities do not visually dominate the property frontage or streetscape,*
- b) *Ensure parking facilities are integrated with the architectural expression of the dwelling as an integrated element,*
- c) *Minimise hard paved surfaces occupied by driveways and parking facilities, and maximise opportunities for deep soil planting and permeable surfaces for stormwater infiltration,*
- d) *Ensure the location and design of parking and access facilities do not pose undue safety risks on building occupants and pedestrians, and*
- e) *Ensure the location and design of parking and access facilities do not adversely impact on the amenity of neighbouring properties.*

The relevant controls for parking facilities forward of front façade alignment, when they may be considered are;

- a) *There is no alternative or feasible location for accommodating car parking,*
- b) *The site has an elevated slope with the dwelling being elevated above the street level,*
- c) *The garage or carport will not adversely affect the visual amenity of the street and the surrounding areas,*
- d) *The garage or carport location will not pose an undue risk on the safety of pedestrians; and*
- e) *The garage or carport will not require the removal of significant landscape elements that enhance the streetscape, such as rock outcrop or sandstone retaining walls.*

The proposed garage is consistent with the constructed garage to the east-adjointing properties at No's 344 and 346 Alison Road and satisfies the relevant objectives and controls of the DCP in the following manner. See **Figure 38**.



**Figure 38:** No's 344 (left) and 346 (right) garage frontages to Alison Road (*RCC site inspection, March 2025*)

There is no other feasible location for car parking to be provided.

The site is elevated above the street and footpath level.

The proposed garage is not out of keeping with the established character of this section of Alison Road which include garages to the front of properties in some of the dwellings and residential flat buildings, and an argument that this garage will detract from the visual amenity of the street and surrounds cannot be sustained.

The proposed garage will not result in any undue risk to pedestrians as the footpath in this section of Alison Road is wide, open and level with no impediment to pedestrian vision.

The front yard area of the dwelling is to be excavated to accommodate the garage which will remove a section of the existing sandstone wall. What are considered to be "Moderate value" trees are affected however are assessed and supported for removal by Council's Landscape Officer. Whilst a portion of the sandstone wall will be removed for the development it would be onerous to quarantine this site from development to the front of the property when many of the nearby and adjoining properties have similar garage structures. See comments above in relation to the heritage significance of the sandstone wall.

**Conclusion:** In light of the above, the proposed carparking and access facility can be supported subject to the recommended conditions imposed by Council's referral officers with respect to the existing sandstone wall/embankment structure adjoining Alison Road. See referrals section below.

## 9. Conclusion

That the application DA/1191/2024 seeking consent for Alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first-floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the R2 zone in that 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, and maintaining the significance of the Heritage Item.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the current and desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape

## Appendix 1: Referrals

### 1. External referral comments:

#### 1.1. Ausgrid

Ausgrid raises no objection to the proposal, provided construction work complies with the relevant standards and Practices. The letter of consent is provided as follows:



**Assessing officer's comments:** The above comments are noted. Any recommended or standard conditions in relation to potentially affected utilities and essential services are imposed should consent be granted.

### 2. Internal referral comments:

#### 2.1. Heritage planner

The proposal has been referred to Council's Heritage Planner for consideration and comment. The following advice has been provided, including conditions that may be included in any development consent issued.

**Background:**

- The subject site adjoins a heritage item identified under Schedule 5 of the Randwick LEP 2012, known as 'Alison Road sandstone retaining walls and embankment' (Item no. L37).

- A previous DA application (DA/539/2017) at the site proposed to demolish part of the sandstone retaining wall (Item no. L37) on the northern side of Alison Road to allow for a driveway. The DA was approved subject to conditions.

**Recommendations:**

- It is noted that the previous application (DA/539/2017) proposed the construction of perpendicular sandstone return walls on either side of the driveway (P00197196 DA 03 - Basement Plan, Issue D). However, the current drawings (D05544190 DA 100 – Proposed Garage Floor Plan, Issue K) show the sandstone return walls with rounded corners. This minor deviation from the previous approved design can be supported on the following conditions:
  - The slope of the existing retaining wall is not to be modified by levelling off the top. The sloping line of existing castellated stone capping is to be retained and continued along the curved return walls.
  - Existing sandstone blocks are to be reused for any reconstructed sections of the existing sandstone retaining wall adjacent to the new crossover. Any reconstructed sections of the existing sandstone retaining wall are to match the adjacent original wall as closely as possible in terms size, texture, bond pattern and alignment of blocks, mortar joint colour, and detail of castellated capping.
  - Existing sandstone blocks from the section of the retaining wall which is to be removed are to be reused in the construction of the return walls to either side of the new crossover and the edges to the new pedestrian stairs.
  - Demolition of the existing sandstone retaining wall is to be carefully carried out to minimise any damage to original sandstone blocks and to facilitate their reuse. Existing sandstone blocks are to be placed on pallets and can be transported to Council's Depot for temporary storage prior to reconstruction works.
  - Unpainted sandstone surfaces are to remain unpainted, and no applied finishes are to be used.

**Requirements to be carried out prior to CC:**

- The castellated stone capping to the top of the existing retaining wall is to be retained and is to continue along the curved return walls. Amended drawings indicating the retention of the castellated stone capping on the street elevation and proposed garage floor plan are to be submitted and approved, prior to a construction certificate being issued for the development.

## 2.2. Development Engineer

The proposal has been referred to Council's Development Engineer for consideration and comment. The following advice has been provided, including conditions that may be included in any development consent issued.

*An application has been received for alterations and additions at the above site including a street level basement garage which would require the removal/reconstruction of an existing Council sandstone retaining wall that fronts the subject site.*

This report is based on the following plans and documentation:

- Architectural Plans by Urban Moose Design, Issue K dated 5/12/2024;
- Landscape Plans by Jaimie Durie Design Issue C dated 21/10/2024;
- Arboriculture Impact Assessment Report by George Palmer Botanics dated 9/2024;
- Statement of Environmental Effects by Think Planners dated 29/9/2024;
- Detail & Level Survey by Sydney Surveyors dated 25/4/2023;

**Garage Proposal Comments**

The submitted plans show a street level garage design similar to others in this section of Alison Road. The proposal requires the removal and reconstruction of the sandstone retaining wall in front of the site to allow for vehicular access.

The submitted design shows Council steps adjacent to the front boundary at the eastern end of the garage opening, these steps will not be required and thus Development Engineering will ask for amended plans prior to the issuing of a construction certificate.

#### **Drainage Comments**

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity.

#### **Undergrounding of power lines to site**

At the ordinary Council meeting on the 27<sup>th</sup> May 2014 it was resolved that;

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

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

#### **Heritage Sandstone Retaining Wall Comments**

The Planning Officer is advised that Development Engineering Report **does not include** any comments/conditions which may be required by the Heritage Planner in relation to the Council Sandstone Retaining Wall located on Council nature strip. Only to advise the applicant that the existing sandstone blocks are to be reused in the reconstruction of retaining walls on Council property and that the applicant is to arrange storage of the blocks until reuse.

**Assessing officer's comments:** Following receipt of amended plans by the applicant where the Council Step design was removed from the plans, the application was re-referred to Council's Development Engineer for review and comment, received as follows on 12/05/2024 (TRIM Doc. No. DO5713379):

*I have reviewed plans and note that Cond No 5 of my report is partly complied with. Condition No 5 of my report currently reads as follows:*

#### **Council Step Design (Eastern End)**

*Prior to issuing of a Construction Certificate the plans are to be amended showing deletion of the eastern set of Council steps as they are not required.*

*The plans are also to show the reconstructed Council retaining wall along the eastern edge of the Council driveway being setback a minimum of 0.60m from the edge of the driveway, similar to eastern edge of No 344 Alison Rd..*

*The amended plans show the applicant has removed the subject steps but did not clearly show 0.60m setback of retaining wall.*

*I think it best to keep my report as is, because they have only partially complied with Condition.*

*Alternatively change my Condition No 5 to read as follows:*

#### **Council Retaining Wall (Eastern End Garage Opening)**

*Prior to issuing of a Construction Certificate the plans are to be amended to show the reconstructed Council retaining wall along the eastern edge of the Council driveway being setback a minimum of 0.60m from the edge of the driveway, similar to eastern edge of No 344 Alison Rd.*

**Assessing officer's comments:** The above comments are acknowledged and concurred with. Considering the above, because the approved stamped plans would be those that show the Council

steps removed, (which is also in response to the objection from No.344 Alison Road) the latter condition (amended text) applies should consent be granted.

