

Randwick Local Planning Panel (Electronic) Meeting

Thursday 9 March 2023



RANDWICK LOCAL PLANNING PANEL (ELECTRONIC)

Notice is hereby given that a Randwick Local Planning Panel (Electronic) meeting will be held in the Coogee Room on Thursday, 9 March 2023

Declarations of Pecuniary and Non-Pecuniary Interests

Development Application Reports

D14/23	3 Milford Street, Randwick (DA/438/2022)	1
D15/23	8/1 Dove Lane, Randwick (DA/285/2022)	33
D16/23	7/274 Arden Street, Coogee (DA/628/2022)	71
D17/23	85 Darley Road, Randwick (DA/563/2022)	111
D18/23	88 Middle Street Kingsford (DA/473/2022).....	147

Kerry Kyriacou
ACTING GENERAL MANAGER

Development Application Report No. D14/23

Subject: 3 Milford Street, Randwick (DA/438/2022)


Executive Summary

Proposal:	Conversion and use of the existing subfloor area as an additional living space for the existing dwelling
Ward:	East Ward
Applicant:	A Freeman
Owner:	A Freeman
Cost of works:	\$48,000
Reason for referral:	The application contravenes the Floor Space Ratio development standard by >10%

Recommendation

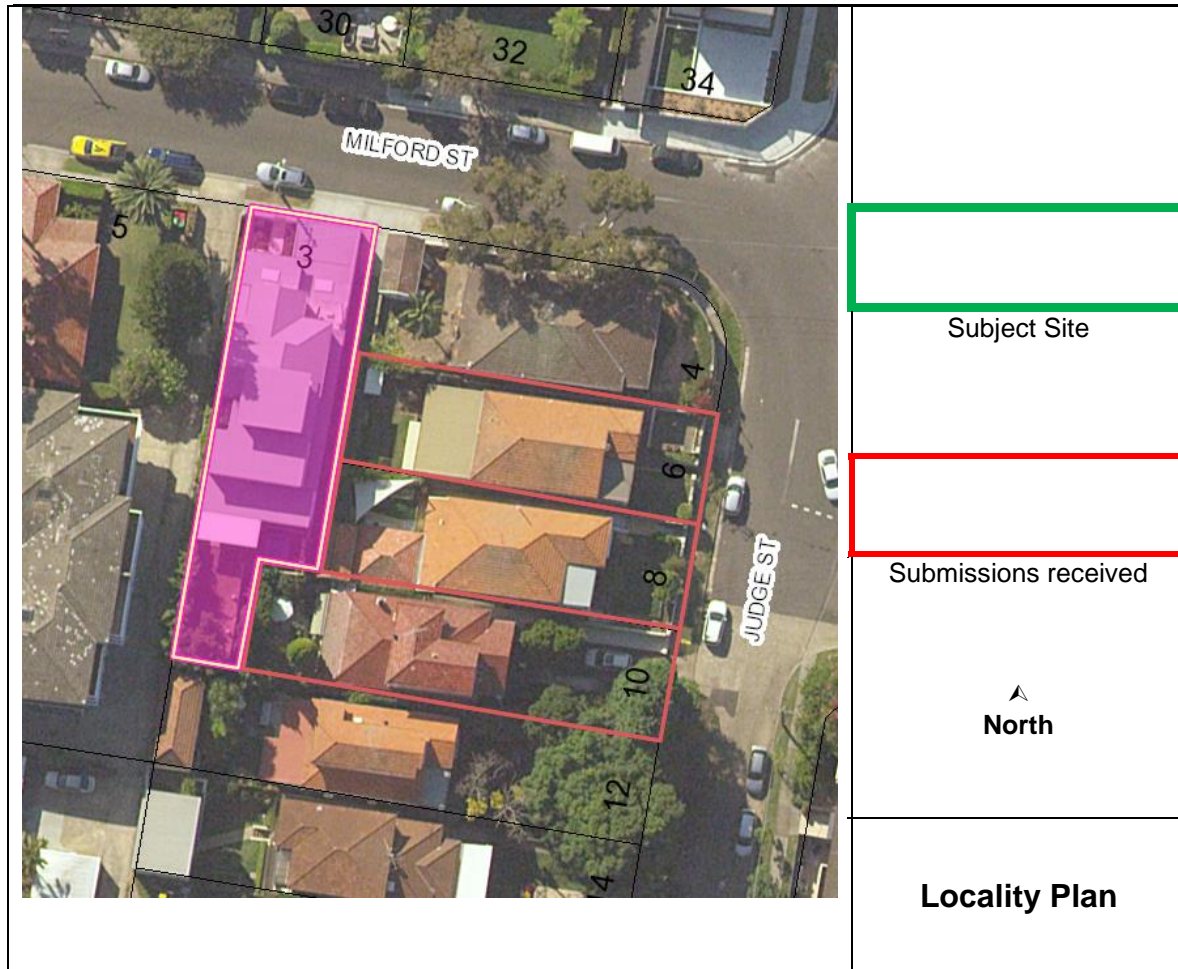
- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment had been assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 438/2022 for the conversion and use of the existing subfloor area as an additional living space for the existing dwelling at No. 3 Milford Street Randwick subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/438/2022 - 3 Milford Street, RANDWICK NSW 2031 - DEV - Ms A J Freeman

D14/23

D14/23



1. Executive summary

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

- The development contravenes the development standard for floor space ratio lot size by more than 10%

The proposal seeks development consent to convert the existing subfloor to a rumpus room and storage.

The key issues associated with the proposal relate to the acceptability for the FSR exceedance.

The application is recommended for approval, subject to standards conditions of consent.

2. Site Description and Locality

The subject site is known as No. 3 Milford Street and is legally described as Lot 2 in DP 313255. The site is 464.5m², is irregular in shape with side boundaries of different depths, the frontage is 12.19m to Milford Street, with side boundary depths of 32.92m/43.28m. The site contains an existing two storey dwelling with a subfloor level. The site is burdened by a right of way 2.74m in width along the eastern side boundary and the building adjoins the right of way. See extract of survey below.

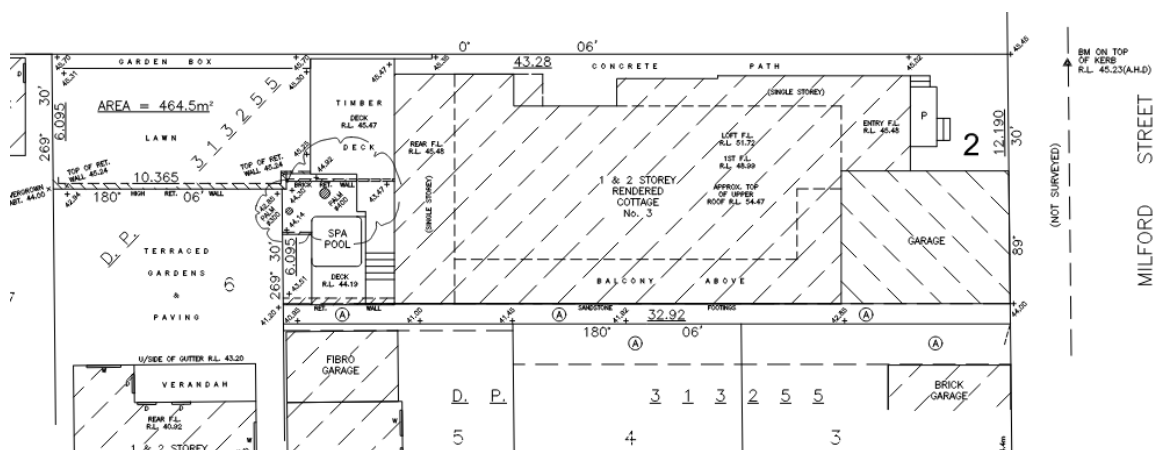


Figure 1 - Extract of survey



Figure 2 - Existing dwelling, note existing subfloor level to the rear of the dwelling and also the right of way to the eastern side of the dwelling.

3. Relevant history

DA/603/2007 - Conversion of dual occupancy into a single dwelling, alterations and additions to the dwelling. Approved at Council Meeting of 27th November 2007.

DA/1132/2010 – Alterations and additions to dwelling, including demolition of rear eastern retaining wall and spa area, construct a new storage area, plunge pool with decking, new south facing fence and changes to the subfloor to be used as a home gym and home cinema room approved at Council Planning Committee Meeting of the 13th September 2011.

The consent under DA/1132/2010 has lapsed.

D14/23

DA/128/2018 - Alterations and additions to existing dwelling at subfloor level including addition of three windows along eastern elevation, construction of deck and swimming pool to rear with associated works (variations to floor space ratio control). Refused by the Randwick Local Planning Panel on the 12th July 2018 for the following reasons;

- a.

The resulting deep soil permeable surface area for landscaping is inadequate.
- b.

The extension of the elevated deck will result in unacceptable amenity impacts on the subject site and adjoining properties.

4. Proposal

The proposal seeks development consent for the conversion of the existing subfloor level of the dwelling into a rumpus room, storage and bathroom with internal access to the dwelling. New high light windows and an access door are to be installed to the eastern side elevation at ground level.

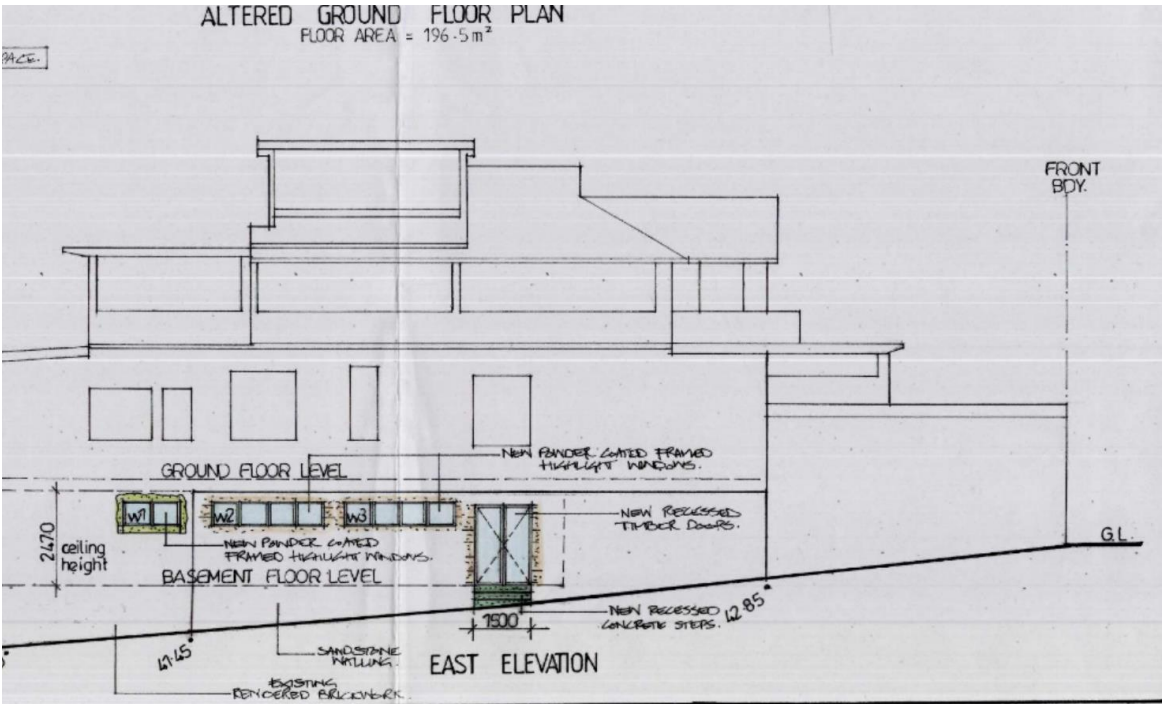


Figure 3 - Proposed external changes to building

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:

Issue	Comments
6 Judge Street Randwick, 3 submissions one from each owner and one from a tenant.	
-The property is already overdeveloped and is too imposing and intrusive to the properties to the east, including 6 Judge Street.	The proposal seeks to convert an existing subfloor level of the dwelling and does not increase the overall bulk and scale of the building.
-Developing the property further will significantly reduce the privacy at 4, 6 and 8 Judge Street and ultimately reduce their value.	The new three windows are nominated as high light windows, a condition of consent is included to require those windows to have a minimum sill height of 1600mm above floor

<p>-There are currently 10 windows and a large double glass door proposed for the eastern wall of the existing dwelling which are already intrusive in relation to their property.</p> <p>-Accept only one opaque window below the level of their rear fence, they are opposed to the existing 10 windows that overlook their property.</p> <p>-The door should only be a single door as existing, not a double door.</p>	<p>level to comply with the Development Control Plan Privacy Controls.</p> <p>Impacts to property values are not a relevant matter for development assessment.</p> <p>Noted. The proposal does not alter the existing privacy or overlooking from the existing windows. As noted above the new high light windows in the subfloor level are required to have a 1600mm high sill height to comply with the DCP controls.</p> <p>As stated above, there are no changes to the existing upper level windows to the dwelling. A condition of consent is included to require that the high light windows have a sill height of 1600mm to maintain privacy in accordance with the DCP controls.</p> <p>There is no argument that can be sustained that a double door to the storage area, which is opposite a right of way would have any significant adverse impact upon the amenity of the adjoining properties.</p>
<p>8 Judge Street Randwick</p> <p>-The existing dwelling is already an overdevelopment of the site and effects their amenity in terms of sunlight and privacy.</p> <p>-The proposed conversion of the subfloor level for habitable purposes will convert the dwelling into a 4 storey dwelling with a separate apartment.</p> <p>-The FSR will increase to 0.83:1, but it could be greater in reality.</p> <p>-The existing dwelling has ample living area and there is no justification for a fourth level at the expense of the neighbours amenity.</p>	<p>The proposal seeks to convert an existing subfloor level of the dwelling and does not increase the overall bulk and scale of the building. There will not be any additional impacts in relation to either solar access or overshadowing, and as noted above a condition of consent is included to require that the high light windows have a 1600mm sill height to comply with the DCP privacy controls.</p> <p>The application does not seek for the subfloor level to be converted into a separate occupancy or use. A condition of consent is included to require that the subfloor level is only to be used ancillary to the single use dwelling and not for any separate occupancy or use.</p> <p>The conversion of the subfloor level into habitable area will increase the FSR of the dwelling from 0.71:1 to 0.83:1.</p> <p>There is no evidence that the conversion of an existing subfloor level into additional living area for the dwelling will result in any adverse impact to the amenity of the adjoining residents as the bulk and scale of the building remains unaltered, there are no additional solar access or overshadowing impacts and also subject to conditions in relation to the sill height of the high light windows privacy will be maintained in accordance with the DCP privacy controls.</p>

D14/23

<p>-There are concerns of serious risk within the right of way which is shared by 6, 8 & 10 Judge Street.</p> <p>-There is no need for a doorway from the subfloor with internal stairs in the building.</p> <p>-The garage at 8 Judge Street requires the ROW to be clear, and disabled access is required for 8 and 10 within that right of way.</p> <p>-The proposed windows will look straight into their backyards over the rear fences of 6 & 8 Judge Street resulting in further loss of privacy.</p>	<p>The proposal does not alter the right of way access. The new door is recessed and does not open onto the right of way which is a safer situation than at present.</p> <p>The new door is adjacent to the storeroom which will enable that room to be accessed and used for storage rather than access being only thought the main part of the building. This is reasonable in terms of the use of that part of the subfloor for storage.</p> <p>The proposal does not encroach upon or impede access to and within the right of way.</p> <p>The new three windows are nominated as high light windows, a condition of consent is included to require those windows to have a minimum sill height of 1600mm above floor level to comply with the Development Control Plan Privacy Controls.</p>
<p>10 Judge Street Randwick</p> <p>-The addition of the new door and any materials during the construction period may impede required access to and within the right of way.</p> <p>-The use of the door would introduce a significant risk to persons in relation to conflict between a person and vehicle using the right of way.</p> <p>-The door within the right of way does not allow for safe access to or from the building if the right of way is used by a vehicle.</p> <p>-There is no need for a door within the right of way as there is an internal staircase.</p> <p>-The subfloor could be used as a self contained dwelling or Airbnb.</p> <p>-The proposal represents a significant overdevelopment of the site and there is no justification to increase the FSR at the expense of the neighbours amenity.</p>	<p>The new doors are recessed and do not open upon or across the right of way. Any development consent issued does not alter that the right of way should remain unimpeded.</p> <p>As noted above the new doors are recessed and do not open directly onto the right of way which is an improvement in the existing situation.</p> <p>See comments above, the recessed door and landing do not open directly onto the right of way.</p> <p>The new door is adjacent to the storeroom which will enable that room to be accessed and used for storage rather than access being only thought the main part of the building. This is reasonable in terms of the use of that part of the subfloor for storage.</p> <p>The application does not seek for the subfloor level to be converted into a separate occupancy or use. A condition of consent is included to require that the subfloor level is only to be used ancillary to the single use dwelling and not for any separate occupancy or use.</p> <p>The conversion of the subfloor level whilst increasing the habitable floor level of the building does not increase the overall bulk and scale of the building, reduce setbacks or result in any increased overshadowing to the adjoining properties. It is also noted that privacy to the adjoining properties can be maintained by the high light windows having a</p>

	minimum 1600mm sill height to comply with the DCP privacy measures.
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6. Relevant Environment Planning Instruments

6.1. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned R3 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 within a medium density residential environment that contributes to the desired future character of the area and protect the amenity of residents.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.65:1	0.83:1	No, see Clause 4.6 Objection to development standard below.
CI 4.3: Building height (max)	9.5m	The proposed works are within the subfloor level and do not alter the existing building height.	N/A

6.1.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standards are discussed in section 7 below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	0.65:1	0.83:1 NB; Existing FSR of dwelling is 0.71:1	84m ² NB; Existing FSR exceedance of dwelling 28m ² , with the proposal adding a further 56m ²	28% NB: existing FSR exceedance is 17.7%

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

3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from

the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

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

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

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

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

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

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

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

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the subfloor area is already existing and as such the strict numerical increase will not be discernible from the existing building envelope.

The nil changes to the existing building envelope other than external windows and door will ensure that the end development will continue to be compatible with the existing and desired future character of the locality.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the new windows and door opening at subfloor level will enhance the articulation of the building.

The existing building form will retain existing site coverage, maximum building height, front side and rear boundary setbacks, landscaping and on site private open space (POS) areas intact.

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the works are entirely internal, with the exception of the proposed door and windows, the proposed development will not be readily visible from the surrounding public domain.

The strict numerical increase in the GFA will not add additional visual bulk, whilst articulating the existing façade.

The inclusion of high set windows only ensure the continued acceptable levels of visual and acoustic privacy.

No additional overshadowing will result from the strict numerical non compliance, nor will any views from surrounding properties be affected.