### 2.3. Landscape and Tree Management comments

The proposal has been referred to Council's Landscape Development Officer for consideration and comment. The following advice has been provided, including conditions that may be included in any development consent issued.

*Inspection was undertaken through google street view on Monday 10<sup>th</sup> February with pictures of all vegetation on D05544181.*

*Within the Alison Road council verge adjacent the western aspect of subject site, semi-mature *Glochidion ferdinandii* (Cheese tree **T2**), 6m high, good health, fair vigour, has been reduction pruned to provide clearance from the site's overhead power line infrastructure, moderate value, in direct conflict with proposed new crossover, to be removed to allow for construction works.*

*Staying within the council's verge, measuring 4 metres east of **T2**, semi-mature *Callistemon viminalis* (Bottlebrush **T3**) 6m high, good health, fair vigour, common native tree species, has been reduction pruned to provide clearance from site's overhead power line infrastructure, moderate value, in direct conflict with proposed new crossover, to be removed to allow for construction works.*

*To the direct east of **T3**, semi-mature *Cupaniopsis anaracioides* (Tuckeroo **T4**) 4 metres high, been planted as part of the neighbouring No. 344 site's more recent works, to be retained and protected.*

*Within the western side aspect of council's verge, adjacent western No.340 property, *Callistemon viminalis* (Bottlebrush **T1**) 4m in height, close conflict with construction of frontage retaining wall refurbishments, to be protected.*

*Moving within the frontage of subject site, a total absence of vegetation was found within the front, moving to rear of property, wholly within the rear of western neighbour's property No.340, semi-mature *Persia americana*, (Avocado **T5**) 7 metres high, good health, fair vigour, has developed a distinct lean to the south, low value species.*

*The above trees eastern aspect RPZ is 35% within the subject site, which is considered major, with measuring of Proposed Site Plan (Dwg DA-001, Issue K dated July 2024) the proposed rear terrace steps would measure 500mm within the outer RPZ which should be clear of its main structural roots, conditions in this report will have area between neighbour's tree, western common boundary fence, western aspect of terrace steps to be undisturbed deep soil, protection fencing must also surround the SRZ area to protect roots.*

*Moving wholly within eastern No.344 property, centrally adjacent subject site rear pool, near common boundary stone wall, semi-mature *Lagerstroemia indica* (Crepe myrtle **T10**) 6 metres high, fair condition, exotic species, not in direct conflict with works, stone wall is retaining all roots within their property.*

*Wholly within the western rear side setback of subject site, two *Syzygium austral* (Bush Cherry **T6 & 7**) 5 metres high, good condition, good vigour, have been planted as part of the site's most recent works, **to be protected.***

*Moving along the rear northern aspect of the property, row of Bambusa sp. (Bamboo T8) provides a well-suited screen between neighbouring residences, this species are exempt species under Randwick Council B5 DCP which can be removed or retained to applicants discretion.*

*Moving to the northeastern rear aspect of the property, Syzgium austral (Bush Cherry T9) 6m in height, in direct conflict with construction zone of nearby pool and associated works, low landscape significance, **to be removed.***

*An assessment against the C1 DCP 2023 controls with a site area of 301 to 450sqm revealed that compliance is achieved with:*

- *Clause 2.5: Site coverage/deep soil (35% achieved, minimum 35% required)*
- *In excess of 25% of front setback area is planted out.*
- *Clause 2.6: Native species. The plant schedule does meet the minimum 60% native species target, to comply with this control;*

**Deficiencies/amendments required to Landscape Plans to achieve compliance:**

*Clause 2.6: Canopy cover. The species selection was calculated not to achieve a minimum of 25% of the site area with 10 years, while there is minimal space within the frontage for a canopy tree, one additional tree will now be added in the rear setback, along the northern boundary, east of bamboo, which will attain a mature height of 5-6 metres, the two existing Syzgium austral (Bush Cherry T6 & 7) which are to be retained, will be calculated as canopy trees to comply with this control.*

## **2.4. Asset Management**

Council's Coordinator Asset Management raises no objection to the proposal, subject to the following recommendations and conditions. Email advice saved in TRIM (D05631617).

*Please find my comments pertaining to proposed works on Council land below:*

1. *Both sets of steps must be a minimum of 1.8m wide with a suitable handrail. There must be a minimum of 1.5m clearway excluding the handrail.*
2. *The retaining walls must be:*
  - a. *Designed and certified by a suitably qualified structural engineer; and*
  - b. *Generally consistent with the materials and aesthetic of the retaining walls along Allison Road, Coogee*
3. *All works that are to be carried out on Council land must be approved through a civil works application close to the completion of construction activities.*

**Assessing Officer's comments:** The above comments are acknowledged and concurred with. It is noted the amended plans were submitted by the applicant following the initial referrals period with the Council step deleted from the design confirming the applicant no longer seeks approval for those steps. above comments are based on the original submitted plans. Due to the nature of the change, it was not considered necessary to re-refer to Asset Management as point 1 of the above recommended conditions specifically relate to the steps, thus are no longer applicable and are removed from the consent conditions. Point 2 and 3 are still imposed should approval be granted. The assessing officer notes the addition of a suitable handrail to the top of the wall should be included to for safety to the adjoining No. 344 and comply with BCA fall prevention requirements.

### Appendix 3: DCP Compliance Table

The relevant provisions of the DCP are addressed below.

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

#### 3.1 Part B2: Heritage

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

#### 3.2 Part B3 – Ecologically Sustainable Development

Council is satisfied that the proposed development meets the relevant ESD requirements in accordance with Part B3 of RDCP 2013, as demonstrated by the submitted BASIX Certificate.

#### 3.3 Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013, subject to specified conditions. Refer to detailed assessment by Council’s Landscape Officer at Referrals section of this report.

#### 3.4 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, subject to specified conditions. Refer to detailed assessment by Council’s Landscape Officer at Referrals section of this report.

#### 3.5 Part B7: Transport, Traffic, Parking and Access

Council is satisfied that the proposed development meets the parking requirements in accordance with Part B7 of RDCP 2013. Refer comments provided by Council’s Development Engineer at Referrals section of this report.

#### 3.6 Part B8: Water Management

Council is satisfied that the proposed development meets the water management requirements in accordance with Part B8 of RDCP 2013. Refer to detailed assessment by Council’s Development Engineer at Referrals section of this report.

#### 3.7 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	<b>Classification</b>	Zoning = R2	
<b>2</b>	<b>Site planning</b>	<b>Site = 347.8m<sup>2</sup></b>	
<b>2.4</b>	<b>Site coverage</b>		
	Up to 300 sqm = 60% <b>301 to 450 sqm = 55%</b> 451 to 600 sqm = 50% 601 sqm or above = 45% *Site area is measured on the overall site area (not proposed allotment areas)  <b>Max. built up area = 191m<sup>2</sup></b>	Existing = 46%  Proposed = 44%	Yes
<b>2.5</b>	<b>Deep soil permeable surfaces</b>		
	Up to 300 sqm = 30% <b>301 to 450 sqm = 35%</b> 451 to 600 sqm = 40% 601 sqm or above = 45%	Existing = 20.3%  Proposed = 24.3%	<b>Pre-existing non-compliance.</b>

DCP Clause	Controls	Proposal	Compliance
	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.  <b>Minimum 121.73m<sup>2</sup> required</b>	Improvement  In excess of 25% of front setback area is planted out.	<b>Overall net improvement can be supported in this case.</b>
<b>2.6</b>	<b>Landscaping and tree canopy cover</b>		
	Minimum 25% canopy coverage Up to 300 sqm = 2 large trees <b>301 to 450 sqm = 3 large trees</b> 451 to 600 sqm = 4 large trees i) Minimum 25% front setback area permeable surfaces ii) 60% native species	Shortfall of required minimum No. of canopy trees (3).  <60% native species proposed.  See Landscape officer comments within Referrals section below.	<b>Subject to Landscape conditions</b>
<b>2.7</b>	<b>Private open space (POS)</b>		
	<b>Dwelling &amp; Semi-Detached POS</b>		
	Up to 300 sqm = 5m x 5m <b>301 to 450 sqm = 6m x 6m</b> 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m	A minimum 6m x 6m of contiguous POS is retained at the rear of the dwelling.	Yes
<b>3</b>	<b>Building envelope</b>		
<b>3.1</b>	<b>Floor space ratio LEP 2012 = 0.75:1</b>	Proposed = 0.68:1	Yes
<b>3.2</b>	<b>Building height</b>		
	<b>Building height LEP 2012 = 9.5m</b>	8.275m*  .*Applicant's building height  (Council measures 8.105m between roof apex RL47.305 to ground level at terrace RL39.00 less 200mm for slab thickness)  Council will proceed with applicant's building height figure.	Yes
	i) Habitable space above 1st floor level must be integrated into roofline ii) Minimum ceiling height = 2.7m iii) Minimum floor height = 3.1m (except above 1st floor level) iv) Maximum 2 storey height at street frontage v) Alternative design which varies 2 storey street presentation may be accepted with regards to: <ul style="list-style-type: none"> <li>- Topography</li> <li>- Site orientation</li> </ul>	Proposed = Min. 2.73m first floor ceiling height  Min 3.025m Ground floor ceilings.  3 storey street presentation, however upper two levels significantly recessed from the street	Yes

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DCP Clause	Controls	Proposal	Compliance																								
	<ul style="list-style-type: none"> <li>- Lot configuration</li> <li>- Flooding</li> <li>- Lot dimensions</li> <li>- Impacts on visual amenity, solar access, privacy and views of adjoining properties.</li> </ul>	<p>boundary thus is adequately articulated because of the natural site conditions.</p> <p>This frontage is consistent with the existing development character of Alison Road where other dwellings to the immediate east also present 3 storeys with similar configuration. (basement / street fronting garage).</p> <p>Also see Garage discussion above under Key Issues.</p>																									
<b>3.3</b>	<b>Setbacks</b>																										
<b>3.3.1</b>	<p><b>Front setbacks</b></p> <p>i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment.</p> <p>ii) Corner allotments: Secondary street frontage:</p> <ul style="list-style-type: none"> <li>- 900mm for allotments with primary frontage width of less than 7m</li> <li>- 1500mm for all other sites</li> <li>- Should align with setbacks of adjoining dwellings</li> </ul> <p>iii) Do not locate swimming pools, above-ground rainwater tanks and outbuildings in front.</p>	<p><u>Ground floor level:</u> Existing dwelling front setback remains unaltered.</p> <p><u>First floor level:</u> Proposed first floor setback = 7.6m (is consistent with the prevailing first floor front setback line thus supported on merit)</p> <p><u>Garage/basement:</u> Nil front setback, consistent with development pattern.</p>	<p><b>Yes.</b></p> <p><b>Proposed garage NIL front setback supported. See discussion above under Key Issues for assessment against objectives.</b></p>																								
<b>3.3.2</b>	<p><b>Side setbacks</b></p> <table border="1" data-bbox="336 1429 895 1693"> <thead> <tr> <th colspan="4" style="background-color: #e0f2f1;">Minimum side setbacks</th> </tr> <tr> <th style="background-color: #e0e0e0;">Existing primary frontage width</th> <th style="background-color: #e0e0e0;">Building heights 0m to 4.5m</th> <th style="background-color: #e0e0e0;">Building heights &gt;4.5m to 7m</th> <th style="background-color: #e0e0e0;">Building heights &gt;7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3" style="text-align: center;"><i>Merit assessment</i></td> </tr> <tr> <td>6m to less than 9m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;"><math>0.9m + (building\ height - 7m)</math></td> </tr> <tr> <td>9m to less than 12m</td> <td style="text-align: center;">0.9m</td> <td style="text-align: center;"><math>0.9m + \frac{building\ height - 4.5m}{4}</math></td> <td style="text-align: center;"><math>1.5m + 2 \times (building\ height - 7m)</math></td> </tr> <tr> <td>12m and above</td> <td style="text-align: center;">1.2m</td> <td style="text-align: center;"><math>1.2m + \frac{building\ height - 4.5m}{4}</math></td> <td style="text-align: center;"><math>1.8m + 2 \times (building\ height - 7m)</math></td> </tr> </tbody> </table> <p>Subject site frontage width = 10.185m</p> <p>Building height = max 8.275m</p> <p><b>Required side setbacks:</b>                      0m to 4.5m = 900mm                      &gt;4.5m to 7m = 1.525m                      &gt;7m = 5.76m</p>	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	<i>Merit assessment</i>			6m to less than 9m	0.9m	0.9m	$0.9m + (building\ height - 7m)$	9m to less than 12m	0.9m	$0.9m + \frac{building\ height - 4.5m}{4}$	$1.5m + 2 \times (building\ height - 7m)$	12m and above	1.2m	$1.2m + \frac{building\ height - 4.5m}{4}$	$1.8m + 2 \times (building\ height - 7m)$	<p><u>Basement Garage:</u> West = 1.5m-1m East = 1.1m (Complies)</p> <p><u>Ground Floor:</u> Existing maintained (compliance satisfied due to pre-existing condition)</p> <p><u>Proposed first floor:</u> West = wall varies from 2.9m to 940mm due to façade articulation and irregular western boundary can be support as no impacts on adjoining property. <b>East = 1.9m to 1.1m</b></p>	<p><b>See Key Issues discussion</b></p>
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
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12m and above	1.2m	$1.2m + \frac{building\ height - 4.5m}{4}$	$1.8m + 2 \times (building\ height - 7m)$																								

DCP Clause	Controls	Proposal	Compliance
		<p>due to articulation (majority of wall does not comply with min. 1.525m)</p> <p>Merit assessment warranted.</p>	
<p><b>3.3.3</b></p>	<p><b>Rear setbacks</b></p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> <li>- Existing predominant rear setback line</li> <li>- Reasonable view sharing (public and private)</li> <li>- Protect the privacy and solar access</li> </ul> <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> <li>- Compatibility</li> <li>- POS dimensions comply</li> <li>- minimise solar access, privacy and view sharing impacts</li> </ul> <p><i>*Definition: predominant rear setback is the average of adjacent dwellings on either side and is determined separately for each storey.</i></p> <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings.</p>	<p>Minimum = 8m</p> <p>Existing = 7.12m (To laundry)</p> <p>Proposed = 9.8m</p>	<p>Yes</p>
<p><b>4</b></p>	<p><b>Building design</b></p>		
<p><b>4.1</b></p>	<p><b>General</b></p>		
	<p>Respond specifically to the site characteristics and the surrounding natural and built context -</p> <ul style="list-style-type: none"> <li>• articulated to enhance streetscape</li> <li>• stepping building on sloping site,</li> <li>• no side elevation greater than 12m</li> <li>• encourage innovative design</li> <li>• balconies appropriately sized</li> <li>• Minimum bedroom sizes: 10sqm master bedroom (3m dimension), 9sqm bedroom (3m dimension).</li> </ul>	<p>The proposal utilises a variety of well-considered materials and textures to break up the bulk of the development.</p> <p>The additions are of a scale that is well integrated into the retained portion of the existing dwelling and compatible with the surrounding natural and built context.</p> <p>Each side elevation incorporates a break at the ground and first floor levels to assist in articulation and a</p>	<p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
		reduction in the apparent scale of the dwelling.  Proposed bedrooms and balcony are appropriately sized.  The proposal satisfies the remainder of these controls.	
<b>4.4</b>	<b>Roof terraces and balconies</b>		
	i) Locate on stepped buildings only (not on uppermost or main roof) ii) Where provided, roof terraces must: <ul style="list-style-type: none"> <li>• Prevent overlooking</li> <li>• Size minimised</li> <li>• Secondary POS – no kitchens, BBQs or the like</li> <li>• Maintain view sharing, minimise structures and roof top elements</li> <li>• Be uncovered and comply with maximum height</li> </ul> iii) Locate above garages on sloping sites (where garage is on low side)  <i>*Note: Existing roof terraces in locality that do not comply with the above controls should not be utilised as precedent in seeking variations to the controls outlined in this section. This is to ensure that the objectives of low density residential development are met.</i>	Existing terrace is utilised above the proposed garage.  Comments	
<b>4.5</b>	<b>Roof design and features</b>		
	<i>Dormers</i> i) Dormer windows do not dominate ii) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. iii) Multiple dormers consistent iv) Suitable for existing <i>Clerestory windows and skylights</i> v) Sympathetic to design of dwelling <i>Mechanical equipment</i> vi) Contained within roof form and not visible from street and surrounding properties.	No dormers are proposed.  Proposed skylights are integrated into the pitched roof form, as such are not visible from the public domain.	Yes
<b>4.6</b>	<b>Colours, Materials and Finishes</b>		
	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	Nominated colours, materials and finishes provided on Architectural plan <b>DA-500</b> are appropriate to the character of the dwelling, provide visual interest and compatible with the	Yes