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

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

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

The established form and scale of development in Milford Street includes buildings that are consistent with the medium density zoning of the locality. The proposal does not add to the bulk and scale of the existing building nor impact upon the streetscape presentation of the building.

The proposed development by the conversion of the existing subfloor space does not increase the existing building envelope, has no additional adverse impact to the amenity of the adjoining properties in terms of solar access and privacy.

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.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R3 zone is provided below:

Assessment against objectives of floor space ratio standard

For the reasons outlined in the applicant's written request, the development is consistent with the objectives of the FSR standard.

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

Assessing officer's comment: The desired future character of the locality is established in the objectives of the R3 zone.

The size and scale of the proposed development is compatible with the 'desired future character of the locality' as it will maintain the existing bulk and scale of the development.

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

Assessing officer's comment: The proposed development is well articulated as existing, the only changes to the existing building is the installation of new windows and an external door to the eastern elevation of the building at the subfloor level.

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

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

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

The assessment that must be made is whether or not the development will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

- Visual bulk: The development presents as a two storey dwelling with subfloor level. The proposed development does not alter the visual bulk of the building
- Loss of privacy: A detailed assessment of privacy impacts is provided in Appendix 3 (Item 5.3 – Visual Privacy). The proposal will not result in any significant privacy loss as the new windows in the subfloor level are high light in style and the new door which provides access to the right of way is opposite boundary fencing of the adjoining properties and will not result in any overlooking.
- Overshadowing: The proposal does not result in any overshadowing or solar access impacts as it details the internal conversion of an existing subfloor level and does not increase the existing building envelope.
- Views, the proposal has no impact to views to or from the subject property.

Based on the above assessment, it is considered that development will not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The development is consistent with the objectives of the floor space ratio standard.

Assessment against objectives of the R3 zone

The objectives of R3 zone are:

- To provide for the housing needs of the community 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 recognize 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, and
- To enable small scale business uses in existing commercial buildings.

Assessing officer's comment: The proposed development will not be in conflict with the R3 zone as it maintains the use of the dwelling and does not alter the existing bulk and scale of the development and will not adversely impact upon the amenity of the adjoining properties.

The development is consistent with the objectives of the floor space ratio standard and the R3 zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(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)(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 environmental impacts of the proposed development on the natural and built environment have been addressed in this report. 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.

10. Conclusion

That the application to convert the existing subfloor level into habitable floor area be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R3 zone in that the development remains compatible with the existing character of the locality and will not result in any adverse amenity to the adjoining properties.
- 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: Applicant's written request seeking to justify the contravention of the development standard

RANDWICK LOCAL ENVIRONMENTAL PLAN 2012 (RLEP) CLAUSE 4.6 REQUEST FOR CONTRAVENTION OF THE DEVELOPMENT STANDARD

APPLICANT: Peter Banfield Designs
ADDRESS: DP 313255 No. 3 Milford Street, Randwick
PROPOSAL: Proposed utilisation of the existing basement as a rumpus room and storage

DEVELOPMENT STANDARD:

Maximum Floor Space Ratio (FSR) under Clause 4.4 (2) of the RLEP.

INTRODUCTION

This submission is a request for contravention of the abovementioned development standard in relation to the proposed utilisation of the existing basement as a rumpus room and storage on the basis that:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and;
2. There are sufficient environmental planning grounds to justify contravening the development standard and;
3. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
4. Contravention of the standard in this instance will not raise any matters of State or Regional significance.
5. There is no public benefit in maintaining the standard on this occasion.
6. The proposal achieves the objectives of Clause 4.6 of the RLEP of providing an appropriate degree of flexibility in applying certain development standards to particular development and achieves better outcomes for and from development by allowing flexibility in particular circumstances.

The development standard to which the request relates

Clause 4.4 (2) states:

(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.

The corresponding map, read in conjunction with clause 4.4 (2A) allows for a identifies a maximum allowable floor space ratio (FSR) of 0.65:1, in respect of the subject site.

The objectives of the development standard

The objectives of the development standard are:

- (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.*

The nature of the departure from the development standard

The proposed development will strictly result in an increase in gross floor area (GFA) of 58.1m², from 328.4m² (equating to an FSR of 0.71:1) to a total of 386.5m² (equating to an FSR of 0.83:1).

As such the proposal represents a strict numerical departure of 28% from the standard and approximately 17.7% from the GFA existing.

Why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Compliance with the maximum FSR is unreasonable and unnecessary in the circumstances for the following reasons:

- Despite the strict numerical departure from the development standard, the proposed development is consistent with the objectives of the standard in that:

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

- The basement area is already existing and as such the strict numerical increase will not be discernible from the existing building envelope.
- The nil changes to the existing building envelope other than external windows and door will ensure that the end development will continue to be compatible with the existing and desired future character of the locality.

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

- The new windows and door opening at basement level will enhance the articulation of the building, as conveyed in figure 1 below:

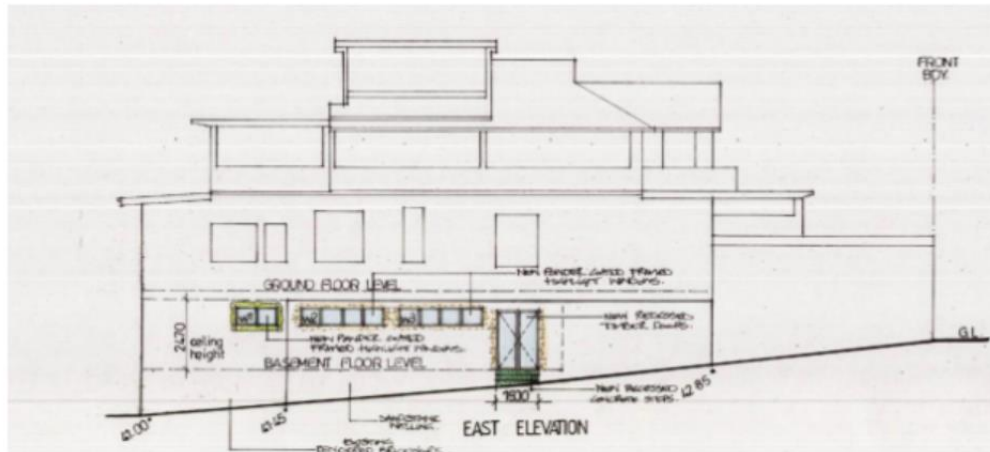


Figure 1: East elevation showing increased articulation provided by new window and door openings

- The existing built form will retain existing site coverage, maximum building height, front side and rear boundary setbacks, landscaping and on site private open space (POS) areas intact.

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

- Due to the 'basement' nature of the proposed additional floor area and non-visibility from the public domain, the proposal will have a negligible impact on 'the Spot' general heritage conservation area (HCA) to the west of the subject site, including numerous heritage items.

(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.

- As the works are entirely internal (with the exception of the proposed door and windows), the proposed development will not be readily visible from the surrounding public domain.
- The strict numerical increase in GFA will not add additional visual bulk, whilst articulating the existing façade.
- The inclusion of high-set windows only will ensure the continued acceptable levels of visual and acoustic privacy between neighbours.
- No additional overshadowing will result from the strict numerical non-compliance, nor will any views from surrounding properties be affected.

Chief Justice Preston of the NSW Land and Environment Court in the case of *in Wehbe v Pittwater Council [2007] NSWLEC 827* established 5 ways in which a departure from a development standard can be justified and this was reiterated by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. The most invoked means of justifying a departure from a development standard is the achievement of the end objectives, despite the strict numerical non-compliance.

For the reasons outlined above, the relevant objectives of the FSR standard, in this instance, are achieved and the request for departure is entirely justified and worthy of support on this occasion.

Given the justification provided in this request, the remaining ways by which a clause 4.6 Request may be justified do not require elaboration. Notwithstanding, for the purposes of completeness, the remaining ways are articulated with relevant commentary.

- *The underlying objective or purpose of the standard is not relevant to the development*

Comment

As the works carried out are all within the existing building envelope and not readily visible from the public domain, the underlying objective of the standard, whilst satisfied, is not relevant.

- *The underlying objective or purpose would be defeated or thwarted if compliance was required.*

Comment

In this instance, the underlying objective or purpose would be defeated or thwarted if compliance was required, as compliance would not facilitate any discernible benefits to surrounding amenity and would defeat an opportunity to improve internal amenity within the subject site.

- *The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or*

Comment

Whilst the abovementioned standard is frequently varied by Council in justified circumstances, it has not been abandoned or destroyed by the Council's own actions.

- *The zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.*

Comment

The zoning of the land on this occasion is not regarded as unreasonable or inappropriate on this occasion.

As such, the request on this occasion satisfies more than one (one only required) means of justifying contravention of the standard and manifestly worthy of support.

The environmental grounds which justify contravening the development standard

Sufficient environmental planning grounds exist to justify departure from the development standard on this occasion in that:

- Notwithstanding the departure from the maximum allowable FSR, the non-compliance will not alter the maximum building height, minimum setbacks, suitable landscaped and POS provisions, solar access and overshadowing or the visual and acoustic privacy interfaces observed by the existing dwelling.
- Having regard to the acceptable scale of the existing development, commensurate with that in the surrounding locality, the inclusion of the strictly numerical non-compliant component within the existing building will not result in any adverse impacts on the streetscape or surrounding properties.

- Council has a documented history of applying a flexible approach to the maximum FSR standard as per the allowances under Clause 4.6, in appropriate circumstances, such as is the case on this occasion.

The above environmental planning grounds are not general propositions. They are unique circumstances of the proposed development in the context of the subject site and surrounding properties.

Having regard to the environmental benefits associated with the development in its current form and the acceptable amenity impacts, notwithstanding the strict numerical departure from the standard, the proposed variation is justified and there are sufficient environmental grounds to support the departure.

The Public Interest/Consistency with the Objectives of the Standard and the objectives for development within the zone.

The proposed development is consistent with the relevant objectives of the standard as detailed above.

The zone 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 proposed development, inclusive of the strict numerically non-compliant component is entirely consistent with the relevant zone objectives in that:

- The end development, inclusive of a component of strictly non-compliant FSR, will provide for the housing needs of the community within a medium density residential environment.
- The end development, inclusive of a component of strictly non-compliant FSR, will continue to contribute to the provision of a variety of housing types within a medium density residential environment.
- It will recognise the desirable elements of the existing streetscape and built form as it will not be readily visible from the streetscape, contributing to the desired future character of the area.
- The way the strict numerically no compliant GFA is being integrated, is such that it will protect the amenity of residents and encourage housing affordability.

As such, the proposed development is in the public interest in that consistency with the objectives of the development standard and the objectives for development within the zone, have been achieved.

Significance for State and Regional Planning

The proposed development is consistent with State and Regional Planning Policies in that the proposed development, inclusive of the strict departure from the maximum floor space ratio

Solutions Zone Land Use Planning Services

standard, will result in an orderly and economic use of the land, in accordance with the objects of the Environmental Planning and Assessment Act, 1979.

Despite the non-compliance with the strict numerical requirement under clause 4.4 of the RLEP, the proposed development, inclusive thereof, provides for a logical distribution of height, size and scale, in a manner that will continue to achieve the stated objectives of the standard. The proposed development will achieve on this occasion associated sustainable environmental impacts, superior to those which would be achieved by a compliant form of development.

The proposed development will contribute to the existing and desired future character of this established residential area, which is well located in relation to, schools, local and regional centres and community infrastructure. The site is well connected to public transport providing access to beaches, local and regional centres and the Sydney CBD.

As such the proposed development does not raise any matters of significance for State or Regional planning.

The justification for the departure from the development standard is worthy of support.

Consistency with Clause 4.6 of the RLEP

The objectives of Clause 4.6 are:

- (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.*

The justification for the provision of an appropriate degree of flexibility in the present circumstances has been demonstrated in this request. The wider planning intentions for the locality will not be compromised by the departure in the circumstances.

Having regard to the contents of this submission, this request for contravention is well founded and worthy of support.

Departure from the standard on this occasion, (whilst not required to) will achieve a better outcome for and from the proposed development by way of consistency with the objectives of the Floor Space Ratio standard and those of the R3 Medium Density Residential zone, will not raise any matter of significance for State or Regional Environmental Planning and no public benefit will be served by maintaining the standard in the circumstances.

The justification for the departure from the development standard is worthy of support.

Appendix 2: DCP Compliance Table

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

The relevant provisions of the DCP are addressed below.

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

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R3	
2	Site planning		
2.3	Site coverage		
	451 to 600 sqm = 50%	Site = 464sqm Proposed = No change to existing site coverage of buildings.	N/A
2.4	Landscaping and permeable surfaces		
	i) 451 to 600 sqm = 30% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Site = 464sqm Proposed = No change to existing landscaping on site	N/A
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	451 to 600 sqm = 7m x 7m	Site = 464sqm Proposed = No change to existing POS	N/A
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.65:1	Site area = 464sqm Proposed FSR = 0.83:1	No, see Key Issues in the Clause 4.6 Objection
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	No change to building height	N/A
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	No change to building or external wall height	N/A
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street	As existing, no change	N/A

DCP Clause	Controls	Proposal	Compliance
	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		
3.3.2	Side setbacks: Dwellings: • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1 st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1 st floor), 1800mm above. Refer to 6.3 and 7.4 for parking facilities and outbuildings	As existing, no change	N/A
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions. iv) For irregularly shaped lots = merit assessment on basis of:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings	As existing, no change	N/A
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design	The proposed works are internal only and do not alter the overall building design.	Yes
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. 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.	A condition of consent is included to require that a colour schedule be provided for approval prior to the release of a	Yes

D14/23

DCP Clause	Controls	Proposal	Compliance
	v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	construction certificate.	
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope</i> : vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	The extent of required earthworks is minimal and complies with the DCP controls.	Yes
5	Amenity		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	The new high light windows will allow for light and ventilation within the subfloor level of the dwelling.	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures: <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). ii) Orientate living and dining windows away from adjacent dwellings (that is orient to	The three new windows are nominated as high light windows. A condition of consent is included to nominate that the window sill height is to be a minimum of 1600mm above floor level to comply with the privacy controls in the DCP.	Yes, subject to condition to nominate the sill height at a minimum of 1600mm.

DCP Clause	Controls	Proposal	Compliance
	front or rear or side courtyard)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street frontages where available. iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 for circumstances when parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages vi) Avoid long driveways (impermeable surfaces)	No change to existing vehicle access or parking	N/A

D14/23

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/438/2022

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder / DA No:	DA/438/2022
Property:	3 Milford Street, RANDWICK
Proposal:	Conversion and use of the existing subfloor area as an additional living space for the existing dwelling
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
24/22	Peter Banfield	22/6/2022

Amendment of Plans & Documentation

- The approved plans and documents must be amended in accordance with the following requirements:
 - The following windows must have a minimum sill height of 1.6m above floor level, or alternatively, the windows are to be fixed and be provided with translucent, obscured, frosted or sandblasted glazing below this specified height:
 - W1, W2 & W3

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

4. The colours, materials and 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.

Long Service Levy Payments

5. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Sydney Water Requirements

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

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

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

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

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/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.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia

7. 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.

Stormwater Drainage

8. A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:
- Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
 - The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;
 - External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
 - Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
 - A certificate or statement from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions of consent must be complied with prior to the commencement of works on the site. The necessary documentation and information must be provided to the Principal Certifier for the development or the Council, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity.

Building Certification & Associated Requirements

9. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
- a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

Home Building Act 1989

10. 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.

Construction Site Management Plan

11. 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.

12. 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.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

13. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:
- name, address, contractor licence number and telephone number of the principal building contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
 - name, address and telephone number of the Principal Certifier,
 - a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

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

An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting

information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.

Construction Site Management

15. 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.

16. Public safety and amenity 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.

- 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.

17. Access to the right of way must not be unreasonably interfered with during building works being undertaken associated with this development.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation Certificate*.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

18. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

19. The basement level is only to be used ancillary to the dwelling and is not to be used for any separate residential/commercial occupation or use.

External Lighting

20. 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.

Plant & Equipment

21. The operation of all plant and equipment (including air conditioners and pool pumps or other equipment) on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

D14/23

Development Application Report No. D15/23

Subject: 8/1 Dove Lane, Randwick (DA/285/2022)


Executive Summary

Proposal:	Alterations and additions to Townhouse No. 8 including new ground floor level addition to accommodate a new kitchen
Ward:	North Ward
Applicant:	D'Riva Designs
Owner:	Ms K L Meyers
Cost of works:	\$85,000
Reason for referral:	The development contravenes the development standard for floor space ratio by more than 10%.

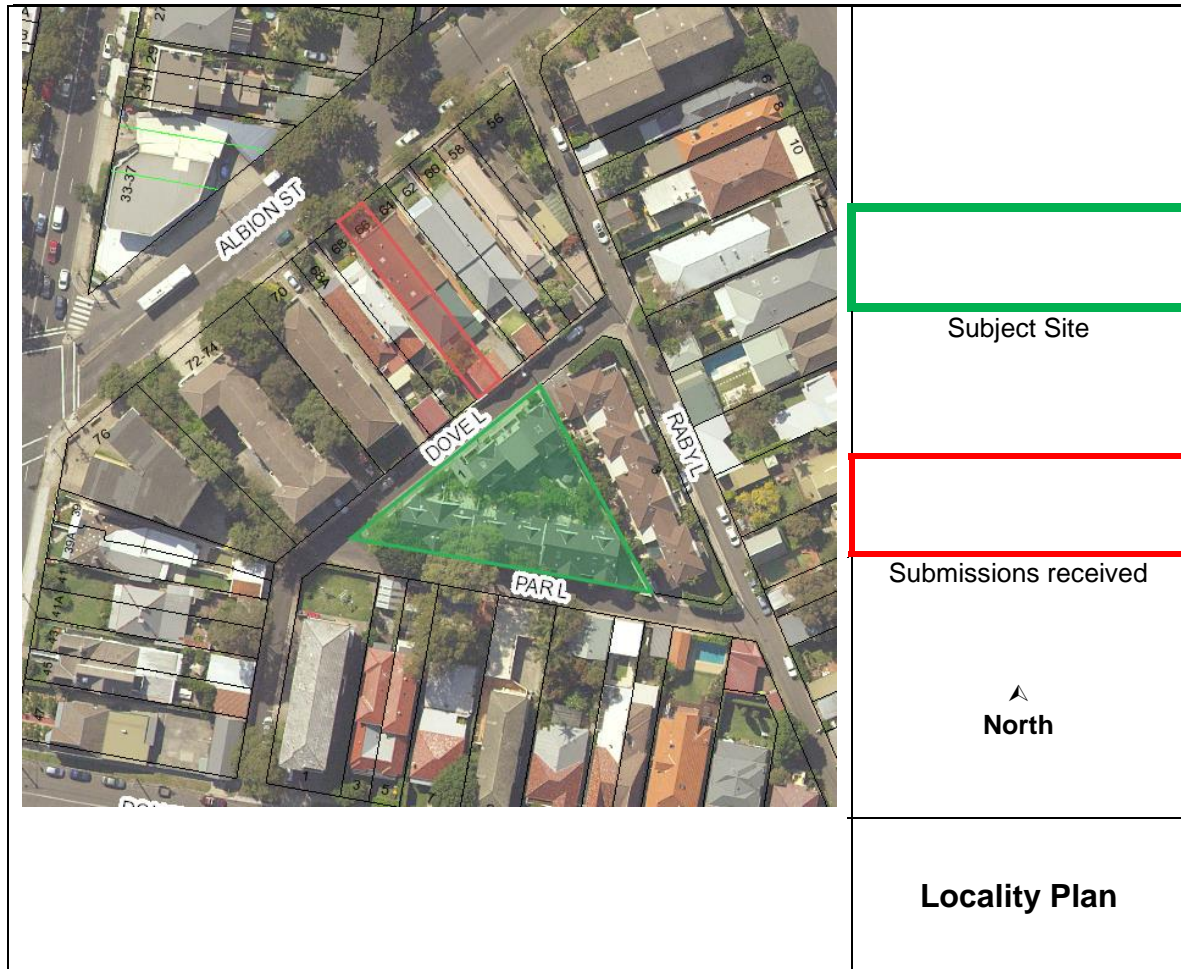
Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning, Industry and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/285/2022 for alterations and additions to Townhouse No. 8 including new ground floor level addition to accommodate a new kitchen No. 8/1 Dove Lane, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/285/2022 - 8/1 Dove Lane, RANDWICK

D15/23



1. Executive summary

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

The proposal seeks development consent for minor alterations to an existing townhouse including conversion of an existing car space into a kitchen. The existing kitchen area is to be converted into a study.

The key issues associated with the proposal relate to a variation to the FSR development standard and parking requirements.

The proposal is recommended for approval subject to condition.

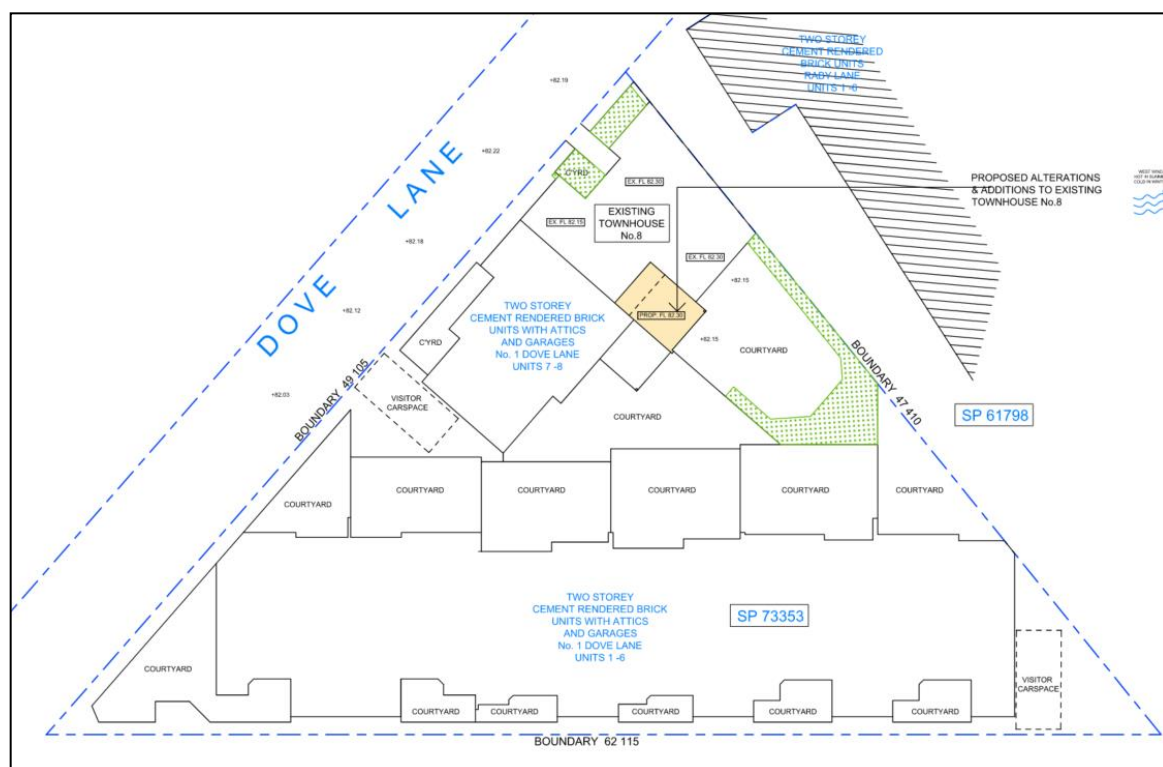


Figure 1. Proposed site plan – 8/1 Dove Lane, Randwick



Figure 2. Rear façade of existing dwelling – 8/1 Dove Lane, Randwick



Figure 3. Streetscape view – 8/1 Dove Lane, Randwick
(Source: Google Street View, January 2019)

2. Site Description and Locality

The site is identified as Lot 8 SP 73353, 8/1 Dove Lane, Randwick. The dwelling is a two storey building located within an 8-unit multi-dwelling development. The parent lot is triangular in shape, with an area of 1142m² and dual frontages to Dove Lane and Par Lane. Unit 8 is located on the northern side of the parent lot, with a frontage to Dove Lane.

Unit 8 comprises a kitchen, dining and living room on the ground floor; 2 bedrooms and a sitting room on the first floor; and an attic loft. Vehicular access is available from Dove Lane. The site has two off-street car spaces in a tandem arrangement within a garage and carport attached to the dwelling. The existing garage has a length of 8.06m, and the carport is attached to its rear with a length of 3.07m. In this tandem arrangement, one car is partially covered by the carport and partially located within the garage.

The site is located in a residential area comprising multi-dwelling house development, residential flat buildings, semi-detached dwellings and dwelling houses. The north-western side of Dove Lane and southern side of Par Lane are the rear frontages of development addressed to Albion Street and Douglas Street, respectively. These rear frontages are dominated by detached garage development.

3. Relevant history

Based on Council records, the site was used for commercial and light industrial purposes prior to a change of use to a children's gymnastics centre in 1992. The site was then converted to residential use in 2002. A search of Council records returns the following relevant application history:

- DA/560/2002 – Development Application DA/560/2002 was approved on 26 November 2002 for demolition of existing buildings and construction of a new multi unit housing development containing eight dwellings and associate carparking.

- DA/560/2002/B – Modification application DA/560/2002/B was approved 10 August 2004 for new concrete stairs to attic rooms in all 8 dwellings, plus minor alterations to townhouse 8.

Under DA/560/2002/B, Unit 8 was approved with three bedrooms and two car spaces in a tandem arrangement within a garage and carport.

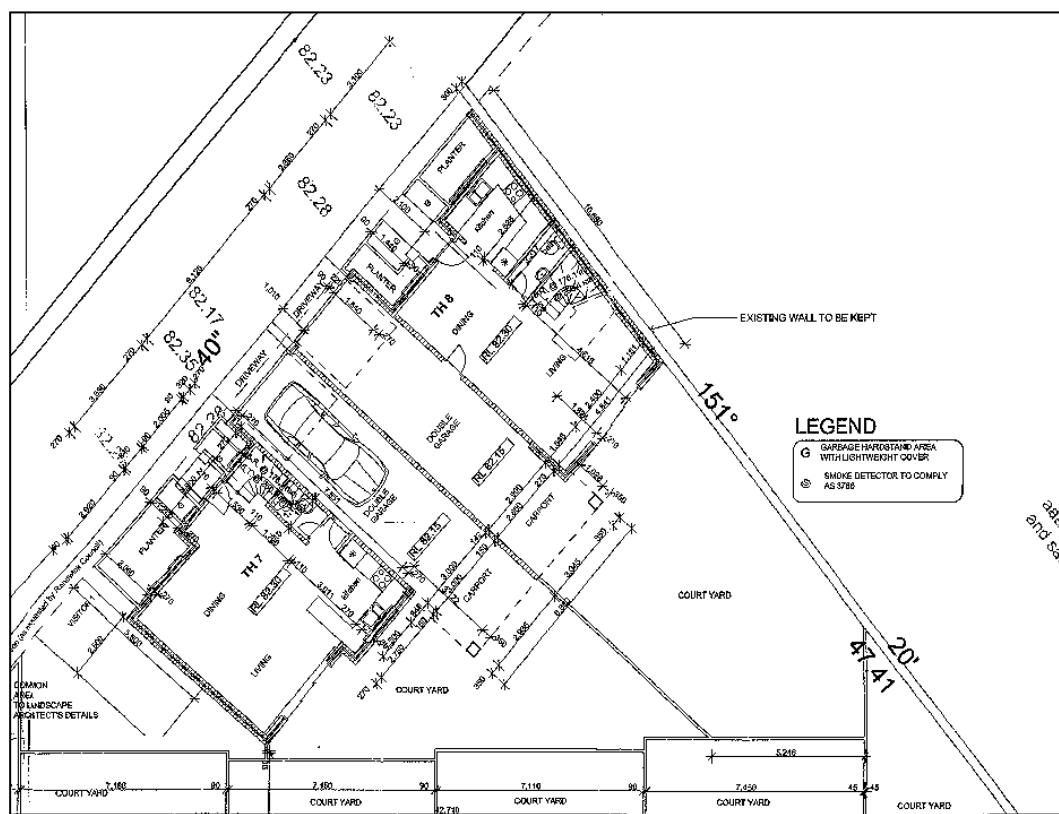


Figure 4. Extract of approved DA/560/2002/B ground floor plan

4. Proposal

The proposal seeks development consent for minor alterations to an existing townhouse including conversion of an existing car space into a kitchen. The existing kitchen area is to be converted into a study.

Specifically, the proposed kitchen is located within a proposed ground floor rear addition that is sited within the existing footprint of the existing carport. It will be attached to Unit 7 on the south-western side. The rear addition includes windows to the rear and north-east and a skylight.

It should be noted that the GFA of the existing dwelling is 119.34sqm and the proposal would result in an increase GFA to 131.44sqm (i.e. an increase of 12.1sqm).

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Community Participation Plan 2019. The following submissions were received as a result of the notification process:

- 1/66 Albion Street, Randwick

Issue	Comment
My concern lies with the construction and who was selected to undertake these works and their works relating to DA/650/2020 in August-November 2020, which obstructed vehicular access to my garage and impacted peaceful enjoyment of my neighbouring property. If the DA does go ahead, I would like to insist upon being given 7 days notice of any obstruction to my garage and have the opportunity to object.	<p>A condition of consent is imposed requiring the submission of construction site management details prior to the commencement of construction.</p> <p>An approval under a works zone application is required to stand construction vehicle on the public road.</p>

6. Relevant Environment Planning Instruments

6.1. SEPP (Building Sustainability Index: BASIX) 2004

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

6.2. Randwick Local Environmental Plan 2012 (LEP)

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.75:1	0.88:1	No
Cl 4.3: Building height (max)	9.5m	4.16m	Yes

6.2.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standards are discussed in section 7 below.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Existing development	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.75:1 (856.5m ²)	0.87:1 (990.7m ²)	0.88:1 (1002.8m ²)	146.3m ²	17%

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

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

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

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development

standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

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

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

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

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

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

The applicant's written justification seeks to demonstrate that this objective is satisfied by noting that:

- “The building façade is maintained by the proposal which currently enhances the streetscape and neighbourhood character
- The roof form of the proposal will be maintained.
- The bulk and scale of development is not altered by the proposal with no impact to neighbouring properties in terms of overshadowing, privacy and visual amenity.
- The proposal maintains the visual and acoustic privacy for dwelling and neighbouring properties
- The safety and security of residents are maintained by the proposal and pedestrian entry is unchanged by the proposal.
- The colour and material scheme of the townhouse will be maintained for the proposed works.
- The proposal retains reasonable levels of solar access to neighbouring properties
- The proposal is designed to provide direct access to fresh air and assist in promoting thermal comfort for occupants.”

Assessing officer's comment:

The proposed single storey rear addition is located within the building footprint of the existing carport. It is not visible from the street/lane, and does not have an adverse bulk, shadow or privacy impact on neighbouring properties.

The BASIX certificate (submitted by the applicant) shows that the development meets the relevant water and energy saving targets.

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

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

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

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

- The proposed alterations to the medium density townhouse will not be visible from Dove Lane and sympathetic to the locality and to adjoining neighbours and can be supported in this instance.

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

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R3 medium density zone is provided below:

Assessment against objectives of floor space ratio standard

For the reasons outlined in the applicant's written request, the development is consistent with the objectives of the FSR standard.

Assessment against objectives of R3 Medium Density zone

The objectives of the Residential R3 Medium Density zone 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.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a medium density development that will contribute to a variety of housing types in conjunction with the existing surrounding single dwellings and RFB developments.

The proposed built form will be compatible with the desired future character as part of a transitioning medium density area and will protect the amenity of residents by conforming to the existing building envelope.

The development is consistent with the objectives of the floor space ratio standard and the R3 Medium Density Residential zone. Therefore the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below.
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant residential character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

9.1. Discussion of key issues

Floor space ratio

The existing multi-dwelling development has a floor space ratio of 0.87:1 (990.7m²), which exceeds the maximum development standard of 0.75:1. The proposal adds 12.1m² of floor space, increasing the FSR to 0.88:1 (1002.8m²).

This 17% variation to the development standard is considered in Section 7 of this report.

Car parking

The proposed rear addition, within the existing carport footprint, removes one car space from the site. The existing dwelling was approved with two car spaces in a tandem arrangement within the garage and carport. The existing garage has a length of 8.06m, and the carport is attached to its rear with a length of 3.07m. In this tandem arrangement, one car is partially covered by the carport and partially located within the garage. The proposal results in only one car space on site.

As per the vehicular parking rates of Part B7 of the DCP, 1.5 car spaces is required for each unit, with 3 or more bedrooms, within a multi-dwelling development. 8 car spaces, plus 2 visitor spaces, were approved for the existing multi-dwelling development, which contains eight (8) 3-bedroom dwellings. The existing site requires 12 car spaces, plus 2 visitor spaces. The proposed development therefore deepens the numerical non-compliance.

The applicant's planner has provided the following justification for the proposed parking shortfall:

It is agreed that Unit 8 is a 3-bedroom dwelling. This submission formally requests Council to waive the parking requirement of 2 spaces for a three-bedroom dwelling in this dwelling for the following reasons.

- *The third bedroom in this dwelling is provided in the form of a room within the- roof – an attic style and, therefore, it is not a conventional bedroom and its amenity is not comparable to a standard bedroom – receiving sun and daylight in part from a skylight. It generally performs comparably to a conventional 2- bedroom dwelling and I understand that the owner uses the room for storage.*
- *From my 38 years planning experience, tandem parking for single dwellings is generally less attractive for occupants because vehicles must be moved more frequently (jockeyed) on and off the street to function effectively. As a result, residents generally prefer to park their second vehicle on the street.*
- *Although the proposal will have a technical shortfall in parking it should be noted that only Unit 8 in this development is a “three-bedroom” dwelling. All other dwellings in it contain 2-bedrooms. However, it should be noted that whilst Unit 7 is a two-bedroom dwelling it is provided with 2 spaces in tandem form ie. it is provided with more parking than required. Whilst this observation generally does not support the proposal it encourages occupants to use 2 spaces. Unlike the current proposal in which the occupant does not require 2.*
- *It should also be noted that the current owner recently purchased the property with the original tandem parking arrangement converted into a single garage with a storage room. It is acknowledged that this work may have been carried out without prior Council consent, however she purchased the property on the basis that only one parking space was needed. The occupants lives on her own however, one adult child stays on occasion and this is why she only needs 1 space.*
- *The proposal will not set an undesirable precedent for other dwellings in the development because they are all 2-bedroom dwellings.*
- *The proposal provides an improved standard of amenity for the dwelling occupant without any unreasonable impact on local residential or traffic and parking amenity.*
- *Whilst the proposal does not technically comply with the control, the proposal in this form indirectly discourages car ownership, which is an appropriate town planning response, particularly in this dense inner city urban environment.*

Council's Development Engineer has reviewed the application and the arguments put forward by K Burrell Planning Consultant. Development Engineering does not object to the views put forward by the applicant's consultant in relation to the parking matter. Based on their site inspections, the Development Engineer concludes that only one suitable car space is existing upon the site, within the garage. The submitted plans demonstrate that this is being maintained. Hence, Development

Engineering does not object to the proposed works shown on the submitted DA. Refer to the referral in Appendix 1.

10. Conclusion

That the application for minor alterations to existing townhouse to include converting existing storage into a kitchen; the existing kitchen area to be converted into a study; be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst 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 applicant's written requests under Clause 4.6 of RLEP has adequately demonstrated that compliance is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify contravening the FSR development standards.

D15/23

Appendix 1: Referrals

1. Internal referral comments:

1.1. Development Engineer (8 December 2022)

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 Engage Constructions Rev C and received by Council 10.10.22
- Statement of Environmental Effects

General Comments

Development Engineering has reviewed the submitted amended plans including the Strata Subdivision Plans for the site and the arguments put forward by K Burrell Planning Consultant and advise that Development Engineering does not object to the views put forward in relation to this application and thus does not object to the submitted Development Application.

Landscape Comments

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

1.2. Development Engineer (17 January 2023)

A further site inspection was taken of the subject development site today in relation to the existing off-street parking

The original development site was approved/constructed with a garage for off-street parking.

The garage has a roller door that fronts Dove Lane and at the other end of the garage another roller door which then opens up to the rear tiled courtyard.

There is an approximate length of 8m between the 2 roller doors which is now not classed as being sufficient in length to allow for 2 off-street car spaces. This appears to be the same for other dwellings within the development complex. (Any approval for a 2 car tandem garage would these days be a minimum of approximately 10.8m (2 x 5.40m))

It can now be determined that the original constructed length of the internal garage is now only suitable for 1 off-street car space and the submitted plans demonstrate that this is being maintained.

Development Engineering now does not object to the proposed works shown on the submitted DA.



Photo 1 – Garage Door Fronting Dove Lane (on Left)



Photo 2 – Garage showing the 2 roller doors

D15/23



Photo 3 – Rear Courtyard looking back into garage.