DCP Clause	Controls	Proposal	Compliance
	natural weathering, ageing and deterioration. vi) Recycle and re-use sandstone	locality and fit for purpose.  The selections satisfy the provisions of these controls.	
<b>4.7</b>	<b>Earthworks</b>		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Subterranean spaces must not be habitable iv) Step retaining walls. v) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. vi) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vii) cut and fill for POS is terraced <i>where site has significant slope:</i> viii) adopt a split-level design ix) Minimise height and extent of any exposed under-croft areas.	Excavation works exceed 1m for the new garage basement and in-ground swimming pool at however is addressed and considered to satisfy the objectives outlined above under 2.2.2. RLEP Clause 6.2(3).  As such, Conditions of consent are included with respect to the excavation of the site to ensure the stability of the subject and adjoining properties.	<b>Subject to conditions</b>
<b>5</b>	<b>Amenity</b>		
<b>5.1</b>	<b>Solar access and overshadowing</b>		
	<b>Solar access to proposed development:</b>		
	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.	Orientation south to north.  The submitted shadow diagrams demonstrate the minimum 3 hours of direct sunlight is provided to north facing windows and POS of subject site in accordance with these controls.	Yes
	<b>Solar access to neighbouring development:</b>		
	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	The submitted shadow diagrams demonstrate the adjoining 344 Alison Rd (east) and 340 Alison Rd (west) are provided with the minimum 3 hours of direct sunlight to north facing windows and adjoining rear POS in accordance with these controls.  No solar panels are affected.	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>neighbouring dwellings.</p> <p>vi) Variations may be acceptable subject to a merits assessment with regard to:</p> <ul style="list-style-type: none"> <li>• Degree of meeting the FSR, height, setbacks and site coverage controls.</li> <li>• Orientation of the subject and adjoining allotments and subdivision pattern of the urban block.</li> <li>• Topography of the subject and adjoining allotments.</li> <li>• Location and level of the windows in question.</li> <li>• Shadows cast by existing buildings on the neighbouring allotments.</li> </ul>	<p>Any additional overshadowing impacts that occur are limited to rooftops, the street and adjoining side facing windows as a result of the upper-level addition. It must be noted any additional shadow to side facing windows is not unexpected and occurs during limited times of the day due to the relative orientation of the allotments.</p> <p>Further, any additional overshadowing to side facing windows is not unreasonable considering the proposal is assessed to satisfy FSR, height, setbacks and site coverage controls in line with the desired future character of the locality permits two storey development.</p>	
<b>5.2</b>	<b>Energy Efficiency and Natural Ventilation</b>		
	<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"> <li>• Skylights (ventilated)</li> <li>• Clerestory windows</li> <li>• Fanlights above doorways</li> <li>• Highlight windows in internal partition walls</li> </ul> <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>	<p>The development application is accompanied by BASIX Certificate <b>A1768950</b> dated 16/10/2024 identifying compliance with thermal and water energy.</p> <p>The location of windows, doors and skylights have been considered as acceptable, addressing the matter of natural light and ventilation.</p>	Yes
<b>5.3</b>	<b>Visual Privacy</b>		
	<b>Windows</b>		
	<p>i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p>	<p>Proposed windows are generally positioned and proportioned appropriately, according to their use.</p>	<b>Yes, subject to amendment conditions.</b>

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- windows are offset or staggered</li> <li>- minimum 1600mm window sills</li> <li>- Install fixed and translucent glazing up to 1600mm minimum.</li> <li>- Install fixed privacy screens to windows.</li> <li>- Creating a recessed courtyard (minimum 3m x 2m).</li> </ul> <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>A condition, however, is included specifying the windows to be modified to comply with the privacy controls where cross viewing and visual privacy impacts are likely.</p>	
	<p><b>Balcony</b></p>		
	<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><u>Rear facing first floor rear balcony:</u> Overlooks the subject rear POS and adjoining western POS and comprises a 1.5m screen to the sides.</p> <p><b>A condition to be imposed ensure privacy screening is of a height that will minimise overlooking and ensure compliance with the numerical control.</b></p> <p><u>Garage roof terrace:</u> Comprises an existing terrace. The proposal maintains the current use, levels and dimensions limited to an upgrade of materials and finishes that provide no additional overlooking impacts.</p> <p><u>Front facing first floor balcony:</u> Is orientated primarily to the street with narrow width the sides.</p> <p>The same balcony is considered to not provide undue privacy impacts as it does not overlook the POS belonging to neighbours.</p>	<p><b>Yes, subject to condition.</b></p>
<p><b>5.4</b></p>	<p><b>Acoustic Privacy</b></p>		
	<p>i) Noise sources not located adjacent to adjoining dwellings bedroom windows</p>	<p>Noise sources including areas for</p>	<p>Yes</p>

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DCP Clause	Controls	Proposal	Compliance
	<p><i>Attached dual occupancies</i></p> <p>ii) Reduce noise transmission between dwellings by:</p> <ul style="list-style-type: none"> <li>- Locate noise-generating areas and quiet areas adjacent to each other.</li> <li>- Locate less sensitive areas adjacent to the party wall to serve as noise buffer.</li> </ul>	<p>gathering and recreation are appropriately located towards the rear away from adjoining bedroom windows.</p>	
<b>5.5</b>	<b>Safety and Security</b>		
	<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>	<p>Existing dwelling entry and side passageway retained.</p> <p>Casual surveillance is satisfactorily provided by the front facing bedroom and rumpus windows.</p> <p>The garage parking facility and new balustrade elements do not obstruct the above.</p>	<p>Yes</p>
<b>5.6</b>	<b>View Sharing</b>		
	<p>i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas.</p> <p>ii) Retaining existing views from the living areas are a priority over low use rooms</p> <p>iii) Retaining views for the public domain takes priority over views for the private properties</p> <p>iv) Fence design and plant selection must minimise obstruction of views</p> <p>v) Adopt a balanced approach to privacy protection and view sharing</p> <p>vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA.</p>	<p>It is noted an objection has been received with concerns raised in relation to view loss as a result of the proposed subject upper-level addition.</p> <p>As such, an assessment of potential view loss impacts to the east adjoining No. 344 is warranted, and provided above.</p>	<p><b>See Key Issues</b></p>
<b>6</b>	<b>Car Parking and Access</b>		
<b>6.1</b>	<b>Location of Parking Facilities:</b>		
	<b>All dwellings</b>		
	<p>i) Maximum 1 vehicular access</p> <p>ii) Locate off rear lanes, or secondary street frontages where available.</p> <p>iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling.</p> <p>iv) Single width garage/carport if frontage &lt;12m; Double width if:</p> <ul style="list-style-type: none"> <li>- Frontage &gt;12m; and</li> <li>- Consistent with pattern in the street; and</li> <li>- Landscaping provided in the front yard.</li> </ul> <p>v) Tandem parking may be considered</p> <p>vi) Avoid long driveways (impermeable</p>	<p>1 vehicular access point is proposed.</p> <p>The proposed double width garage is consistent with the Alison Rd Street development pattern and as such, the variation to control 'iv' is supported in this case.</p>	<p>Yes</p>

DCP Clause	Controls	Proposal	Compliance
	surfaces)		
<b>6.2</b>	<b>Parking Facilities forward of front façade alignment</b>		
	i) The following may be considered: <ul style="list-style-type: none"> <li>- An uncovered single car space</li> <li>- A single carport (max. external width of not more than 3m and</li> <li>- Landscaping incorporated in site frontage</li> </ul> ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: <ul style="list-style-type: none"> <li>- There is no alternative, feasible location for accommodating car parking;</li> <li>- Significant slope down to street level</li> <li>- does not adversely affect the visual amenity of the street and the surrounding areas;</li> <li>- does not pose risk to pedestrian safety and</li> <li>- does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)</li> <li>- Compliments architectural character of dwelling i.e. roof pitch and finishes.</li> </ul>	Provision for a basement garage level to the front of the dwelling is proposed under this application.  Consent for a garage facility in this location has previously been granted under DA/539/2017.  The front remains the only feasible position to accommodate car parking.  The removal and reconfiguration of the heritage sandstone block embankment fronting Alison Rd has been reviewed by relevant Council officers with comments and conditions imposed accordingly. See referrals section below.	<b>See Key Issues discussion</b>
<b>6.3</b>	<b>Setbacks of Parking Facilities</b>		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: <ul style="list-style-type: none"> <li>- Nil side setback on adjoining property;</li> <li>- Streetscape compatibility;</li> <li>- Safe for drivers and pedestrians;</li> <li>- Amalgamated driveway crossing.</li> </ul>	The proposed garage setbacks comply with Section 3.3 setback controls.  The garage parking facility demonstrates compatibility with the prevailing streetscape comprising basement garage frontages.	Yes
<b>6.4</b>	<b>Driveway Configuration</b>		
	Maximum driveway width: <ul style="list-style-type: none"> <li>- Single driveway – 3m</li> <li>- Double driveway – 5m</li> </ul> Must taper driveway width at street boundary and at property boundary	Double driveway >5m	<b>Subject to condition</b>
<b>6.5</b>	<b>Garage Configuration</b>		
	i) Recessed behind front of dwelling ii) Maximum garage width (door and piers or columns): <ul style="list-style-type: none"> <li>- Single garage – 3m</li> <li>- Double garage – 6m</li> </ul> iii) Min. 5.4m length of garage iv) Max. 2.6m wall height and 3m building	The garage is located to the front of the dwelling  The dimensions of the garage satisfy the applicable DCP	Yes

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DCP Clause	Controls	Proposal	Compliance
	height (for pitched roof) for detached garages v) Recess garage door 200mm to 300mm behind walls (articulation) vi) 600mm max. parapet wall or bulkhead vii) Minimum clearance 2.2m (AS2890.1)	controls.  Minor variations to the front wall and parapet height are proposed however these numerical controls cannot strictly be applied in this case as due to the constraints and stepped nature of site together with the integration of pre-existing levels.  The proposal demonstrates compatibility and consistency with adjoining garage frontages, and maintains the existing terrace roof level (i.e. height presentation) to Alison Rd, as such these minor variations can be supported.	
<b>7</b>	<b>Fencing and Ancillary Development</b>		
<b>7.1</b>	<b>General - Fencing</b>		
	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 proposed front fencing utilises durable materials in accordance with these controls.	Yes
<b>7.2</b>	<b>Front Fencing</b>		
	i) 1200mm max. (solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) Light weight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are	No additional front fencing along Alison Road proposed.  The garage terrace will comprise new metal balustrade components with an open design replacing the existing timber picket balustrade and to 1.2m in compliance with BCA fall prevention standards.	Yes

DCP Clause	Controls	Proposal	Compliance
	<p>preferred. Cast or wrought iron pickets may be used if compatible</p> <ul style="list-style-type: none"> <li>vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes.</li> <li>vii) Gates must not open over public land.</li> <li>viii) The fence must align with the front property boundary or the predominant fence setback line along the street.</li> <li>ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.</li> </ul>		
<b>7.3</b>	<b>Side and rear fencing</b>		
	<ul style="list-style-type: none"> <li>i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m).</li> <li>ii) Fence may exceed max. if level difference between sites</li> <li>iii) Taper down to front fence height once past the front façade alignment.</li> <li>iv) Both sides treated and finished.</li> </ul>	<p>No changes to side and rear fencing arrangement.</p> <p>The section of rear boundary fence to achieve pool compliance does not exceed 1.8m height.</p>	Yes
<b>7.4</b>	<b>Outbuildings</b>		
	<ul style="list-style-type: none"> <li>i) Locate behind the front building line.</li> <li>ii) Locate to optimise backyard space and not over required permeable areas.</li> <li>iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height)</li> <li>iv) Nil side and rear setbacks where:                             <ul style="list-style-type: none"> <li>- Finished external walls (not requiring maintenance;</li> <li>- No openings facing neighbours lots; and</li> <li>- Maintain adequate solar access to the neighbours dwelling</li> </ul> </li> <li>v) For secondary street frontages a nil setback is only permitted if it adjoins a building constructed on the boundary. For detached garages at rear, first floor addition to existing may be considered subject to:                             <ul style="list-style-type: none"> <li>- Containing it within the roof form (attic)</li> <li>- Articulating the facades;</li> <li>- Using screen planting to visually soften the outbuilding;</li> <li>- Not being obtrusive when viewed from the adjoining properties;</li> <li>- Maintaining adequate solar access to the adjoining dwellings; and</li> <li>- Maintaining adequate privacy to the adjoining dwellings.</li> </ul> </li> <li>vi) Must not be used as a separate business premises.</li> </ul>	<p>Limited to an acoustically treated enclosure housing pool equipment that is located within the rear yard and is ancillary to the main dwelling.</p>	Yes
<b>7.5</b>	<b>Swimming pools and Spas</b>		
	<ul style="list-style-type: none"> <li>i) Locate behind the front building line</li> <li>ii) Minimise damage to existing tree root systems on subject and adjoining sites.</li> <li>iii) Locate to minimise noise impacts on the</li> </ul>	<p>The proposed in-ground pool is located at the rear of the property and</p>	Yes

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DCP Clause	Controls	Proposal	Compliance
	<p>adjoining dwellings.</p> <ul style="list-style-type: none"> <li>i) Pool and coping level related to site topography (max 1m over lower side of site).</li> <li>ii) Where pool coping height is above natural ground level, pool to be located to avoid pool boundary fencing exceeding 2.2m from existing ground level from adjoining properties.</li> <li>iii) Where above natural ground and has potential to create privacy impacts, appropriate screening or planting along full length of pool to be provided. Planting to comply with legislation for non-climbable zones.</li> <li>iv) Incorporate screening or planting for privacy as above, unless need to retain view corridors.</li> <li>v) Position decking to minimise privacy impacts.</li> <li>vi) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.</li> </ul>	<p>sufficiently distanced from adjoining dwellings.</p> <p>The pool works are assessed and determined by Council's Landscape Officer to not be in direct conflict with the adjoining tree (T10). (See referrals section)</p> <p>Proposed pool and coping levels are generally related to existing site levels.</p> <p>The landscape works plan (L-06) demonstrates screen planting and augmentation along the rear fence and within the side setbacks to ensure any privacy impacts between neighbours are adequately minimised.</p> <p>No decking is proposed in addition to the pool coping. Turf levels are generally maintained.</p> <p>Pool equipment is appropriately housed within an acoustic enclosure to rear of property replacing the current rear shed and with smaller footprint</p>	
<b>7.6</b>	<b>Air conditioning equipment</b>		
	<ul style="list-style-type: none"> <li>i) Minimise visibility from street.</li> <li>ii) Avoid locating on the street or laneway elevation of buildings.</li> <li>iii) Screen roof mounted A/C from view by parapet walls, or within the roof form.</li> <li>iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.</li> </ul>	Not proposed.	N/A
<b>7.7</b>	<b>Communications Dishes and Aerial Antennae</b>		
	<ul style="list-style-type: none"> <li>i) Max. 1 communications dish and 1 antenna per dwelling.</li> <li>ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be:</li> </ul>	Not proposed.	N/A