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

4.6 Objection to Development Standards – Floor Space Ratio Randwick LEP 2012

**IN SUPPORT OF DEVELOPMENT APPLICATION FOR
PROPOSED ALTERATIONS AND ADDITIONS TO TOWNHOUSE 8
AT 1 DOVE LANE, RANDWICK 2031**

Rev C – 08.02.2023

Site Calculations

- **Total Site Area = 1142 sqm**
- **Existing Floor Area
Townhouse No. 8= 127.91 sqm**
- **Proposed Floor Area
Townhouse No. 8 = 140.01sqm**
- **EXISTING GFA = 990.75QM (0.87:1)**
- **Proposed GFA = 1002.8 sqm (0.88:1)**
- **Existing Total Site Cover = 570.51 sqm
(50% of site area)**
- **Proposed Site Cover = 50.51 sqm
(50% of site area) NO CHANGE**
- **EX & Prop. Deep Soil Landscape
Of Townhouse No. 8= 33.045 sqm**

Overview

This objection is lodged in relation to a development application proposal for alterations and additions to an existing townhouse known as 8/1 Dove Lane, Randwick. This objection is made by the applicant, Engage constructions, on behalf of the owners of the property.

The site and existing residence

The site is known as SP 73353, or 1 Dove Lane, Randwick. The subject site is an irregular shaped block and provides a total land area of 1142 sqm. The site is located on the south-eastern side of Dove Lane and across from the subject site are garages fronting Dove Lane.

The site is currently occupied by 8 two storey brick and metal townhouses with attics and single car garages.

The subject Townhouse proposed for alterations has a small garden fronting Dove Lane and a large courtyard and garden at the rear of the property.

Given the history of the site as a residential area without any other types of uses or activities, we can only assume that the site is not contaminated.

There is off street for up to 1 car to the townhouse, via the existing crossover to the kerb. Services, including water, electricity, sewer and stormwater, are currently connected to the site.

Zoning of the site

The property is located within the boundaries of the area covered by the Randwick Local Environmental Plan 2012 (RLEP 2012) and Randwick Development Control Plan 2013. The proposed development has been assessed based on the characteristics of the site and locality, existing planning controls, in accordance with the Environmental Planning and Assessment Regulation 2000, and the requirements under the Environmental Planning and Assessment Act 1979.

The area is classified as R3- Medium density residential. The property is not a Heritage Item or within a Conservation Area.

The Proposal

The proposal is to convert the existing storage area into floor area. The existing kitchen facilities are to be renovated into a study which is required for the growing family. The existing storage will be converted into the kitchen facilities and the existing foot print of the dwelling will remain as existing.

The floor level to the new kitchen will be raise by one step to match the floor level of the existing dwelling and the kitchen will have a servery window to access the rear yard.

There will be no change to the first floor or attic.

Clause 4.6- FSR: TH8 / 1 Dove Lane, RANDWICK

The proposed development will be in keeping with the scale of the local streetscape and the character of the neighbourhood.

Introduction

The objection relates to the **0.75** Floor Space Ratio (FSR) control pursuant to Clause 4.6 of RLEP 2012 and enables Council to consider a variation to the development standard and facilitate approval of the development application. Of particular note is the fact that since DA/560/2002/B was determined, the definition of gross floor area has changed since the introduction of the standard template. Previously, gross floor area included wall thicknesses whereas under the current standard template definition, wall thickness are excluded. Wall thicknesses generally account for approximately 6-8% of gross floor area.

The application proposes an FSR of **0.88:1** for alterations to Townhouse 8 which fronts Dove Lane. The proposed alterations and additions equates to a floor area 140 sqm which is only increased by 12sqm by the proposed works. The existing FSR for the site is **0.87:1**. There is only a mere 1% increase to the FSR by the proposed works and the proposed alterations are within the existing footprint of the subject Townhouse.

Council recognize the FSR controls, in most instances, are often not a true reflection of the bulk and scale of a development and in some instances development in excess of the control may be appropriate having regard to the context of the site and surrounds. In this specific instance an opportunity exists to increase the FSR beyond the 0.75:1 particularly when the proposal is able to satisfy the general and housing objectives of RLEP 2012. These objectives are primarily designed to preserve the residential amenity.

The proposed plan submitted as part of the Development Application is for alterations additions to Townhouse 8 of strata plan SP73353. The additional floor area to the proposal essentially relates to the conversion of storage space in garage into habitable kitchen area.

FSR whilst being an important planning tool is often a crude reflection of the developments overall built form. The underlying intention of the FSR control in this instance has been achieved. The intention is to ensure buildings have an appropriate visual fit in the streetscape and maintain adequate residential amenity. Preservation of residential amenity underpins many of the objectives of RLEP 2012. In this instance the development preserves the amenity of residence even though the FSR control is exceeded.

Relevant Clause of RLEP 2012

4.4 Floor space ratio

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

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

Clause 4.6- FSR: TH8 / 1 Dove Lane. RANDWICK

(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](#).*

(2A) *Despite subclause (2), the maximum floor space ratio for a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential is not to exceed—*

- (a) if the lot is more than 300 square metres but not more than 450 square metres—0.75:1, or*
- (b) if the lot is more than 450 square metres but not more than 600 square metres—0.65:1, or*
- (c) if the lot is more than 600 square metres—0.6:1.*

(2B) Despite subclause (2), there is no maximum floor space ratio for a dwelling house or semi-detached dwelling on a lot that has an area of 300 square metres or less.

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 has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless—*

- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Planning Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

General Objectives –

The proposal satisfies the general objectives of RLEP 2012 Zone R3 Medium Density. The FSR departure does not affect the development's ability to satisfy the stated objectives. As an overall planning outcome for the site the proposal is considered acceptable and preserves the existing and future residential amenity. The proposed development satisfies the stated objectives given that:

- The proposal provides for the housing needs of the community within a medium density residential environment.
- The proposal provides a variety of housing types within a medium density residential environment.
- The proposal enables other land uses that provide facilities or services to meet the day to day needs of residents.
- The proposal recognizes the desirable elements of the existing streetscape and built form and the desired future character of the area.
- The proposal protects the amenity of residents and
- The proposal encourages housing affordability.

The subject proposal maintains reasonable amenity to all of its neighbours satisfying the vision of the plan. Notwithstanding the FSR departure the proposal achieves adequate levels of natural lighting and ventilation, privacy, visual amenity and spatial separation from neighbouring properties.

Is strict compliance with the controls, unreasonable or unnecessary

Strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- a) The proposal ensures adequate levels of natural lighting and ventilation, privacy, visual amenity and spatial separation from neighbouring properties.
- b) The landscape open space is not affected by the proposal and allows the townhouse to maintain sufficient recreational activities and maintain substantial vegetation
- c) The private open space and communal open space is maintained by the proposal ensuring residents have a useful area to enhance their quality of life.

On this basis it is our view that strict application of the FSR development standard is unreasonable and unnecessary in the circumstances of the case. FSR is often a crude reflection of a developments scale and development outside a numerical control can equally satisfy the stated local objectives.

Clause 4.6- FSR: TH8 / 1 Dove Lane, RANDWICK

Strict compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- a) The building façade is maintained by the proposal which currently enhances the streetscape and neighbourhood character
- b) The roof form of the proposal will be maintained.
- c) The bulk and scale of development is not altered by the proposal with no impact to neighbouring properties in terms of overshadowing, privacy and visual amenity.
- d) The proposal maintains the visual and acoustic privacy for dwelling and neighbouring properties
- e) The safety and security of residents are maintained by the proposal and pedestrian entry is unchanged by the proposal
- f) The colour and material scheme of the townhouse will be maintained for the proposed works.
- g) The proposal retains reasonable levels of solar access to neighbouring properties
- h) The proposal is designed to provide direct access to fresh air and assist in promoting thermal comfort for occupants.

In this specific instance there is no utility or benefit in strictly enforcing the FSR control. The proposed alterations to the medium density townhouse will not be visible from Dove Lane and sympathetic to the locality and to adjoining neighbours and can be supported in this instance.

Appendix 3: DCP Compliance Table**3.1 Section B7: Transport, Traffic, Parking and Access**

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
3. Parking & Service Delivery Requirements			
	Car parking requirements: <ul style="list-style-type: none"> • 1space per 2 studios • 1 space per 1-bedroom unit (over 40m²) • 1.2 spaces per 2-bedroom unit • 1.5 spaces per 3 or more bedroom unit • 1 visitor space per 4 dwellings 	Unit is 3 bedroom unit. The proposal removes 1 car space, result in one car space provided on site. Refer to Key Issues.	No

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2. Site Planning			
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area is to be landscaped open space.	The proposed kitchen addition is located within the footprint of the existing garage/carport.	As per existing
2.2.2	Deep soil area		
	(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.	The proposed alterations and additions do not remove an existing deep soil area.	As per existing
2.3	Private and communal open space		
2.3.1	Private open space		
	Private open space is to be: (i) Directly accessible from the living area of the dwelling. (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.	Proposed additions do not reduce the existing private open space area.	As per existing.
3.4	Setbacks		
3.4.2	Side setback		
	Multi dwelling housing (i) Comply with the minimum side setback requirements stated below: - >20m: 4m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:	Unit 8 is attached to another unit within the multi-dwelling housing complex. The proposed additions maintain the nil side setback between the two units.	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. <p>(iii) A fire protection statement must be submitted where windows are 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>		
3.4.3	Rear setback		
	<p>For residential flat buildings and multi-dwelling housing, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.</p> <p>The required rear setback may be varied in the following scenarios:</p> <ul style="list-style-type: none"> • Allotments with an irregular shape. • Allotments with the longest boundary abutting the street or the rear adjoining neighbour (that is, the frontage width being longer than the site depth). • Allotments with the rear boundary abutting a laneway. • A central courtyard is provided in the development 	<p>The parent lot and Unit 8 is irregular in shape.</p> <p>The proposed additions are located within the building footprint of the existing garage/carport and do not extend beyond the existing rear alignment.</p>	Yes
4. Building Design			
4.4	External wall height and ceiling height		
	<p>(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>	Proposed addition = 3m	Yes
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	<p>Proposed kitchen = 2.605m</p> <p>The proposal retains the existing ceiling of the garage, but raises the floor level so that it is</p>	No, acceptable on merit

D15/23

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
		flush with the main living area. The retention of the existing ceiling constrains the ceiling height to 2.605m. This is acceptable because it is localised to the new kitchen. The proposed ceiling height maintains the existing roof height and symmetry with the attached unit at No. 7.	
5. Amenity			
5.1	Solar access and overshadowing		
	Solar access for proposed development		
	(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.	Proposed addition is located within existing garage/carport footprint and maintains existing roof height. Therefore the shadow impact is as per existing.	As per existing.
	Solar access for surrounding development		
	(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.	Proposed addition is located within existing garage/carport footprint and maintains existing roof height. Therefore the shadow impact is as per existing.	As per existing
5.2	Natural ventilation and energy efficiency		
	(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. (vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	North-east and south-east operable windows proposed to new kitchen.	Yes
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.	Proposed windows are located on the ground floor level, orientated to	Yes

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(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.</p> <p>(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.</p> <p>(iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy.</p> <p>(v) Incorporate materials and design of privacy screens including:</p> <ul style="list-style-type: none"> - Translucent glazing - Fixed timber or metal slats - Fixed vertical louvres with the individual blades oriented away from the private open space or windows of the adjacent dwellings - Screen planting and planter boxes as a supplementary device for reinforcing privacy protection 	the rear and towards a high masonry wall.	
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	The proposed kitchen adjoins the neighbouring garage/carport.	Yes

Responsible officer: Eunice Huang, Environmental Planning Officer

File Reference: DA/285/2022

Development Consent Conditions (Medium Density Residential)



Folder / DA No:	DA/285/2022
Property:	8/1 Dove Lane, RANDWICK NSW 2031
Proposal:	Alterations and additions to Townhouse No. 8 including new ground floor level addition to accommodate a new kitchen
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
DA-01 Revision D	Engage Construction	January 2022	3 February 2023
DA-03 Revision C	Engage Construction	January 2022	10 October 2022
DA-04 Revision C	Engage Construction	January 2022	10 October 2022
DA-05 Revision C	Engage Construction	January 2022	10 October 2022
DA-06 Revision C	Engage Construction	January 2022	10 October 2022
DA-07 Revision C	Engage Construction	January 2022	10 October 2022
DA-08 Revision C	Engage Construction	January 2022	10 October 2022
DA-09 Revision C	Engage Construction	January 2022	10 October 2022

BASIX Certificate No.	Dated
A449753_02	3 June 2022

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

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

External materials, finishes and colours of the building are required to match, as closely as possible, the existing building and any metal roof sheeting is to be pre-painted (e.g. Colourbond) to limit the level of reflection and glare.

Long Service Levy Payments

4. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Sydney Water Requirements

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

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

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

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

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/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.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia

6. 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.

BASIX Requirements

7. 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions of consent must be complied with prior to the commencement of works on the site. The necessary documentation and information must be provided to the Principal Certifier for the development or the Council, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity.

Building Certification and Associated Requirements

8. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
 - a) a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning*

and Assessment Act 1979 and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

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

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

Home Building Act 1989

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

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

Dilapidation Reports

- 10. 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 buildings, additions to buildings and other structures or work that is located within the *zone of influence* of the footings of a building located upon an adjoining premises;
- demolition or construction of buildings which are sited less than 900 mm from a site boundary (e.g. a semi-detached dwelling, terraced dwelling or other building sited up to or less than 900mm from the site boundary);
- excavations for new buildings, additions to existing buildings 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;
- as otherwise may be required by the *Principal Certifier* for the development.

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

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

Noise & Vibration Management Plan

11. 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.

Construction Site Management Plan

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

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

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

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

Sediment Control Plan

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

Demolition Work & Hazardous Materials

14. A *Demolition Work Plan* must be developed and be implemented for all demolition work, in accordance with the following requirements:
- a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy.
 - b) The Demolition Work Plan must include the following details (as applicable):
 - The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor

- Details of hazardous materials in the building (including materials containing asbestos)
- Method/s of demolition (including removal of any hazardous materials including materials containing asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials (including asbestos)
- Other measures to be implemented to ensure public health and safety
- Date the demolition works will commence/finish.

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

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

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

Public Utilities

15. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
16. 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.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

17. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the principal building contractor, including a telephone number at which the

person may be contacted outside working hours, or *owner-builder* permit details (as applicable)

- name, address and telephone number of the *Principal Certifier*
- a statement stating that "unauthorised entry to the work site is prohibited".

Building & Demolition Work Requirements

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

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

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

Construction Site Fencing

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

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

Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land and excavations must be properly guarded to prevent them from being dangerous to life or property.

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

Notes:

- *Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.*

- *A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.*

Site Management

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

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

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

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

- h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.
- i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.

- j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.

Dust Control

21. 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.*

Removal of Asbestos Materials

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

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

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

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

Excavations & Support of Adjoining Land

23. 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.

Building Encroachments

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

Road / Asset Opening Permit

25. 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.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation Certificate*.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate

26. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Fire Safety Certificate

27. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire and Rescue NSW.

BASIX Requirements & Certification

28. In accordance with the *Environmental Planning and Assessment (Development, Certification & Fire Safety) Regulation 2021*, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifier* and Council upon issuing an Occupation Certificate.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Fire Safety Statement

29. 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*.

Environmental Amenity

30. 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.

Development Application Report No. D16/23

Subject: 7/274 Arden Street, Coogee (DA/628/2022)


Executive Summary

Proposal:	Alterations and additions to existing residential flat building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7 (variation to FSR).
Ward:	East Ward
Applicant:	Mod Urban Pty Ltd
Owner:	The Owners - Strata Plan No. 86038
Cost of works:	\$49,000.00
Reason for referral:	FSR development standard exceeded by more than 10%.

Recommendation

- A. That the RLPP is satisfied that the matters detailed in clause 4.6(4) of Randwick Local Environmental Plan 2012 have been adequately addressed and that consent may be granted to the development application, which contravenes the floor space ratio development standard in Clause 4.4 of Randwick Local Environmental Plan 2012. The concurrence of the Secretary of Planning and Environment may be assumed.
- B. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/628/2022 for alterations and additions to existing Residential Flat Building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7 (variation to FSR), at No. 7/274 Arden Street, COOGEE NSW 2034, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (med density res) - DA/628/2022 - 7/274 Arden Street, COOGEE NSW 2034 - DEV - Randwick City Council

D16/23



1. Executive summary

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

The proposal seeks development consent for alterations and additions to existing residential flat building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7.

The key issues associated with the proposal relate to non-compliance with the maximum floor space ratio of 0.9:1 specified by Clause 4.4 of RLEP 2012. The proposed infill of the terrace and extension of the kitchen area is supported given that the proposal will not result in significant adverse environmental impacts upon the amenity and character of the locality.

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

2. Site Description and Locality

The site is located on the western side of Arden Street, approximately 11m north of its intersection with Havelock Street, Coogee.

The site contains a three storey residential flat building comprising seven apartments. There are three apartments at the ground floor and the first floor and one apartment at the second floor, which is the subject of this application.

The adjoining property to the north at 272 Arden Street contains a two storey dwelling house. The adjoining property to the south at 12 Havelock Street contains a three storey residential flat building.



Figure 1: Google Street View (March 2022) - 7/274 Arden Street, Coogee (Source: Google Maps)

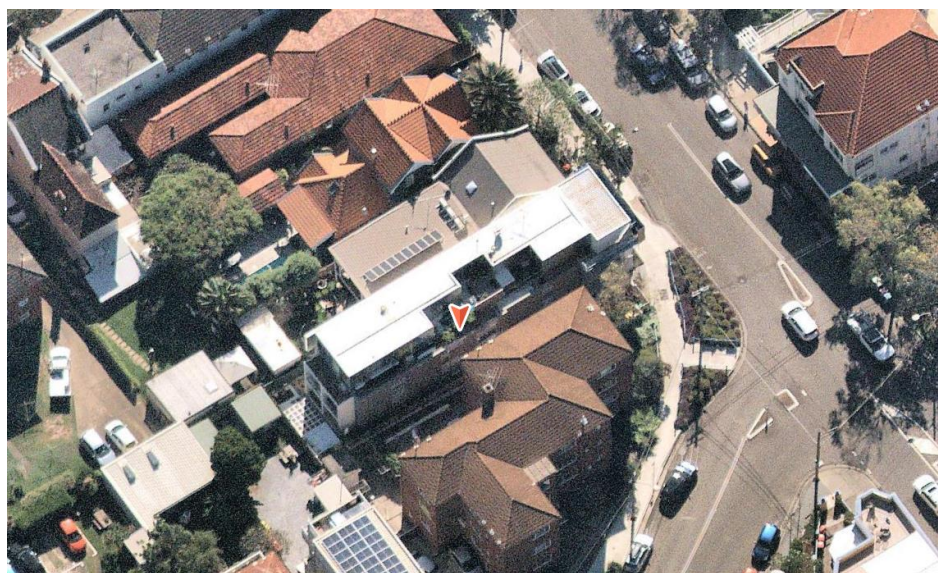


Figure 2: North-east oblique view of the subject neighbourhood (April 2022) - 7/274 Arden Street, Coogee (Source: Nearmap)

3. Relevant history

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

DA/660/2003/C

Modification Application No. DA/660/2003/C for "S4.55(2) modification to approved development to extend kitchen by in-filling existing terrace on western side of upper level (second floor) unit, changes to windows and associated works. Original consent: Alterations and additions to existing two storey RFB adding a third storey and amendment to approved strata plan" at the subject site was approved by the Randwick Local Planning Panel on 12 May 2022.

It is noted that the approved plans under Modification Application No. DA/660/2003/C are identical to those being proposed under this new Development Application No. DA/628/2022. Each of the stamped approved plans have been reproduced below:

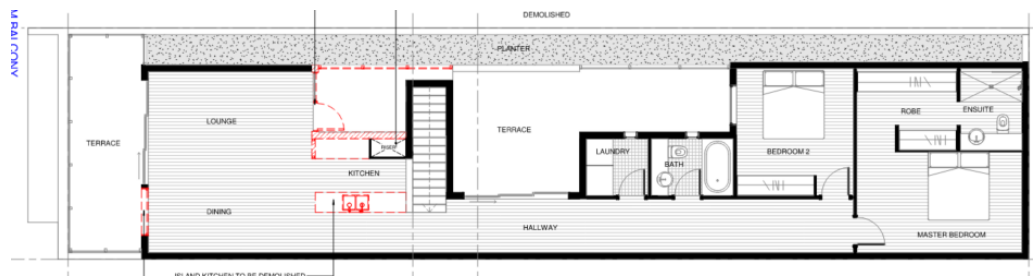


Figure 3: Approved demolition level 2 plan under DA/660/2003/C - 7/274 Arden Street, Coogee (Source: Place Studio)

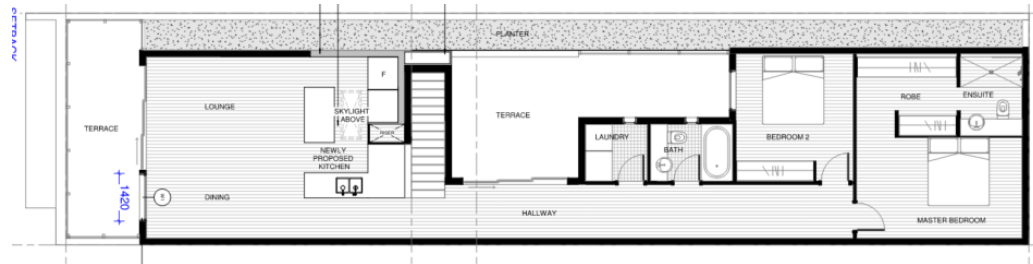


Figure 4: Approved level 2 plan under DA/660/2003/C - 7/274 Arden Street, Coogee (Source: Place Studio)

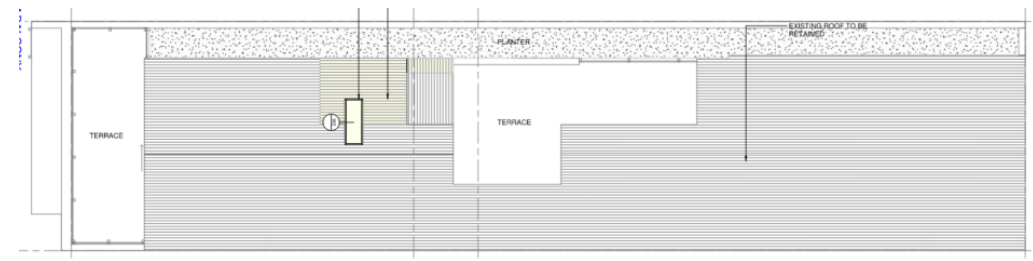


Figure 5: Approved roof plan under DA/660/2003/C - 7/274 Arden Street, Coogee (Source: Place Studio)

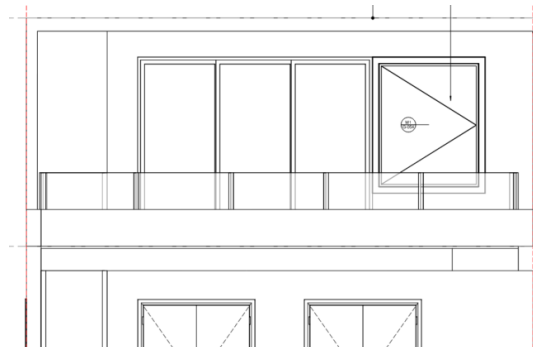


Figure 6: Approved level 2 front elevation under DA/660/2003/C - 7/274 Arden Street, Coogee (Source: Place Studio)



Figure 7: Approved level 2 south elevation under DA/660/2003/C - 7/274 Arden Street, Coogee (Source: Place Studio)

The applicant notes the following in their Statement of Environmental Effects (SEE):

“DA/660/2003/C – was approved 12/5/22 for a S4.55(2) modification to approved development to extend kitchen by in-filling existing terrace on western side of upper level (second floor) unit, changes to windows and associated works.

The proposed DA as outlined in this SEE is identical in terms of its scope of works and rather than implement the approved S4.55 application, the applicant is required to lodge a new DA for the same works as the PCA has advised that as an OC has already been issued for the original DA, then they will not be able to issue a CC and OC for the proposal under a S4.55 as a result of legislation changes.

Therefore the applicant submits a new DA to avoid administrative delays and obstacles with legislation.”

4. Proposal

The proposed modification seeks alterations and additions to existing Residential Flat Building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7. Specifically, the proposal is seeking to:

Level 2

- Demolition of the existing kitchen, a portion of the existing façade wall and terrace area, associated terrace balustrade, and window to the dining room.
- Extension of the existing kitchen area over the terrace to the southern side of the floor area by 5.6m² and fit-out of a new kitchen.
- Extension of the wall section of the proposed extended kitchen to the outside of the internal staircase.
- Addition of a new, enlarged window to the dining room fronting Arden Street.
- Addition of a new skylight located above the new kitchen.

Extracts of the proposed development showing the proposed modification are provided below:

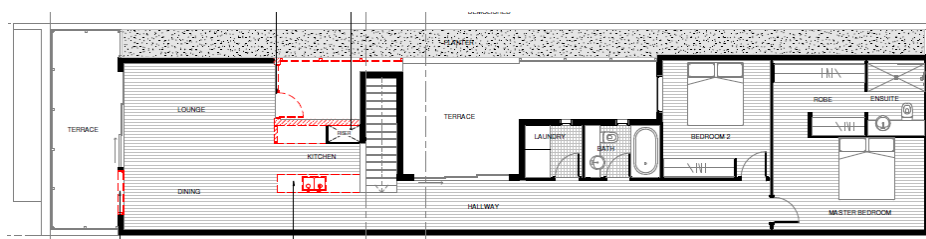


Figure 8: Proposed demolition level 2 plan - 7/274 Arden Street, Coogee (Source: Place Studio)

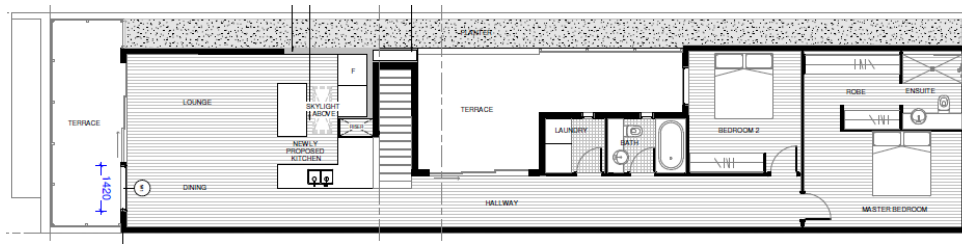


Figure 9: Proposed level 2 plan - 7/274 Arden Street, Coogee (Source: Place Studio)

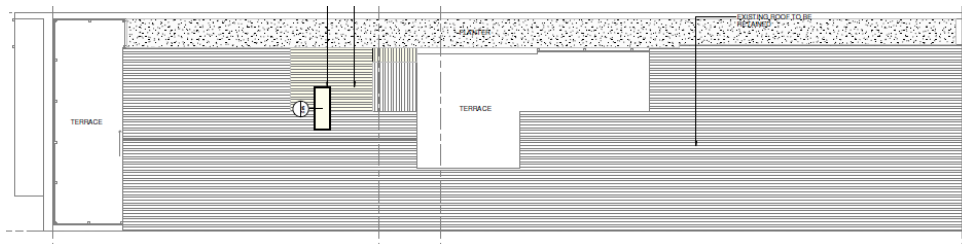


Figure 10: Proposed level 2 roof plan - 7/274 Arden Street, Coogee (Source: Place Studio)

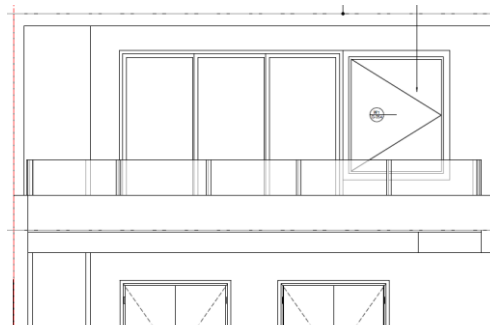


Figure 11: Proposed front elevation - 7/274 Arden Street, Coogee (Source: Place Studio)

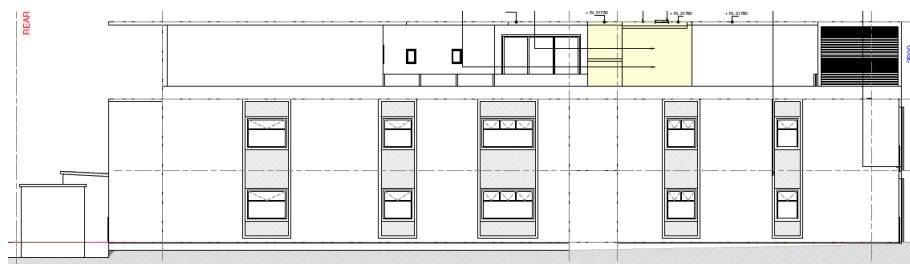


Figure 12: Proposed southern elevation - 7/274 Arden Street, Coogee (Source: Place Studio)

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council's Community Participation Plan. No submissions were received as a result of the notification process.

6. Relevant Environment Planning Instruments

6.1. SEPP 65 - Design Quality of Residential Apartment Developments

The [State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development](#) (SEPP 65) aims to promote quality design of Residential Flat Buildings. The proposed

development is subject to SEPP 65 as it involves alterations and additions to existing Residential Flat Building.

Clause 28 of SEPP 65 requires the consent authority to consider:

- (a) the advice (if any) obtained from the design review panel, and
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

Overall, the proposal will remain compliant with the SEPP and associated Apartment Design Guide, noting the subject apartment will continue to receive adequate sunlight and natural ventilation and good amenity for the occupants.

The proposal was not referred to Design Excellence Panel for advice concerning the design quality of the development, noting the proposal for minor works that will not have significant changes to the design quality of the existing Residential Flat Building.

6.1.1. *Apartment Design Guide*

Appendix 3 provides an assessment of the proposal against the relevant design criteria contained in parts 3 and 4 of the Apartment Design Guidelines. In cases where the development does not satisfy the relevant criteria, the design guidance has been used to determine whether the proposal still meets the relevant objectives.

6.2. **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has not been submitted with this application, as it does not meet the requirements of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

6.3. **SEPP (Resilience and Hazards) 2021**

Chapter 4 'Remediation of land'

Chapter 4 of SEPP (Resilience and Hazards) 2021 applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 4.6 of SEPP (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. The subject site is not identified under RLEP 2012 as constituting contaminated land or land that must be subject to a site audit statement. In this regard it is Council's position that the site will be suitable for the proposed development, posing no risk of contamination. Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, the land is considered to be suitable for the proposed land use.

6.4. **Randwick Local Environmental Plan 2012 (LEP)**

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

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

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	0.9:1 Site = 350m ² Max GFA = 315m ²	1.28:1 (448.86m ²) NB: existing FSR is 1.26:1	No
CI 4.3: Building height (max)	12m	9.22m	Yes

6.4.1. Clause 4.6 - Exceptions to development standards

The non-compliances with the development standards are discussed in section 7 below.

6.4.2. Clause 5.10 - Heritage conservation

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

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

See Section 4 below for the Heritage Referral.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Existing Development	Proposal	Proposed variation	Proposed variation (%)
Cl 4.4: Floor space ratio (max)	0.9:1 Site = 350m ² Max GFA = 315m ²	1.26:1	1.28:1 (448.86m ²)	133.86m ²	38.2%

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

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
4. *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ summarised the matters in Clause 4.6 (4) that must be addressed before consent can be granted to a development that contravenes a development standard.

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where he identified five commonly invoked ways of establishing that compliance with a development

standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [27] notes that the matter in cl 4.6(4)(a)(ii), with which the consent authority must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

4. *The concurrence of the Secretary has been obtained.*

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [28] notes that the other precondition in cl 4.6(4) that must be satisfied before consent can be granted is whether the concurrence of the Secretary has been obtained (cl 4.6(4)(b)). In accordance with Clause 4.6 (5), in deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for state or regional environmental planning, and
- (b) the public benefit of maintaining the development standard

Under clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6 (subject to the conditions in the table in the notice).

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following assessment of whether the matters in Clause 4.6(4) have been satisfied for each contravention of a development standard.

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

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

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

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

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

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed maximum FSR for the site is 1.28:1, with the existing FSR being 1.26:1. The proposal is not inconsistent with other development in the locality in terms of height, bulk and scale, particularly in relation to the scale and bulk of other residential flat buildings in the area including the adjacent residential flat building to the south of the site. In addition, the proposed building envelope is consistent with the existing building envelope of the adjoining development and other similar development. In light of the proposals contribution to achieving the desired future character of the area, a reduction of gross floor area would serve no material planning purpose.

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

The applicant's written justification demonstrates that this objective is satisfied by noting that the proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape, along with providing good internal amenity and outlook. The proposal demonstrates a good quality which achieves the design standards for the locality as well as those outlined in RDCP. In addition, the proposed exterior materials are durable and contribute to the overall articulation and appearance of the buildings, and the proposed materials and design of the building will optimize energy efficiency on site.

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

The development is not within a conservation area or near a heritage item, so the objective detailed in Clause 1(c) is not relevant to this development. In any case, this has been confirmed by Council's Heritage Planner. See Appendix 1 for their full assessment.

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

The applicant's written justification demonstrates that this objective is satisfied in that the proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape, along with providing good internal amenity and outlook. In addition, the proposal will maintain and enhance the residential amenity of the proposed dwellings and surrounding dwellings including their current levels of solar access, visual and acoustic privacy and ventilation. The additional floor space will not result in any unreasonable impacts, particularly in terms of overshadowing or privacy. Also, the new building works present limited opportunity to overlook neighbouring habitable rooms and no impacts from the proposed dwellings are anticipated to neighbouring amenity.

Assessing officer's comment:

The proposed development seeks to infill the existing supplementary terrace on the southern side of the upper level (second floor) apartment with an enlarged kitchen and enlargement of the existing window on the front elevation, a new skylight above the kitchen area, and associated works. The proposed extended kitchen will increase the size of the apartment by approximately 5.6m², reducing the amount of outdoor space. However, the apartment retains access to a terrace fronting Arden Street and an additional courtyard area to the southern side of the floor area.

Whilst the proposal further increases the breach of the floor space ratio, the bulk and scale of the proposal is in keeping with the existing dwelling and other RFBs within the area. The proposed extended kitchen will have minimal impact to the bulk and scale of the RFB, considering the minor increase of the built form and the alignment of the extension to the existing living room. While the extension will be visible from Arden Street, the southern side façade wall aligns to the existing apartment façade wall and is therefore in keeping with the desired future character of the locality.

The apartment retains sufficient articulation to the southern side of the RFB and the enlarged window and additional skylight provide sufficient environmental and energy needs.

The proposed extended kitchen will have minimal impact of the adjoining dwellings and streetscape in terms of visual bulk, loss of privacy, overshadowing and views. As noted above, the additional bulk is in keeping with the existing built form of the RFB. The loss of an additional terrace area and the extended kitchen (which does not propose a new window to the southern side façade) will improve the existing privacy conditions of the apartment. In addition, it is noted that the subject site has an east-west orientation. As such, the proposed extended kitchen will have little impact the solar access to the existing dwelling (being to the southern side of the apartment). Whilst there is some additional overshadowing to the RFB at No. 12 Havelock Avenue, it is considered minor and the adjoining RFB will retain sufficient solar access. It is also noted that no views will be lost as a result from the extended kitchen area.

It is also noted that the RLPP previously approved Modification Application No. DA/660/2003/C on 12 May 2022, which is identical to what has been proposed under this subject Development Application.

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

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

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

- a. The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated above.
- b. The proposed maximum FSR for the site is 1.28:1. It is noted the existing FSR of the site is 1.26:1.

- c. The proposal is not inconsistent with other development in the locality in terms of height, bulk and scale, particularly in relation to the scale and bulk of other residential flat buildings in the area including the adjacent residential flat building to the south of the site.
- d. The proposed building envelope is consistent with the existing building envelope of the adjoining development and other similar development.
- e. The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- f. In light of the proposals contribution to achieving the desired future character of the area, a reduction of gross floor area would serve no material planning purpose.
- g. The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population unique family dwellings to meet the changing population needs.
- h. The proposed development will not significantly impact on the amenity of adjoining occupiers.
- i. The proposed development will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties.
- j. The proposal has been approved previously as part of a S4.55 modification for identical works.

Assessing officer's comment:

As discussed previously, the proposed extended kitchen will have minimal impact on the visual bulk and building envelope, as well as the privacy, solar access, and views of the adjoining and neighboring dwellings. The extended kitchen will improve the amenity use of the open-plan kitchen/living/dining room is creating a more square-shaped room. The loss of the existing terrace will improve some of the existing privacy conditions of the site, mainly to No. 12 Havelock Avenue. In consideration of the size and scale of the surrounding developments within the vicinity of the subject site, the proposed non-complaint floor space ratio is not considered to be unwarranted, and the additional floor area and bulk can be accommodated on the site without resulting in adverse amenity impacts.

In addition, it is noted that the RLPP has already considered the proposal as Modification Application No. DA/660/2003/C, which was approved by the Panel on 12 May 2022, subject to standard conditions.

In view of the above, it is considered that the applicant's written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

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

To determine whether the proposal will be in the public interest, an assessment against the objectives of the Floor Space Ratio standard and R3 Medium Density zone. As discussed above, the proposed development is consistent with the objectives of the floor space ratio standard. In terms of the R3 zone, see below:

Assessment against objectives of R3 Medium Density zone

The objectives of the Residential R3 Medium Density zone 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.*

Assessing officer's comment: The proposed development will provide for the housing needs of the community, providing a medium density development that will contribute to a variety of housing types in conjunction with the existing surrounding single dwellings and RFB developments.