DCP Clause	Controls	Proposal	Compliance
	<ul style="list-style-type: none"> <li>- Located behind the front and below roof ridge;</li> <li>- Minimum 900mm side and rear setback and</li> <li>- Avoid loss of views or outlook amenity</li> </ul> iii) Max. 2.7m high freestanding dishes (existing).		
<b>7.8</b>	<b>Clothes Drying Facilities</b>		
	i) Located behind the front alignment and not be prominently visible from the street	Sufficient area to the rear of the dwelling is retained for clothes drying.	Yes
<b>7.9</b>	<b>Utility Connections</b>		
	If power pole is within 15m of site (on same side of street), applicant must meet full cost for Ausgrid to relocate.	Condition imposed to ensure these works are done in accordance with requirement of this control and applicable referral bodies.	<b>Subject to conditions</b>

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**Responsible officer:** Jose Serrao, Environmental Planning Officer

**File Reference:** DA/1191/2024

## Development Consent Conditions



<b>Folder /DA No:</b>	DA/1191/2024
<b>Property:</b>	342 Alison Road, COOGEE NSW 2034
<b>Proposal:</b>	Alterations and additions to an existing dwelling house including construction of a basement garage with outdoor terrace above and a first floor addition, changes to ground floor layout, installation of swimming pool at the rear, ancillary and landscaping works.
<b>Recommendation:</b>	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:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
DA-001 Issue M – Proposed Site Plan	Urban Moose Design	28/03/2025	07/05/2025
DA-100 Issue M – Proposed Garage Plan	Urban Moose Design	28/03/2025	07/05/2025
DA-101 Issue M – Proposed Ground Floor Plan	Urban Moose Design	28/03/2025	07/05/2025
DA-102 Issue M – Proposed First Floor Plan	Urban Moose Design	28/03/2025	07/05/2025
DA-110 Issue M – Proposed Roof Plan	Urban Moose Design	28/03/2025	07/05/2025
DA-200 Issue M – Proposed Elevations 1	Urban Moose Design	28/03/2025	07/05/2025
DA-201 Issue M – Proposed Elevations 2	Urban Moose Design	28/03/2025	07/05/2025
DA-300 Issue M – Proposed Section AA	Urban Moose Design	28/03/2025	07/05/2025
DA-301 Issue M – Proposed Section BB	Urban Moose Design	28/03/2025	07/05/2025

<b>BASIX Certificate No.</b>	<b>Dated</b>	<b>Received by Council</b>
A1768950	16/10/2024	16/12/2024

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.

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Condition

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2. **Amendment of Plans & Documentation**

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

a. The following window/s must have a minimum sill height of 1.6m above floor level, or alternatively, the window/s are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:

- **WF02** and **WF04** – east facing Bed 1 windows
- **WF08** – east facing Bed 2 window
- **WF11** – west facing Bed 3 window
- **WF13** – west facing Bed 1 window
- **WG10** – west facing Meals window
- **WG12** – west facing Rumpus window

b. The privacy screens positioned on the east and west edges of the proposed first floor balcony outside Beds 2 and 3 are to have height no lower than 1600mm (measured above the balcony floor level). Dimensions to confirm the nominated height must be shown on the amended plans.

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.

c. The driveway access width is to be a maximum 5m to ensure compliance with DCP Clause 6.4 – Driveway Configuration. Dimensions to confirm the nominated driveway width must be shown on the amended plans.

The above amendments must be reflected in the construction plans and any documentation submitted as part of any construction certificate.

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

3. **Heritage Conservation**

- i. The slope of the existing retaining wall is not to be modified by levelling off the top. The sloping line of existing castellated stone capping is to be retained and continued along the curved return walls.
- ii. Existing sandstone blocks are to be reused for any reconstructed sections of the existing sandstone retaining wall adjacent to the new crossover. Any reconstructed sections of the existing sandstone retaining wall are to match the adjacent original wall as closely as possible in terms size, texture, bond pattern and alignment of blocks, mortar joint colour, and detail of castellated capping.
- iii. Existing sandstone blocks from the section of the retaining wall which is to be removed are to be reused in the construction of the return walls to either side of the new crossover and the edges to the new pedestrian stairs.

Condition	
iv.	Demolition of the existing sandstone retaining wall is to be carefully carried out to minimise any damage to original sandstone blocks and to facilitate their reuse. Existing sandstone blocks are to be placed on pallets and can be transported to Council's Depot for temporary storage prior to reconstruction works.
v.	Unpainted sandstone surfaces are to remain unpainted, and no applied finishes are to be used.

Condition Reason: To ensure the heritage and contributory significance of the development is maintained.

4. **Asset Management Requirements**

- a) The retaining walls must be:
- Designed and certified by a suitably qualified structural engineer; and
  - Generally consistent with the materials and aesthetic of the retaining walls along Allison Road, Coogee
- b) All works that are to be carried out on Council land must be approved through a civil works application close to the completion of construction activities

Condition Reason: To ensure Council and public infrastructure assets affected by the development are satisfactorily delivered and maintained to Council requirements.

5. **Ausgrid Requirements**

Ausgrid has no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Ausgrid's Network Standards can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au)

Should you have any enquiries, please contact Ausgrid at [Development@ausgrid.com.au](mailto:Development@ausgrid.com.au)

Condition Reason: To ensure compliance with the requirements of referral bodies.

## BUILDING WORK

### BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
6.	<p><b>Consent Requirements</b></p> <p>The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.</p> <p>Condition Reason: To ensure any requirements or amendments are included in the Construction Certificate documentation.</p>
7.	<p><b>Heritage – Heritage Item (No. L37) Stone capping conservation</b></p>

Condition
<p>The castellated stone capping to the top of the existing retaining wall is to be retained and is to continue along the curved return walls. Amended drawings indicating the retention of the castellated stone capping on the street elevation and proposed garage floor plan are to be submitted and approved, prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure the heritage significance of the development is maintained.</p>
<p>8. <b>Section 7.12 Development Contributions</b> In accordance with Council's City Development Contributions Plan 2024, effective from 31 July 2024, based on the development cost of \$1,205,485.00 the following applicable monetary levy must be paid to Council: 12,054.85.</p> <p>The levy must be paid in <b>cash, bank cheque</b> or by <b>credit card</b> 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 <b>9093 6000</b> or <b>1300 722 542</b> for the indexed contribution amount prior to payment.</p> <p>To calculate the indexed levy, the following formula must be used:</p> <p style="text-align: center;"><b>IDC = ODC x CP2/CP1</b></p> <p>Where:  <b>IDC</b> = the indexed development cost  <b>ODC</b> = the original development cost determined by the Council  <b>CP2</b> = 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  <b>CP1</b> = 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 <a href="http://www.randwick.nsw.gov.au">www.randwick.nsw.gov.au</a>.</p> <p>Condition Reason: To ensure relevant contributions are paid.</p>
<p>9. <b>Long Service Levy Payments</b> 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>
<p>10. <b>Security Deposits</b> The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A (6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p>

Condition	
	<ul style="list-style-type: none"> <li>• <b>\$5000.00</b> - Damage / Civil Works Security Deposit</li> </ul> <p>The damage/civil works security deposit may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</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>
11.	<p><b>Sydney Water</b></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"> <li>• Building plan approvals</li> <li>• Connection and disconnection approvals</li> <li>• Diagrams</li> <li>• Trade waste approvals</li> <li>• Pressure information</li> <li>• Water meter installations</li> <li>• Pressure boosting and pump approvals</li> <li>• Change to an existing service or asset, e.g. relocating or moving an asset.</li> </ul> <p>Sydney Water's Tap in™ online service is available at: <a href="https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm">https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm</a></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>
12.	<p><b>Building Code of Australia</b></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.									
13.	<p><b>Structural Adequacy</b> Certificate of Adequacy supplied by a professional engineer shall be submitted to the Certifier (and the Council, if the Council is not the Certifier), certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition, garage structure works.</p> <p>Condition Reason: To ensure the structural integrity of the building is maintained.</p>									
14.	<p><b>Design Alignment Levels</b> The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be as follows:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>Garage Door Opening Eastern Edge</td> <td>-</td> <td>RL 35.55m AHD</td> </tr> <tr> <td>Garage Door Opening Western Edge</td> <td>-</td> <td>RL 35.35m AHD</td> </tr> <tr> <td>Pedestrian Entrance Western Boundary</td> <td>-</td> <td>RL 35.75m AHD</td> </tr> </table> <p style="text-align: center;"><i>Refer to Survey Plan by Sydney Surveyors dated 25.04.2023 for Reference Mark / Benchmark</i></p> <p>The design alignment levels at the property boundary as issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Condition Reason: To ensure all relevant approvals for traffic and parking works are obtained and designed in accordance with Council requirements.</p>	Garage Door Opening Eastern Edge	-	RL 35.55m AHD	Garage Door Opening Western Edge	-	RL 35.35m AHD	Pedestrian Entrance Western Boundary	-	RL 35.75m AHD
Garage Door Opening Eastern Edge	-	RL 35.55m AHD								
Garage Door Opening Western Edge	-	RL 35.35m AHD								
Pedestrian Entrance Western Boundary	-	RL 35.75m AHD								
15.	<p><b>Design Alignment Levels</b> The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of <b>\$191</b>. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements, to Council standard, and to ensure payment of fees to Council.</p>									
16.	<p><b>Internal Garage Slab Design</b> The gradient of the internal garage slab must be designed and constructed in accordance with AS 2890.1 (2004) – Off Streetcar Parking and the levels of the garage slab must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate documentation.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>									
17.	<p><b>Council Retaining Wall (Eastern End Garage Opening)</b> Prior to issuing of a Construction Certificate the plans are to be amended to show the reconstructed Council retaining wall along the eastern edge of the Council driveway being setback a minimum of 0.60m from the edge of the driveway, similar to eastern edge of No 344 Alison Rd.</p>									