The proposed built form will be compatible with the desired future character as part of a transitioning medium density area and will protect the amenity of residents by being minor in its bulk and scale, having negligible impact on the visual bulk of the RFB from Arden Street and adjoining and neighbouring dwellings.

The development is consistent with the objectives of the floor space ratio standard and the R3 Medium Density Residential zone. Therefore, the development will be in the public interest.

4. Has the concurrence of the Secretary been obtained?

In assuming the concurrence of the Secretary of the Department of Planning and Environment the matters in Clause 4.6(5) have been considered:

Does contravention of the development standard raise any matter of significance for state or regional environmental planning?

The proposed development and variation from the development standard does not raise any matters of significance for state or regional environmental planning.

Is there public benefit from maintaining the development standard?

Variation of the maximum floor space ratio standard will allow for the orderly use of the site and there is a no public benefit in maintaining the development standard in this instance.

Conclusion

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

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

The relevant provisions of the DCP are addressed in Appendix 4.

Note: Clause 6A of SEPP 65 states:

- (1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*
 - (a) *visual privacy,*
 - (b) *solar and daylight access,*
 - (c) *common circulation and spaces,*
 - (d) *apartment size and layout,*
 - (e) *ceiling heights,*
 - (f) *private open space and balconies,*

- (g) *natural ventilation,*
(h) *storage.*

(2) *If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.*

(3) *This clause applies regardless of when the development control plan was made.*

Consequently, where the Randwick DCP provides controls in relation to the matters listed in item (1), the assessment has been made against the relevant controls in parts 3 and 4 of the ADG (refer to appendix 3) rather than those in the DCP.

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

10. Conclusion

That the application to alterations and additions to existing Residential Flat Building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7 be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013.
- The proposal is consistent with the objectives contained within SEPP 65.
- The proposal is consistent with the specific objectives of the R3 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal is considered to be suitable for the location and is compatible with the desired future character of the locality.

D16/23

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

Council's Heritage Planner has confirmed the proposed development is satisfactory and provided the following comments:

"The Site

The site is occupied by a three storey residential flat building. Council's electronic records of previous development applications and subsequent modifications dating from 2003 and 2021, suggest that the building originally comprised two storeys, with considerable subsequent change at second floor level. To the south of the site at no.286–290 Arden Street is a three storey neo-classical residential flat building listed as a heritage item under Randwick LEP 2012. Further to the south at no.291 Arden Street is "Tudor Hall", a neo-Romanesque residential flat building also listed as a heritage item. Also to the south, "Ambassador Flats" at no.289 Arden Street, and "Verilima Flats" at no.293 Arden Street, have been identified as draft heritage items under Randwick LEP 2020.

Proposal

The application proposes changes to unit 7 on the top floor of the building, including an addition within an existing indent to enlarge the kitchen, and changes to openings on the Arden Street elevation.

Controls

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

Comments

The site is separated from surrounding heritage items and draft heritage items and will not impact on their physical fabric. The proposal will not result in significant change to the existing building envelope and will not adversely impact on the streetscape setting or views to or from the heritage items or draft heritage items in the vicinity."

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

D16/23

- The additional floor space will not result in any unreasonable impacts, particularly in terms of overshadowing or privacy as discussed in this document;
- The proposal is not inconsistent with other development in the locality in terms of height, bulk and scale, particularly in relation to the scale and bulk of other residential flat buildings in the area including the adjacent residential flat building to the south of the site;
- The proposal still results in residential apartments which enjoy a good level of amenity;
- The proposal does not result in any detrimental impact to the streetscape;
- Each apartment maintains a good level of private open space;
- The proposal will contribute positively to the character and appearance of the area;
- No adverse impacts to adjoining development is to occur in terms of loss of privacy, overshadowing or visual impact and view loss;
- The proposal maintains a high quality of residential accommodation;

The non-compliance with the Floor Space Ratio standard contained in Clause 4.4 of the Randwick LEP will not result in significant impacts on adjoining development and therefore strict compliance is unnecessary in the circumstances of the case. It would be unreasonable to enforce compliance with the FSR standard contained within the RLEP when the proposed development on site achieves the underlying purpose of the standard and meets Council's objectives.

Clause 4.6

The proposal will increase the gross floor area of the site by 5.59m². The maximum FSR under the provisions of Clause 4.4 the RLEP 2012 is 0.9:1. The proposal results in an FSR of 1.28:1. It is noted the existing FSR of the site is 1.26:1.

In light of the above non-compliance the following addresses the requirements of Clause 4.6 to allow a variation to the development standard.

In accordance with Clause 4.6 of the RLEP 2012 Council is required to consider the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Meeting the Objectives of the Clause 4.4 and the R3 Zone

The objectives of the Clause 4.4 FSR standard of the RLEP 2012 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.

Notwithstanding the proposed variation to the standard, the proposed development is nevertheless consistent with these objectives:

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

- The proposed maximum FSR for the site is 1.28:1. It is noted the existing FSR of the site is 1.26:1.
- The proposal is not inconsistent with other development in the locality in terms of height, bulk and scale, particularly in relation to the scale and bulk of other residential flat buildings in the area including the adjacent residential flat building to the south of the site;
- The proposed building envelope is consistent with the existing building envelope of the adjoining development and other similar development.
- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- The proposed building provides an appropriate height, bulk and scale to the site and is compliant with RLEP 2012 height provisions.
- In light of the proposals contribution to achieving the desired future character of the area, a reduction of gross floor area would serve no material planning purpose.

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

- The proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape, along with providing good internal amenity and outlook. The proposal demonstrates a good quality designed pair of dwellings which achieves the design standards for the locality as well as those outlined in RDCP.
- The proposed exterior materials are durable and contribute to the overall articulation and appearance of the buildings.
- The proposed materials and design of the building will optimize energy efficiency on site.

(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 site is not located within a Conservation area and is not 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.

- The proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape, along with providing good internal amenity and outlook.
- The proposal will maintain and enhance the residential amenity of the proposed dwellings and surrounding dwellings including their current levels of solar access, visual and acoustic privacy and ventilation.
- The additional floor space will not result in any unreasonable impacts, particularly in terms of overshadowing or privacy;
- The new building works present limited opportunity to overlook neighbouring habitable rooms.
- No impacts from the proposed dwellings are anticipated to neighbouring amenity.

The site is currently zoned R3 Medium Density Residential under the Randwick LEP 2012. The proposed development results in enlargement of an existing dwelling on site, and is therefore considered permissible within the R3 zone, as outlined in the accompanying SEE.

The proposed new additions are consistent with the R3 zone objectives in that:

- To provide for the housing needs of the community within a medium density residential environment.

The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population by improving the quality of smaller family dwellings to meet the changing population.

- To provide a variety of housing types within a medium density residential environment.

The proposal maintains and improves the existing housing on site within the Sydney housing market, that adds to the diversity of dwelling types in Sydney.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed residential land use does not provide any other land uses that will provide for services or facilities.

- 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.

The proposed use gives provision of a residential dwelling that is compatible with the surrounding residential land uses and provides for the continued use of the site as a residential allotment.

The scale of the development and its typology is considered to be appropriate for the site and the surrounding area and meets the needs of the local residents and the wider Sydney metropolitan area.

The proposed design of the development achieves an appropriate built form in that it enhances the public domain, maintains the character of the streetscape.

- *To protect the amenity of residents.*

The proposal will maintain and enhance the residential amenity of the dwellings on site and surrounding dwellings including their current levels of solar access, visual and acoustic privacy and ventilation.

The new building has limited opportunity to overlook neighbouring habitable rooms.

- *To encourage housing affordability.*

The proposal will maintain and enhance the residential amenity of the proposed dwellings and surrounding dwellings including their current levels of solar access, visual and acoustic privacy and ventilation.

The new building has limited opportunity to overlook neighbouring habitable rooms.

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

Not applicable

Establishing if the Development Standard is Unreasonable or Necessary

In applying the tests of *Wehbe v Pittwater Council* [2007] NSWLEC 827, only one of the above rationales is required to be established. Notwithstanding the proposed variation, as demonstrated above, the proposed development is consistent with the underlying objectives of the standard for FSR and the R2 zone of RLEP 2012.

Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

The variation to the development standard for FSR is considered well founded because, notwithstanding the proposed non-compliance with FSR standards:

- The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated above.
- The proposed maximum FSR for the site is 1.28:1. It is noted the existing FSR of the site is 1.26:1.
- The proposal is not inconsistent with other development in the locality in terms of height, bulk and scale, particularly in relation to the scale and bulk of other residential flat buildings in the area including the adjacent residential flat building to the south of the site;
- The proposed building envelope is consistent with the existing building envelope of the adjoining development and other similar development.
- The bulk and scale of the proposal is consistent with this style of residential building which is common for residential areas.
- In light of the proposals contribution to achieving the desired future character of the area, a reduction of gross floor area would serve no material planning purpose.
- The proposal will add to delivering a mix of well-designed housing that meets the needs of Sydney's growing population unique family dwellings to meet the changing population needs.
- The proposed development will not significantly impact on the amenity of adjoining occupiers.
- The proposed development will not result in any unreasonable privacy intrusion or loss of daylight access to adjacent properties.
- The proposal has been approved previously as part of a S4.55 modification for identical works.

Appendix 3: SEPP 65 Compliance Table

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3F-1	Visual Privacy														
	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building Height</th><th>Habitable Rooms and Balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties</p>	Building Height	Habitable Rooms and Balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>The proposed extended kitchen does not include any windows to the southern side.</p> <p>The proposed window to the front elevation is to Arden Street so there are no concerns for visual privacy.</p>	Yes, complies
Building Height	Habitable Rooms and Balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													
Part 4: Designing the Building															
4A	Solar and Daylight Access														
	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid Winter.</p>	<p>The extended kitchen will retain sufficient solar access, considering the extension is to the south of the floor area and an additional skylight.</p>	Yes, complies												
4B	Natural Ventilation														
	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p>	<p>The subject apartment will continue to receive adequate cross ventilation from the x2 terraces to the floor level.</p>	Yes, complies												
4C	Ceiling Heights														
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none">Habitable Rooms – 2.7mNon-habitable – 2.4mAttic spaces – 1.8m at edge with min 30 degree ceiling slope	<p>The proposed floor-to-ceiling height will match that of the existing apartment.</p>	Yes, complies												

D16/23

D16/23

Clause	Design Criteria	Proposal	Compliance															
	<ul style="list-style-type: none">Mixed use areas – 3.3m for ground and first floor <p>These minimums do not preclude higher ceilings if desired</p>																	
4D	Apartment Size and Layout																	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	The proposed extended kitchen will receive adequate daylight and ventilation from the front terrace doors and window.	Yes, complies															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	The proposed open-plan kitchen/living/dining room has a depth of <8m.	Yes, complies															
4E	Private open space and balconies																	
	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4 m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8 m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10 m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12 m²</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	Dwelling type	Minimum area	Minimum depth	Studio	4 m ²	-	1 bedroom	8 m ²	2m	2 bedroom	10 m ²	2m	3+ bedroom	12 m ²	2.4m	The subject apartment retains the existing front and side terraces.	Yes, complies
Dwelling type	Minimum area	Minimum depth																
Studio	4 m ²	-																
1 bedroom	8 m ²	2m																
2 bedroom	10 m ²	2m																
3+ bedroom	12 m ²	2.4m																
4H	Acoustic Privacy																	
	Window and door openings are generally orientated away from noise sources.	The loss of the terrace adjoining the existing kitchen will reduce acoustic privacy issues relating to this outdoor area. No windows are proposed to the enclosed southern side of the kitchen extension.	Yes, complies															

Appendix 4: DCP Compliance Table

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
2.	Site Planning		
3.	Building Envelope		
3.1	Floor space ratio		
	Maximum floor space ratio LEP 2012 = 0.9:1	Proposed = 1.28:1 (448.86m ²)	No, see Section 7 above.
3.2	Building height		
	Maximum overall height LEP 2012 = 12m	Proposed = 9.22m	Yes, complies
3.4	Setbacks		
3.4.2	Side setback		
	Residential flat building (i) Comply with the minimum side setback requirements stated below: - 14m ≤ site frontage width < 16m: 2.5m (ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to: - Create articulations to the building facades. - Reserve open space areas and provide opportunities for landscaping. - Provide building separation. - Improve visual amenity and outlook from the development and adjoining residences. - Provide visual and acoustic privacy for the development and the adjoining residences. - Ensure solar access and natural ventilation for the development and the adjoining residences. (iii) A fire protection statement must be submitted where windows are 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.	The proposed extended kitchen area is setback from the southern side boundary in alignment with the existing external façade wall.	Yes, complies
4.	Building Design		
4.1	Building façade		
	(i) Buildings must be designed to address all street and laneway frontages.	The proposed enclosed kitchen will provide an additional area of blank	Yes, complies

D16/23

D16/23

DCP Clause	Control	Proposal	Compliance
	<p>(ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout.</p> <p>(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.</p> <p>(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.</p> <p>(vi) Conceal building services and pipes within the balcony slabs.</p>	<p>wall visible from Arden Street however is in scale to the existing RFB and considered acceptable.</p>	
4.2	Roof design		
	<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.</p> <p>(ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access.</p> <p>(iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape.</p> <p>(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>(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"> - There are no direct sightlines to 	<p>The proposed extended kitchen will retain the existing roof form of the apartment surrounding it.</p>	<p>Yes, complies</p>

DCP Clause	Control	Proposal	Compliance
	<p>the habitable room windows and private and communal open space of the adjoining residences.</p> <ul style="list-style-type: none"> - The size and location of terrace or deck will not result in unreasonable noise impacts on the adjoining residences. - 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. - Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building. <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>		
4.9	Colours, materials and finishes		
	<p>(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans.</p> <p>(ii) The selection of colour and material palette must complement the character and style of the building.</p> <p>(iv) Use the following measures to complement façade articulation:</p> <ul style="list-style-type: none"> - Changes of colours and surface texture - Inclusion of light weight materials to contrast with solid masonry surfaces - The use of natural stones is encouraged. <p>(v) Avoid the following materials or treatment:</p> <ul style="list-style-type: none"> - Reflective wall cladding, panels and tiles and roof sheeting - High reflective or mirror glass - Large expanses of glass or curtain wall that is not protected by sun shade devices - Large expanses of rendered masonry - Light colours or finishes where they may cause adverse glare or reflectivity impacts <p>(vi) Use materials and details that are suitable for the local climatic conditions to properly withstand</p>	<p>A condition of consent will be issued requiring that the finishes are to be consistent with the existing building and adjacent development to maintain the integrity and amenity of the building, and the streetscape.</p>	<p>Yes, subject to condition</p>

D16/23

D16/23

DCP Clause	Control	Proposal	Compliance
	<p>natural weathering, ageing and deterioration.</p> <p>(vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.</p>		
5.	Amenity		
5.4	Acoustic privacy		
	<p>(i) Design the building and layout to minimise transmission of noise between buildings and dwellings.</p> <p>(ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities.</p> <p>(iii) Utilise appropriate measures to maximise acoustic privacy such as:</p> <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	<p>The proposed loss of the existing terrace in place of the proposed kitchen will reduce some acoustic privacy to adjoining dwellings, being No. 12 Havelock Avenue.</p>	<p>Yes, complies</p>
5.5	View sharing		
	<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(iv) The design of fences and selection of plant species must minimise obstruction of views from the neighbouring residences and the public domain.</p> <p>(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.</p> <p>(vi) Clearly demonstrate any steps or measures adopted to mitigate potential view loss impacts in the development application.</p>	<p>The proposed extended kitchen will not impact upon views from adjoining dwellings.</p>	<p>Yes, complies</p>

Responsible officer: William Joannides, Customer Service Planning and Development Officer

File Reference: DA/628/2022

D16/23

Development Consent Conditions (Medium Density Residential)



Folder /DA No:	DA/628/2022
Property:	7/274 Arden Street, COOGEE NSW 2034
Proposal:	Alterations and additions to existing Residential Flat Building involving infill of existing Level 2 terrace and new kitchen extension to Unit 7 (variation to FSR).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated	Received by Council
Existing – Level 2 – Floorplan, DA-0001, Rev 1	Place Studio	10/06/2021	02/12/2022
Proposed – Level 2 – Floorplan, DA-0002, Rev 1	Place Studio	10/06/2021	02/12/2022
Roof Plan, DA-0003, Rev 1	Place Studio	10/06/2021	02/12/2022
Level 2 – Front Elevation, DA-0006, Rev A	Place Studio	18/02/2022	02/12/2022
Proposed South Elevation, DA-0007, Rev 1	Place Studio	22/06/2021	02/12/2022

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All

necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

3. 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.

Long Service Levy Payments

4. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Security Deposits

5. 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 of the *Environmental Planning and Assessment Act 1979*:

- \$1,000.00 - Damage / Civil Works Security Deposit

The 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 works which confirms that there has been no damage to Council's assets and infrastructure.

The developer/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 and other assets 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 Development Engineer upon issuing of an occupation certificate or completion of the civil works.

Sydney Water Requirements

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

The approved plans must be submitted to the Sydney Water [Tap in™](#) online service, to determine whether the development will affect Sydney Water's waste

water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

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

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

Sydney Water's Tap in™ online service is available at:
<https://www.sydneywater.com.au/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.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia

7. 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.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions of consent must be complied with prior to the commencement of works on the site. The necessary documentation and information must be provided to the Principal Certifier for the development or the Council, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity.

Building Certification and Associated Requirements

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

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

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

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

Home Building Act 1989

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

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

Dilapidation Reports

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

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

Noise & Vibration Management Plan

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

A *Construction Noise & Vibration Management Plan* must be developed and implemented throughout demolition and construction work.

- a) The *Construction Noise & Vibration Management Plan* must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority *Guidelines for Construction Noise and Assessing*

Vibration: A Technical Guideline (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.

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

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

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

Construction Site Management Plan

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

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

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

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

Sediment Control Plan

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

Demolition Work & Hazardous Materials

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

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

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

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

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

Public Liability

15. 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.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

16. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:
- name, address, contractor licence number and telephone number of the principal building contractor, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
 - name, address and telephone number of the *Principal Certifier*
 - a statement stating that "unauthorised entry to the work site is prohibited".

Building & Demolition Work Requirements

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

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

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

Noise & Vibration

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

Construction Site Fencing

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

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

Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land and excavations must be properly guarded to prevent them from being dangerous to life or property.

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

Notes:

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

Site Management

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

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

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

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

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

Dust Control

21. Dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include:

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

Site Accessway

22. A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.

Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction

Removal of Asbestos Materials

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

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

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

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

Excavations & Support of Adjoining Land

24. In accordance with section 4.17 (11) of the *Environmental Planning and Assessment Act 1979* and section 74 of the *Environmental Planning and Assessment Regulation 2021*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

Complaints Register

25. A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.

Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.

Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.

Building Encroachments

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

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation Certificate*.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Post-construction Dilapidation Report

27. A post-construction Dilapidation Report is to be prepared by a professional engineer for the adjoining and affected properties of this consent, to the satisfaction of the Principal Certifier, prior to the issue of an Occupation Certificate.

The dilapidation report shall detail whether:

- a) after comparing the pre-construction dilapidation report to the post-construction report dilapidation report required under this consent, there has been any damage (including cracking in building finishes) to any adjoining and affected properties; and
- b) where there has been damage (including cracking in building finishes) to any adjoining and/or affected properties, that it is a result of the building work approved under this development consent.

The report is to be submitted as a PDF in Adobe format or in A4 format and a copy of the post-construction dilapidation report must be provided to the Principal Certifier and to Council (where Council is not the principal certifier). A copy shall also be provided to the owners of the adjoining and affected properties and Council shall be provided with a list of owners to whom a copy of the report has been provided.

Occupation Certificate

28. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Fire Safety Certificate

29. A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire and Rescue NSW.

Structural Certification

30. A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the *Principal Certifier*. A copy of which is to be provided to Council.

Sydney Water Certification

31. A *section 73 Compliance Certificate*, under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneywater.com.au > Building and developing > Developing your Land > Water Servicing Coordinator or telephone 13 20 92.

Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.

Noise Control Requirements & Certification

32. The operation of plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.

A report must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from any plant and equipment (e.g. mechanical ventilation systems and air-conditioners) satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority (EPA) Noise Policy for Industry and Council's development consent.

A copy of the report must be provided to the *Principal Certifier* and Council prior to an occupation certificate being issued.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

Use of parking spaces

33. 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.

Environmental Amenity

34. 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.

Development Application Report No. D17/23

Subject: 85 Darley Road, Randwick (DA/563/2022)


Executive Summary

Proposal:	Alterations and additions to the existing dwelling to provide for internal alterations to the rear ground level for a new kitchen, new windows to that area of the dwelling, new skylights, side fencing and AC units, enlargement of the existing garage and associated landscaping.
Ward:	North Ward
Applicant:	H Janes
Owner:	H & D Janes
Cost of works:	\$452,000
Reason for referral:	The works involve partial demolition and alterations and additions to a Heritage Item

Recommendation

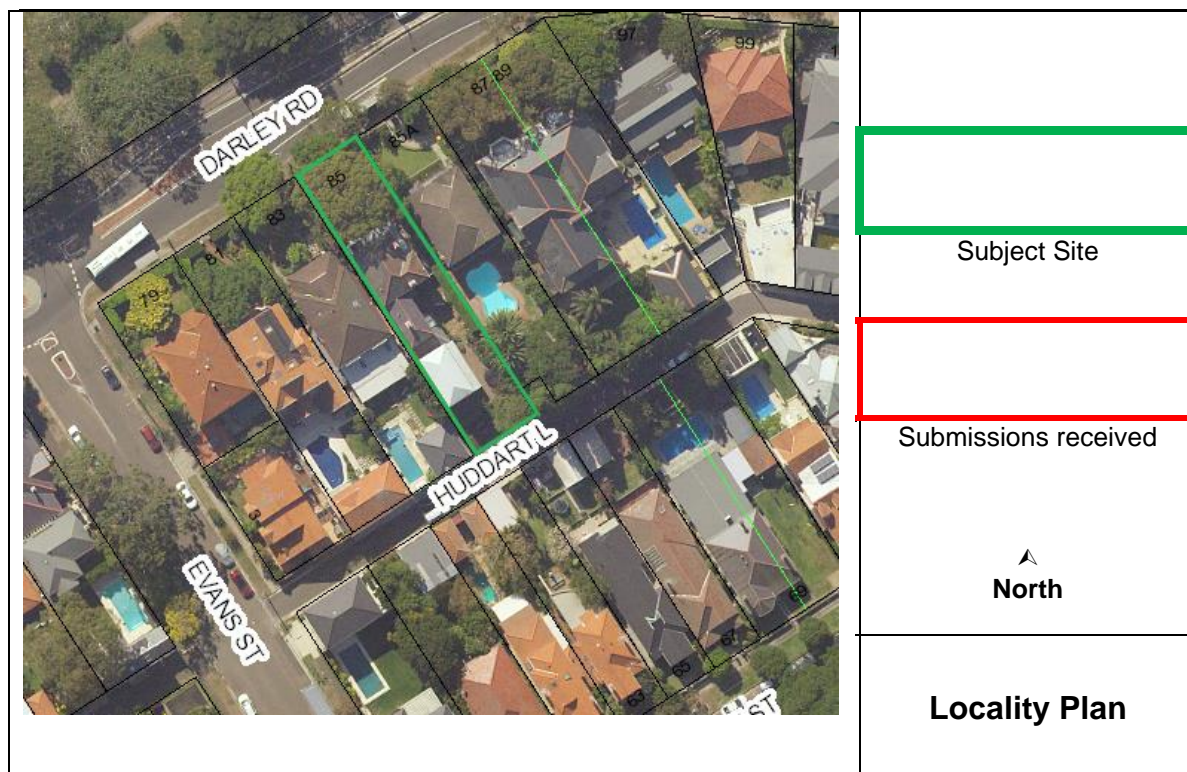
- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 563/2022 for alterations and additions to the dwelling, enlarged garage, landscaping and associated works at No. 85 Darley Road, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/563/2022 - 85 Darley Road, RANDWICK NSW 2031 - DEV - Mrs H L Janes

D17/23

D17/23



1. Executive summary

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

- The development involves alterations and additions to and partial demolition of a heritage item

The proposal seeks development consent for alterations to the existing ground level section of the dwelling, replacement of doors and windows, new skylights, replacement of roofing, new fencing, enlargement of existing garage at the rear of the site, new AC units, site landscaping and associated works.

The key issues associated with the proposal relate to the impact that the works may have upon the significance of the building which is listed under Schedule 5 of the RLEP as a Heritage Item.

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

2. Site Description and Locality

The site is on the southern side of Darley Road directly opposite Centennial Park and has a frontage of 12.19m, 54.865m and area of 669sqm. The site falls from the rear to the street frontage with a difference in level of up to 3m. The site contains at present a free standing two storey dwelling with garage at rear with rear lane access. See extract of survey below.

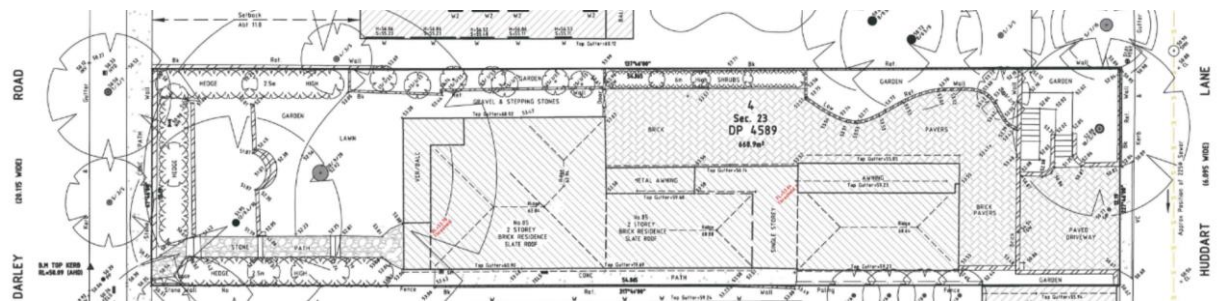


Figure 1. Site survey



Figure 2: Photo of dwelling as viewed from front of site



Figure 3: Existing rear lane frontage

3. Relevant history

This current application is a resubmission of a previous development consent, DA/430/2016, for the same proposal which has lapsed. Other than minor changes to reflect updated BASIX commitments the proposal is identical to that approved under that consent.

4. Proposal

The proposal seeks development consent for alterations and additions to the existing dwelling and garage as follows;

- Demolition of the current kitchen, laundry and bathroom and reconfigure the floor plan to provide an open plan kitchen and sitting room in the mid-section of the dwelling between the living area and rear family room,
- Provide for timber framed windows to the northeast kitchen wall and install 3 skylights within the roof,
- Replace roofing in the middle section of the dwelling with a new slate tile roof, including new insulation and sarking,
- Removal of the existing corrugated iron roof structure on the rear contemporary pavilion and replacement with terracotta roof tiles, insulation, and sarking
- Demolish the existing veranda and replace with a new veranda to accommodate the new slate roof tiles,
- Creation of space in the underground garage for three cars and additional storage space, and with raised lawn area above,
- Installation of four outdoor air-conditioning systems units at ground level along the western elevation in the space that abuts 83 Darley Road

- Construction of a new timber paling fence along the boundary of 85 and 83 Darley Road
- Existing side entry fence to be demolished and replaced with a brick fence and hardwood timber gate
- New sandstone steppers in front garden
- New sandstone retaining wall and levelling of lawn
- New sandstone retaining walls to be constructed on the western side of the entrance steps
- Reconstruction of existing boundary wall with 85A Darley Road in matching sandstone
- The existing brick paving to the rear garden to be replaced with new sandstone flagging
- Introduction of new paved outdoor dining area in front of the existing water feature
- Existing access steps from Huddart Lane to be demolished
- Minor tree replacement
- Screen privacy planting to be introduced along the side boundaries

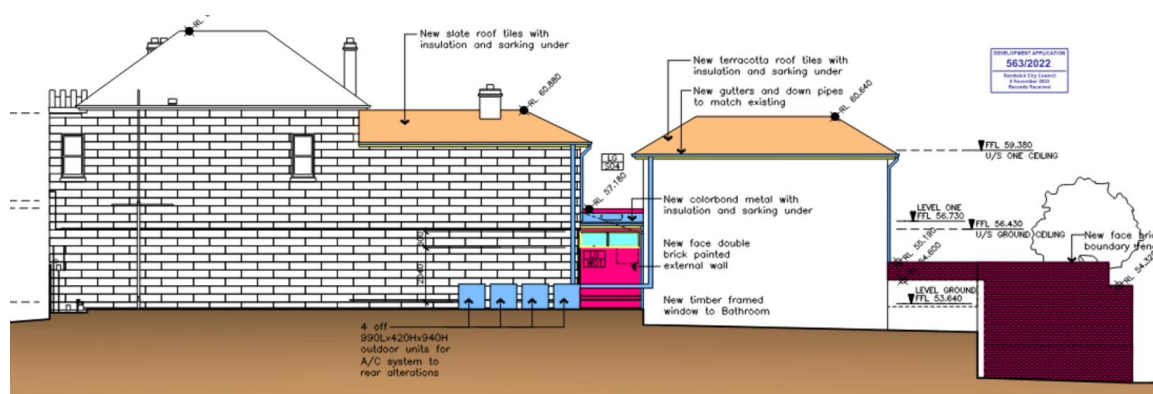


Figure 2. Proposed western side elevation

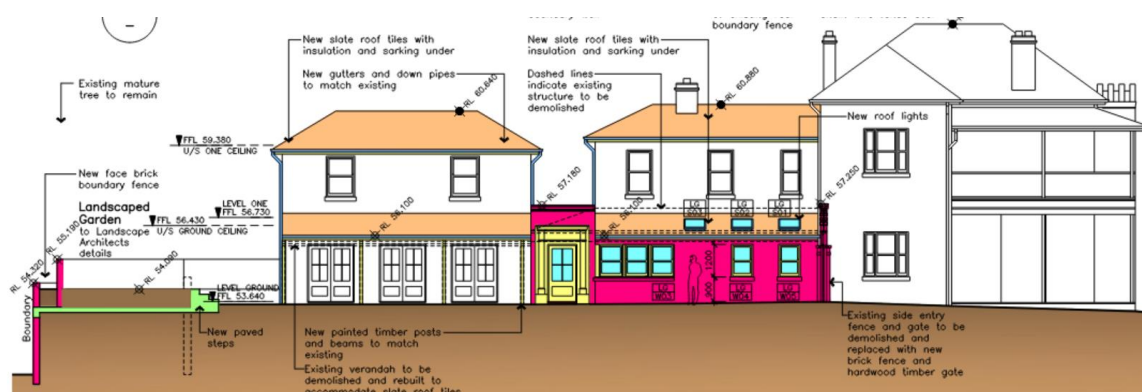


Figure 3. Proposed eastern side elevation

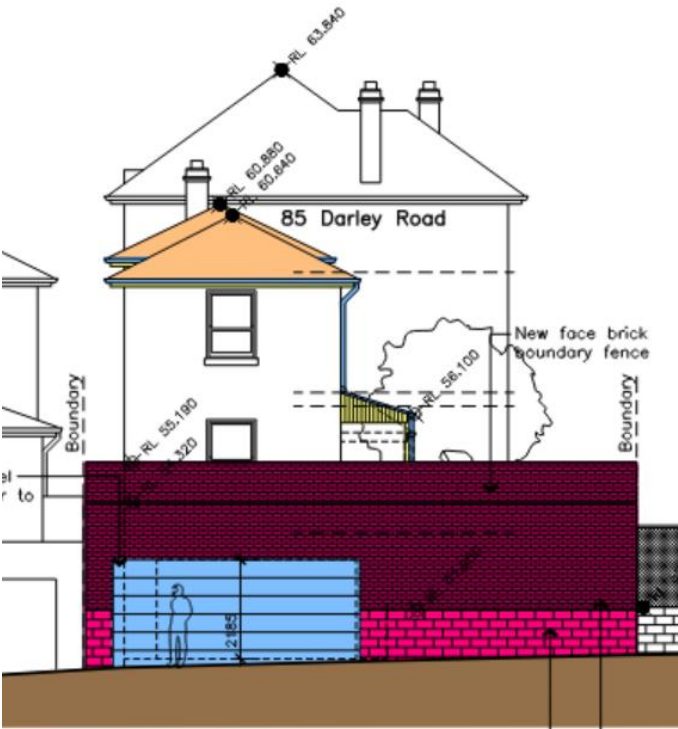


Figure 4. Proposed rear laneway elevation

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with Council’s Community Participation Plan. No response has been received.

5.1. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will maintain the residential use without any adverse impact to the amenity of the adjoining properties and locality.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	0.6:1	0.44:1	Yes
Cl 4.3: Building height (max)	9.5m	No change from existing	Yes

5.1.1. Clause 5.10 - Heritage conservation

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

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

The proposal has been considered by Council's Heritage Planner who has provided detailed comments which are addressed in Section 7.1, Key Issues below.

6. Development control plans and policies

6.1. 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 2.

7. 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)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. 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	No response has been received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

7.1. Discussion of key issues

Heritage

As noted above in Section 5.1.1, the proposal has been considered by Council's Heritage Planner in relation to the impact of the works upon the heritage item. The advice provided is that there are no objections to the proposal subject to conditions. Refer to the heritage referral in Appendix 1.

Garage

Section 6 of the RDCP details the objectives in relation to car parking and access.

The objectives 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 surfaces 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,
- e) Ensure the location and design of parking and access facilities do not adversely impact on the amenity of neighbouring properties.

The application details the enlargement of the existing garage at the rear of the property by absorbing the existing double car space at the rear of the site into the enlarged garage.

Within this section of Huddart Lane there are a series of garages that are sited directly to the lane and are built up to both side boundaries, some of the garages are two storey in nature. See photo below.



Existing garage at 85 Darley Road, rear lane elevation



Existing garage and adjoining garden at 85 Darley Road, rear lane elevation



Existing garages to the sites adjoining 85 Darley Road

At present this site has a double garage which is setback from the lane with a double car space in front of the garage. This application seeks approval to enlarge the garage by incorporating the car space into the envelope of the garage so that the new garage is now sited up to the rear and the western side boundaries.

The garage includes a rear planter strip across the face of the building which fronts Huddart Lane which as shown on the landscape plan. This will soften the appearance of the building as viewed within the street.

There are no objections to the enlarged garage as it will remain consistent with the streetscape of Huddart Lane and will not result in any adverse impact upon the amenity of the adjoining properties.

An assessment of the proposal against the specific objectives in this section of the DCP is as follows;

- a) Ensure car parking and access facilities do not visually dominate the property frontage or streetscape,

Comment: The proposed enlarged garage is at the rear of the site and is similarly sited as other garages that are to the rear of dwellings on lots which also have rear lane access.

- b) Ensure parking facilities are integrated with the architectural expression of the dwelling as an integrated element,

Comment: The garage addition is to the existing garage at the rear of the site which is excavated below ground level and will not detract from the existing dwelling.

- c) Minimise hard surfaces and maximise opportunities for deep soil planting and permeable surfaces for stormwater infiltration,

Comment: The resultant areas of soft landscaping within the front and rear of the site will maintain deep soil planting and permeable areas 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,

Comment: The addition to the existing garage does not compromise vehicle or pedestrian access within the rear laneway.

- e) Ensure the location and design of parking and access facilities do not adversely impact on the amenity of neighbouring properties.

Comment: The addition to the garage remains consistent in terms of the rear laneway streetscape presentation and the other similarly sited garages in the laneway.

8. Conclusion

That the application to carryout alterations and additions to the existing dwelling and rear garage be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013
- The proposal is consistent with the specific objectives of the R2 zone in that 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 desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape

Appendix 1: Referrals

1. Internal referral comments:

1.1. Heritage planner

The Site

The subject site is located at 85 Darley Road, Randwick. It is a rectangular block with a frontage of 12.19 m, a side boundary of 54.865 m and comprising 668.9m². It has a legal land parcel designation of Lot 4, Sec 23, DP 4589. On site is a fine example of a two-storey Federation Queen Anne style, brick and tile dwelling, constructed in 1908 and known as *Shaldon*. It is characterised by picturesque asymmetrical roof forms, with tower elements, large verandas set to one side, tessellated tile flooring and tuck-pointed brickwork. The front façade overlooking Centennial Park has a generous setback and is characterised by mature plantings, set behind timber fencing on sandstone piers. The rear access is *via* Huddart Lane and to an established garage.

The forward section of the interior of the dwelling features many original decorative attributes such as moulded plaster, Corinthian pilasters, stained glass windows/fanlights, timber architraves, moulded light fittings and polished dark wood joinery (particularly the grand stairway). At the rear of the dwelling there is an attached two-storey pavilion, which is a later addition to the original. All fabric and finishes in that rear extension are contemporary.

The subject property is identified as a local heritage item (I342) and is considered to have aesthetic and historical significance. It is also located within the North Randwick Heritage Conservation Area (C1), both being within Schedule 5 of the Randwick Local Environmental Plan (LEP) 2012. The North Randwick Heritage Conservation Area encompasses a large zone to the south of Centennial Park and is characterised by a variety of early twentieth century dwellings and parkland vistas. The subject site is also located within proximity to other heritage-listed items of local and state significance. These include Centennial Park along with its Federation monument and Superintendent's residence (I01), as well as 73 Darley Road (I341), 71 Darley Road (I340), and 87-89 Darley Road (I343).