	Condition
	Condition Reason: To satisfy Council engineering requirements and meet necessary certification requirements.
18.	<p><b>BASIX Requirements</b></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>
19.	<p><b>Stormwater Drainage</b></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>Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.</p> <p>Condition Reason: To control and manage stormwater run-off.</p>
20.	<p><b>Excavation Earthworks and Support of Adjoining Land</b></p> <p>Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
21.	<p><b>Excavation, Earthworks and Support of Adjoining Land</b></p> <p>A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier:</p> <ul style="list-style-type: none"> <li>• when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land;</li> <li>• 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);</li> <li>• when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and</li> <li>• as otherwise may be required by the Certifier for the development.</li> </ul> <p>The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in</p>

Condition
<p>accordance with the abovementioned report, to the satisfaction of the Principal Certifier.</p> <p>Condition Reason: To ensure adjoining land is adequately supported.</p>
<p>22. <b>Building Code of Australia – Swimming Pools</b> Swimming Pools and Spa Pools are to be designed and installed in accordance with the requirements of the <i>Building Code of Australia</i> and be provided with a child-resistant barrier in accordance with the <i>Swimming Pools Act 1992</i>; the <i>Swimming Pools Regulation 2018</i> and Australian Standard AS 1926.1 (2012) (Swimming Pool Safety Part 1 - Safety Barriers for Swimming Pools.</p> <p>Details of compliance are to be provided in the Construction Certificate.</p> <p>Temporary pool safety fencing is also required to be provided to swimming pools pending the completion of all building work and swimming pools must not be filled until a fencing inspection has been carried out and approved by the Principal Certifier.</p> <p><i>Note: This development consent does not approve the design and location of swimming/spa pool safety barriers. Swimming/spa pool safety barriers are required to comply with the Swimming Pools Act 1992, Swimming Pools Regulation 2018 and relevant Standards. Details of compliance are required to be included in the Construction Certificate, to the satisfaction of the appointed Certifier for the development.</i></p> <p>Condition Reason: To ensure compliance with relevant legislation and standards, and ensure the safety of the pool/spa area.</p>
<p>23. <b>Swimming Pool Safety</b> Swimming pools are to be designed, installed and operated in accordance with the following general requirements:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Water recirculation and filtrations systems are required to comply with AS 1926.3 (2010) Swimming Pool Safety – Water Recirculation and Filtration Systems.</li> <li>• 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.</li> </ul> <p>Condition Reason: To minimise the impact of the pool on adjoining properties and to ensure the safety of the pool/spa area.</p>
<p>24. <b>Amended Landscape Plan</b> The Landscape Plans by Jaimie Durie Design Issue C dated 21/10/2024, must be amended to now include the following requirements:</p> <p>a) A Clause 2.6: Canopy cover. The species selection was calculated not to achieve a minimum of 25% of the site area with 10 years, while there is minimal space within frontage for a canopy tree, <b>one additional tree must now be added within rear setback, along northeastern boundary, east of existing bamboo screening, west of pool equipment enclosure</b>, this species must attain a mature height of 5-6</p>

	Condition
	metres.  <i>The two existing Syzygium austral (Bush Cherry T6 &amp; 7) which are to be retained, will be calculated as canopy trees to comply with DCP controls.</i>
	Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.
25.	<b>Amended Landscape Plan</b> A revised scheme complying with the requirements specified above must then be submitted to, and be approved by, the Principal Certifier, prior to any Construction Certificate.  Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.
26.	<b>Protection of trees within property</b> To ensure retention of semi-mature <i>Persia americana</i> , (Avocado T5) 7 metres high, good health, wholly within westerns neighbour's property No.340, the following measures are to be undertaken: <ul style="list-style-type: none"> <li>a) All documentation submitted for the Construction Certificate application must show its retention, with the position and diameter of its trunk, canopy SRZ, TPZ to be clearly and accurately shown on all plans in relation to the proposed works.</li> <li>b) All Construction Certificate plans must show the trees eastern aspect RPZ, which is 35% within the subject site, (<b>considered major</b>) while measuring of Proposed Site Plan (Dwg DA-001, Issue K dated July 2024) the proposed rear terrace steps would measure 500mm within the outer RPZ, which should clear its main structural root system, area between neighbouring T5 and western common boundary fence and western aspect of terrace steps, must be landscaped and retained as undisturbed deep soil.</li> <li>c) Where there is a difference in level between this site and adjoining property, and soil level where the tree is growing is higher than the subject site, if soil profile is to be exposed for any period of time, temporary shoring must be provided along the common boundary so as to prevent failure of the soil and trees, with a suitable system to be approved by the PCA, prior to installation.</li> <li>d) This tree must be physically protected by installing a evenly spaced star pickets at a setback of 2000 mm of common boundary fence, adjacent the tree, matching up with the boundary fence, to which, safety para-webbing shall then be permanently attached to the fence with a 2 metre radius to completely enclose the SRZ for the duration of works, this then must remain in place for the duration of works, until such time as approved landscaping is being installed.</li> <li>e) 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: "<b>TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER</b>".</li> <li>f) Where major roots with a diameter of 50mm or more are encountered and Council's officer determines they must be retained, a cantilevered,</li> </ul>

Condition
<p>pier and beam style footing must be used for these areas.</p> <p>g) The Construction Certificate plans must acknowledge that the site inspection may result in the need to alter the design away from a traditional strip footing, with a suitably qualified engineer to have an alternative design approved by the Principal Certifier, prior to installing the footings.</p> <p>h) Where roots with a diameter of less than 50mm are found which are in direct conflict with the approved works, and permission is given for their pruning, they may be cut cleanly using hand-held tools only, with the affected area to then be backfilled with clean site soil as soon as practically possible.</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) Ground levels within the TPZ's 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>k) Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements.</p> <p>l) The Principal Certifier/and Project Arborist 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: Protection of existing environment public infrastructure, community assets and significant trees.

**BEFORE BUILDING WORK COMMENCES**

Condition
<p>27. <b>Building Certification &amp; Associated Requirements</b> The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <p>a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.</p> <p>b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and</p>

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

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

28. **Home Building Act 1989**

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

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

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

29. **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:

- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other structure located upon an adjoining premises;
- demolition or construction of new dwellings; additions to dwellings or outbuildings, which are sited up to or less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited less than 900mm from the site boundary);
- excavations for new dwellings, additions to dwellings, swimming pools or other substantial structures which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises; and
- as may be required by the Principal Certifier for the development.

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

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

Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is

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	<p>completed and ensure neighbours and council are provided with the dilapidation report.</p>
30.	<p><b>Construction Site Management Plan</b> 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"> <li>• location and construction of protective site fencing and hoardings</li> <li>• location of site storage areas, sheds, plant &amp; equipment</li> <li>• location of building materials and stock-piles</li> <li>• tree protective measures</li> <li>• dust control measures</li> <li>• details of sediment and erosion control measures</li> <li>• site access location and construction</li> <li>• methods of disposal of demolition materials</li> <li>• location and size of waste containers/bulk bins</li> <li>• provisions for temporary stormwater drainage</li> <li>• construction noise and vibration management</li> <li>• construction traffic management details</li> <li>• provisions for temporary sanitary facilities</li> <li>• measures to be implemented to ensure public health and safety.</li> </ul> <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
31.	<p><b>Construction Noise &amp; Vibration Management Plan</b> 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 &amp; Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
32.	<p><b>Public Utilities</b> 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>
33.	<p><b>Public Utilities</b></p>

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	<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 power pole in Alison Road and the development site shall remain connected to the façade of the dwelling <u>or</u> be relocated to an underground (UGOH) connection. <u>No Permanent Private Poles are to be installed.</u> 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>
34.	<p><b>Sandstone Retaining Wall (Reuse/Storage)</b></p> <p>As the applicant is to reuse the existing Council sandstone for the reconfigured retaining walls adjacent to the Council driveway, the applicant is to ensure safe storage of the blocks and use caution in dismantling the existing retaining wall to ensure the reuse of all blocks.</p> <p>Condition Reason: To ensure safe work methodology and appropriate handling and protection of valued building materials are adhered to.</p>

#### DURING BUILDING WORK

Condition	
35.	<p><b>Site Signage</b></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"> <li>showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>stating that unauthorised entry to the work site is prohibited.</li> </ol> <p>The sign must be—</p> <ol style="list-style-type: none"> <li>maintained while the building work is being carried out, and</li> <li>removed when the work has been completed.</li> </ol> <p>This section does not apply in relation to—</p> <ol style="list-style-type: none"> <li>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</li> <li>Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</li> </ol> <p>Condition Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
36.	<p><b>Restriction on Working Hours</b></p> <p>Building, demolition and associated site works must be carried out in accordance with the following requirements:</p>

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

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

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

37.

**Public Safety & Site Management**

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

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

	Condition
	<p>poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p>Site access gates and doors must open into the construction site/premises and must not open out into the road or footway at any time.</p> <p><i>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or articles or, operate a crane, hoist or concrete pump on or over Council land, a Local Approval application must be submitted to and approved by Council beforehand.</i></p>
	<p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA guidelines.</p> <p>j) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>k) Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6000 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>
38.	<p><b>Building Encroachments</b></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>
39.	<p><b>Tree Management</b></p> <p>Approval is granted for the removal of the following trees;</p> <p>a) Semi-mature <i>Glochidion ferdinandii</i> (Cheese tree <b>T2</b>) good health, within Alison Road council verge, adjacent western aspect of subject site, and semi-mature <i>Callistemon viminalis</i> (Bottlebrush <b>T3</b>) measuring 4 metres east of <b>T2</b>, in good health, both in direct conflict with proposed new crossover, to be removed to allow for construction works.</p> <p>b) Northeastern rear aspect of the property, <i>Syzygium austral</i> (Bush Cherry <b>T9</b>) 6m in height, in direct conflict with construction zone of nearby pool and associated works, low landscape significance, <b>to be removed.</b></p> <p>Condition Reason: To ensure that vegetation has been assessed against Council's environmental and biodiversity controls.</p>

Condition	
40.	<p><b>Road / Asset Opening Permit</b> 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 &amp; footpath assets and ensure public safety.</p>
41.	<p><b>Ausgrid Power Pole Feed Connection</b> 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> <p>a) From the power pole directly to the façade of the dwelling, similar to the existing connection, to the satisfaction of Ausgrid</p> <p>OR</p> <p>b) Relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground (UGOH) connection (<u>No Private Pole is to be provided</u>). These works are to be to Ausgrid requirements.</p> <p>Note: A Private Power Pole at the front of the site is not permitted. The applicant is to liaise with an Ausgrid Accredited Service Provider to carry out the works as mentioned above at their own expense to the satisfaction of Ausgrid and the Principal Certifier.</p> <p>Condition Reason: To ensure correct installation and connection processes of essential services are followed in accordance with applicable service authority's requirements.</p>

**BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Condition	
42.	<p><b>Occupation Certificate Requirements</b> 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>
43.	<p><b>BASIX Requirements</b> 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</p>

	Condition
	<p>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>
44.	<p><b>Council's Infrastructure, Vehicular Crossings and Street Verge</b> The applicant must meet the full cost for a Council approved contractor to:</p> <ol style="list-style-type: none"> <li>Construct a concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site to Council's specifications and requirements.</li> <li>Reconstruct Council's footpath/steps to Council's specifications and requirements</li> <li>Reconstruct the existing sandstone retaining wall to Council's specifications and requirements. The existing sandstone is to be used in reconstructing the walls. <u>The design and finish of the sandstone retaining walls are to be confirmed by Council's Heritage Planners.</u></li> <li>Install a handrail/guard rail above the eastern sandstone retaining wall, if required by Council.</li> </ol> <p>Reconstruct the Council kerb and gutter and footpath adjacent to the kerb, along the site frontage as required, to meet Council approved driveway design</p> <p>Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
45.	<p><b>Council's Infrastructure, Vehicular Crossings and Street Verge</b> 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 &amp; 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 are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
46.	<p><b>Council's Infrastructure, Vehicular Crossings and Street Verge</b> 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"> <li>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.</li> <li>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</li> </ol>

Condition
<p>out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.</p> <p>c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.</p> <p>Condition Reason: To ensure works are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
<p>47. <b>Undergrounding of Power from Ausgrid Power Pole</b>  <u>Prior to the issuing of an Occupation Certificate</u> the Principal Certifier shall ensure that all power supply to the development site has been complied with either of the following methods:</p> <p>a) From the power pole directly to the façade of the dwelling, similar to the existing connection, to the satisfaction of Ausgrid</p> <p style="text-align: center;">OR</p> <p>b) Relocate the existing overhead power feed from the distribution pole in the street to the development site via an underground (UGOH) connection (<u>No Private Pole is to be provided</u>). These works are to be to Ausgrid requirements.</p> <p>Note: All works as mentioned above are to be to the satisfaction of Ausgrid and the Principal Certifier. 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.</p> <p>Condition Reason: To verify the works are compliant and completed in accordance with the requirements of the applicable services authority.</p>
<p>48. <b>Swimming Pool Safety</b>  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>
<p>49. <b>Swimming Pool Safety</b>  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>
<p>50. <b>Swimming Pool Safety</b>  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 <a href="http://www.swimmingpoolregister.nsw.gov.au">www.swimmingpoolregister.nsw.gov.au</a>.</p>

Condition	
	<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>
51.	<p><b>Landscape Certification</b></p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the <b>AMENDED</b> Landscape Plan Jaimie Durie Design Issue C dated 21/10/2024, and any relevant conditions of consent.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>
52.	<p><b>Landscape Certification</b></p> <p>Suitable strategies shall then be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.</p> <p>Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.</p>

#### OCCUPATION AND ONGOING USE

Condition	
53.	<p><b>Use of Premises</b></p> <p>The premises must only be used as a single residential dwelling and must not be used for dual or multi-occupancy purposes.</p> <p>Condition Reason: To ensure the development is used for its intended purpose.</p>
54.	<p><b>External Lighting</b></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>
55.	<p><b>Plant &amp; Equipment</b></p> <p>Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>Condition Reason: To protect the amenity of the surrounding area and residents.</p>

#### DEMOLITION WORK

##### BEFORE DEMOLITION WORK COMMENCES

Condition	
56.	<p><b>Demolition Work Plan</b></p> <p>A demolition work plan must be developed and be implemented for any demolition</p>

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

#### DURING DEMOLITION WORK

Condition
57. <b>Demolition Work</b> Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.  Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements: <ul style="list-style-type: none"><li>• A licence must be obtained from SafeWork NSW for the removal of friable asbestos and or more than 10m<sup>2</sup> of bonded asbestos (i.e. fibro),</li><li>• Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 and relevant Regulations</li><li>• A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress",</li><li>• Council is to be given at least two days written notice of demolition works involving materials containing asbestos,</li><li>• Copies of waste disposal details and receipts are to be maintained and made available to the Principal Certifier and Council upon request,</li><li>• 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.</li></ul> Details of compliance with these requirements must be provided to the Principal Certifier and Council upon request.  Condition Reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.