Background

This Development Application is a resubmission of a previously approved DA that has lapsed. Consent was approved by Randwick Council for DA/430/2016 on 25 October 2016. The DA approval lapsed on 25 October 2021. The scope of works remains substantially the same. Minor adjustments have been made to some of the documents to reflect updated Basix Certificate commitments.

Before that, a DA/82/2013 was approved by Randwick City Council in 2013 for extensive interior and exterior works. These works, undertaken in stages over some months were supported by Heritage Impact Statements (HIS) prepared by *Rappaport Pty Ltd* and then by Rosemarie Canales in mid-2013.

Proposal

The proposal involves alterations to the first floor of the dwelling, predominantly located in the middle section of the 20th century extension, as well as to the garage at the rear of the property, and some landscaping to the front and rear garden areas. In detail these involve:

- Demolition of the current kitchen, laundry and bathroom
- Relocation of these facilities to the current children's play area and study
- This area to be extended to the northeast
- Therefore, the current ground floor northeast wall will be extended to align with the existing rear veranda

- The kitchen to be reconfigured
- Timber framed windows introduced along the northeast kitchen wall
- Three skylights introduced above the kitchen
- A recessed entrance vestibule and new bathroom introduced along with skylight
- The roofing in the middle section of the property will be replaced with a new slate tile roof (slightly different colouration) with new insulation and sarking
- Removal of the existing corrugated iron roof structure on the rear contemporary pavilion and replacement with terracotta roof tiles, insulation, and sarking
- The original veranda to be demolished and replaced with a new veranda to accommodate new slate roof tiles (slightly different colouration)
- The secondary lower roofs to the middle and rear pavilion to include new slate tiles (slightly different colouration)
- The rear yard to be extended to the Huddart Lane boundary
- Creation of space in the underground garage for three cars and additional storage space, and with raised lawn area above
- Introduction of four outdoor air-conditioning systems units to be positioned at ground level along the western elevation in the space that abuts 83 Darley Road
- Construction of a new timber paling fence along the boundary of 85 and 83 Darley Road
- Existing side entry fence to be demolished and replaced with a brick fence and hardwood timber gate
- New sandstone steppers in front garden
- New sandstone retaining wall and levelling of lawn
- New sandstone retaining walls to be constructed on the western side of the entrance steps
- Reconstruction of existing boundary wall with 85A Darley Road in matching sandstone
- The existing brick paving to the rear garden to be replaced with new sandstone flagging
- Introduction of new paved outdoor dining area in front of the existing water feature
- Existing access steps from Huddart Lane to be demolished
- Minor tree replacement
- Screen privacy planting to be introduced along the side boundaries

Submission

For the purposes of this Development Application the following documents have been submitted:

- A full set of architectural drawings prepared by *ArchiStudio 67 Pty Ltd* of Naremburn NSW, and dated as 20/04/2015 and 22/10/2022 and 28/10/2022 (received by Council 08/11/2022)

- A full set of landscape drawings prepared by *Garden Life Pty Ltd* of Surry Hills NSW, and dated as 25/05/2016 and 08/06/2016 (received by Council 08/11/2022)
- A professionally prepared Statement of Environmental Effects (SEE), prepared by *ArchiStudio 67 Pty Ltd* of Naremburn NSW, and dated as October 2022 (received by Council 08/11/2022)
- A professionally prepared and highly detailed Heritage Impact Statement (HIS) prepared by *City Plan Services Pty Ltd* of Kent Street, Sydney NSW, and also incorporating previous HIS material (2013), prepared by Paul Rapoport Pty Ltd and Rosemarie Canales (received by Council 08/11/2022)
- A fully detailed external and internal paint schedule prepared by *ArchiStudio 67 Pty Ltd* of Naremburn NSW, dated as 11/10/2022 (received by Council 08/11/2022)

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties.

Comments

- Overall, the intended presentation of the original historic dwelling has been professionally assessed by three independent architectural heritage companies and it will be carefully maintained. The proposed modifications and additions to the dwelling are consistent with the scale and character of the dwelling itself, as well as enhancing the existing streetscape, with a good balance between the sharing of views and contemporary residential amenity
- The proposed changes are demonstrably based on a thorough understanding of the heritage significance of the site. These three professionally prepared onsite investigations have been incorporated into the documentary trail for the project. It is apparent that the alterations have been designed to be in areas of lesser heritage significance, and involving non-original building fabric, to ensure that the heritage significance of the site (the two sides and front facade, Federation Queen Anne architectural elements, overall form and streetscape presentation of the original house) is retained
- The upgrade of the second and third pavilions, the reconstruction of the roof and the addition of the new extension generally provide a much clearer visual definition to the house. The replacement of corrugated iron rear extension roofing with slate tiles (of slightly different appearance) is in sympathy with the existing elements and will not alter the roof form of the original house and ensure the rear works will be distinguishable from the original design. The introduction of insulation components will ensure longer term protection and environmental compliances
- It is also deemed from a heritage perspective that given the grand scale of subject building on its generous allotment, there will be no unacceptable impact upon nearby individually listed heritage items, including "Swan Isle" (I343) and the Centennial Parklands
- The proposed roof skylights are deemed to have no visual impact on the precinct and a negligible physical impact upon any historical components of the dwelling

- The proposed colour palate for the building facade is of neutral tones sympathetic to its existing neighbours. The proposal preserves and enhances the features which contribute to the important environmental and landscape qualities of the area
- The proposed colour palate for the interior of the dwelling is of historically appropriate tones that preserves and enhances the internal features
- The construction of a new side entry gate to replace dilapidated elements is in keeping with the design of the original house, respecting the proportions of the existing significant side facade. It's fabric is compatible and will have negligible public visibility
- The new garage structure is compatible with the context and respects the characteristic elements of the streetscape
- Proposed installation of four outdoor air-conditioning units at ground level of the western elevation in the space that abuts 83 Darley Road is considered acceptable from a heritage point of view. Although this elevation can be seen in part from Darley Road the air-conditioning units will be shielded from view by a side gate that gives access to the subject side passageway, and therefore with no practical visual impact upon the view either from Darley Road or the HCA generally
- While major landscaping works are proposed for the front and rear yards of the property, the following considerations are noted: The front landscaping is keeping with the configuration of the front yard, reflecting existing landscaping but with a levelled surface for amenity and with negligible visual impact on the Darley Road façade; The alterations at the Huddart Lane aspect, including a single tree removal is not considered as having significant visual or physical impact as other existing trees and additional plantings will be incorporated into the new landscape plan for enhanced presentation.
- The general form and scale of the new works to the rear of the property will remain the same even given to proposed extension and is in keeping with the surrounding area. It will not overshadow or obscure the significant elements of the existing house. The original house is already obscured from the rear lane public domain by the existing rear additions
- Replacement of the existing unstable shared boundary fence between 85A and the subject site with a sandstone retaining wall and fencing will further enhance the streetscape presentation of the house and is in keeping with the landscaping of the site.

Recommendation

The following conditions should be included in any consent:

- An architect or tradesperson suitably qualified and experienced in heritage conservation shall be engaged to oversee the carrying out of building works and repairs
- All work shall be carried out in accordance with the principles of the Australia ICOMOS *Burra Charter* and to the satisfaction of the Director City Planning
- Existing mortar joints should be repointed if necessary, using a soft mortar mix. A soft mortar mix is required to avoid long term fretting of the surface of the sandstone blocks.
- Details of any changes to the proposed paint scheme are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.
- Unpainted surfaces, e.g. brickwork/stonework are to remain unpainted, and no applied finishes are to be used.

1.2. Development Engineer

Landscape & Tree Management Comments

Growing in a raised planter at the rear of the site, fronting Huddart Lane, and to the east of the existing vehicle entry is a mature, 8m tall *Lophostemon confertus* (Brush Box) of good health and condition, which is protected by Council's DCP.

The Lower Ground Floor Plan (dwg 101) shows that excavations for the relocated double garage and associated works will be performed in this same area, with the Ground Floor terrace/landscaped garden to then also be extended further to the southeast to occupy this same area.

On this basis this tree cannot remain, with approval granted for its removal, with a re-design to attempt its retention not warranted given that the presence of other established trees in the area will maintain suitable levels of amenity, together with the planting that will also be provided as part of the new landscape scheme.

While it is noted that there are several established trees growing within the adjoining private property to the east, whose western aspects encroach above the subject site, the existing brick wall/fence along the length of the northeast/common boundary would have already acted as a physical barrier to prevent the growth of roots into the subject site, and as such, the only conditions required are those that permit clearance pruning where needed.

Similarly, the Magnolia hedge in the side/rear yard of the adjoining private property to the west, close to the common boundary, will also not be affected as the footprint of the existing Family Room in this same area is shown as remaining, so conditions are not required.

In the front setback, there are several large and mature trees which provide a strong contribution to site and area amenity, comprising from south to north, a large and mature *Corymbia citriodora* (Lemon Scented Gum), of 20m x 20m, which has had lower growing branches pruned off in the past, then an 8m tall *Jacaranda mimosifolia* (Jacaranda), of fair condition as it has been suppressed by this more dominant Gum.

The plans show that the existing informal sandstone terraces that run in an east-west arrangement across the width of the site will be formalized as part of the landscape improvements, involving slight adjustments to existing ground levels in the order of up to 300mm so as to provide level areas to maximize usability of the private open space.

The DA02 Landscape Plan shows that the terrace where the Gum is growing will be maintained at 52.92 (same as the survey), but the new wall will curve in closer to its trunk, at an offset of about 2.5m, and while both of these works are considered relatively minor, protection conditions still need to be imposed to ensure that this significant site feature is not adversely affected, with the same also applying to the smaller Jacaranda, with all of these works appearing consistent with what was already approved for DA/430/2016 (lapsed).

The two juvenile *Angophora costata* (Sydney Red Gums) on the Darley Road verge, across the width of the site, are part of a formal strategy of this species in this area but should not be affected given an absence of any external works on this frontage, with access likely to be gained from Huddart Lane at the rear, so conditions are not required.

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

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

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	601 sqm or above = 45%	Site = 669m ² Proposed = 30%	Yes
2.4	Landscaping and permeable surfaces		
	i) 601 sqm or above = 35% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Site = 669m ² Proposed = 51%	Yes
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	601 sqm or above = 8m x 8m	Site = 669m ² Proposed = The areas of POS within the rear yard are provided in three sections of 4m x 8m, 6m x 13m and 6m x 9m, which are joined together.	Yes, the combined area of POS is ample to provide for the outdoor recreation requirements of the residents.
3	Building envelope		
3.1	Floor space ratio LEP 2012 = 0.6:1	Site area = 669m ² Proposed FSR = 0.44:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 =	Proposed = No change to existing	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 6.4m, as existing	Yes
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then	No change to existing front setback	

D17/23

DCP Clause	Controls	Proposal	Compliance
	<p>no less than 6m) Transition area then merit assessment.</p> <p>ii) Corner allotments: Secondary street frontage:</p> <ul style="list-style-type: none"> - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites <p>iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front</p>		
3.3.2	<p>Side setbacks:</p> <p>Dwellings:</p> <ul style="list-style-type: none"> • Frontage less than 9m = 900mm • Frontage b/w 9m and 12m = 900mm (Gnd & 1st floor) 1500mm above • Frontage over 12m = 1200mm (Gnd & 1st floor), 1800mm above. 	<p>Minimum = 1200mm Proposed = 900mm & 4200mm, as existing</p>	Yes, no change to existing
3.3.3	<p>Rear setbacks</p> <p>i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments.</p> <p>ii) Provide greater than aforementioned or demonstrate not required, having regard to:</p> <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access <p>iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions of this DCP.</p> <p>iv) For irregularly shaped lots = merit assessment on basis of:-</p> <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	<p>Minimum = 8m Proposed = 8.6m</p> <p>See discussion below with respect to the garage addition</p>	Yes, as existing
4	Building design		
4.5	Colours, Materials and Finishes		
	<p>i) Schedule of materials and finishes</p> <p>ii) Finishing is durable and non-reflective.</p> <p>iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration)</p> <p>iv) Articulate and create visual interest by using combination of materials and finishes.</p> <p>v) Suitable for the local climatic to withstand natural weathering, ageing and deterioration.</p> <p>vi) recycled and re-use sandstone</p>	<p>Conditions have been provided by Council's Heritage Planner to nominate the colours, materials and finishes of the external surfaces of the building.</p>	Yes

DCP Clause	Controls	Proposal	Compliance
	(See also section 8.3 foreshore area.)		
4.6	Earthworks		
	i) excavation and backfilling limited to 1m, unless gradient too steep ii) minimum 900mm side and rear setback iii) Step retaining walls iv) site conditions allow for side or rear setback less than 900mm (max 2.2m) v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced where site has significant slope: vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	The proposal requires minimal excavation as the enlarged garage will be provided for within the existing parking area off the existing garage.	Yes
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	The north facing windows of the dwelling and the POS maintain solar access in accordance with the DCP controls.	Yes
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. iv) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings.	The north facing windows and POS of the adjoining dwellings and properties are maintained in accordance with the DCP controls.	Yes
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls • living rooms contain windows and 	The design of the alterations and additions to the dwelling provides for ample light and ventilation throughout the dwelling	Yes

D17/23

D17/23

DCP Clause	Controls	Proposal	Compliance
	doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	i) Maximum 1 vehicular access ii) Locate off rear lanes, or secondary street or iii) Locate behind front façade, within the dwelling or positioned to the side of the dwelling. <i>Note: See 6.2 parking facilities forward of the front façade alignment may be considered.</i> iv) Single width garage/carport if frontage <12m; Double width if: - Frontage >12m, - Consistent with pattern in the street; - Landscaping provided in the front yard. v) Minimise excavation for basement garages and scale of the front elevation vi) Avoid long driveways (impermeable surfaces)	The existing rear vehicular access from the lane is maintained. See comments above in the Key Issues	
6.3	Setbacks of Parking Facilities		
	i) Garages and carports comply with Sub-Section 3.3 Setbacks. ii) 1m rear lane setback iii) Nil side setback where: - nil side setback on adjoining property; - streetscape compatibility; - safe for drivers and pedestrians; and - Amalgamated driveway crossing	The garage is sited up to the rear and side boundaries which is sited similarly to the other garages in the laneway and will not detract from the amenity of either of the adjoining properties.	Yes
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The existing driveway width is maintained.	Yes
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m iii) 5.4m minimum length of a garage iv) 2.6m max wall height of 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	The internal width of the garage satisfies the DCP controls. See additional comments in the Key Issues section	Yes
7	Fencing and Ancillary Development		
7.1	General - Fencing		

DCP Clause	Controls	Proposal	Compliance
	i) Use durable materials ii) sandstone not rendered or painted iii) don't use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	The new fences are timber and masonry	Yes
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	The new timber fencing to the western side boundary is nominated as being 1800mm in height. The existing fence to the eastern side boundary is also approximately 1.8m in height. These fences to the side boundaries will maintain privacy between the subject and adjoining properties.	Yes
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	The application details the installation of 4 air conditioning units to the western side of the dwelling at ground level. These units are directly opposite the air conditioning units of the adjoining dwelling which will therefore minimize noise transmission to the adjoining property.	Yes

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/563/2022

D17/23

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/563/2022
Property:	85 Darley Road, RANDWICK
Proposal:	Alterations and additions to existing dwelling including garage extension and demolition of rear timber framed verandah and corrugated iron roof (Heritage Item & Heritage Conservation Area).
Recommendation:	Approval

Development Consent Conditions

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
100 Issue G	Archi Studio 67	14.10.22
101 Issue F	Archi Studio 67	14.10.16
102 Issue E	Archi Studio 67	23.05.16
103 Issue F	Archi Studio 67	14.10.16
111 Issue A	Archi Studio 67	14.10.16

BASIX Certificate No.	Dated
A475869_02	11/10/2022

- An architect or tradesperson suitably qualified and experienced in heritage conservation shall be engaged to oversee the carrying out of building works and repairs
- All work shall be carried out in accordance with the principles of the Australia ICOMOS *Burra Charter* and to the satisfaction of the Director City Planning
- Existing mortar joints should be repointed if necessary, using a soft mortar mix. A soft mortar mix is required to avoid long term fretting of the surface of the sandstone blocks.

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

External Colours, Materials & Finishes

6. The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.

Details of any changes to the proposed paint scheme are to be submitted to and approved by Council's Director City Planning, in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the development.

Unpainted surfaces, e.g. brickwork/stonework are to remain unpainted, and no applied finishes are to be used.

Section 7.12 Development Contributions

7. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$452 000 the following applicable monetary levy must be paid to Council: \$4 520.00.

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 Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

Long Service Levy Payments

8. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Sydney Water Requirements

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

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

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

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

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

<https://www.sydneywater.com.au/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.

Landscape Plan

10. The Principal Certifier must ensure that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Garden Life Pty Ltd, dwg's DA01-04, dated 25/05/16 and stamped received by Council 08/11/22.

Tree Protection Measures

11. In order to ensure retention of the significant *Corymbia citriodora* (Lemon Scented Gum) that is located centrally in the front yard of this site, as well as the *Jacaranda mimosifolia* (Jacaranda) to its west, towards the northwest corner of the site in good health, 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 both their trunks and canopies to be clearly and accurately shown on all plans in relation to the new works.
 - b. Any excavations associated with the installation of new services, pipes, stormwater systems or similar in the front setback must be setback a minimum distance of **3 metres** from their trunks, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.

- c. All initial excavations associated with the new sandstone wall that is shown between both trees, within a radius of **2500mm** of their trunks, must be performed by hand, without damaging any roots in the process.
- d. Where roots with a diameter of **less than 50mm** are found which are in direct conflict with these approved works, they may be cut cleanly using only hand-held tools, with the affected area to then be backfilled so that the cut ends of roots are not left exposed to the atmosphere.
- e. Where major roots with a diameter of **50mm or more** are encountered, they must be retained in-situ, with the wall/compacted base/footing to be suitably re-designed around them, which may even involve the use of a cantilevered, pier and beam style sections.
- f. The Construction Certificate plans must demonstrate compliance with the requirement specified in point 'e' above, via the inclusion of relevant details and notations, acknowledging that the final design and location of the walls/terraces/landscape works that are actually provided on-site may need to be slightly adjusted from what is currently shown.
- g. Both trees are to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing, which shall be located a minimum distance of **2.5 metres** from their trunks, matching up with the access path or sandstone wall/s in order to completely enclose/exclude them for the duration of works.
- h. 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".
- i. 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.
- j. In order to prevent soil/sediment being washed over their root systems, erosion control measures must also be provided at ground level around the perimeter of the TPZ's.
- k. Where ground levels are to be altered, only clean site soil or a premium garden mix can be used, with any raising or lowering not to exceed 300mm from existing levels. RL's must be provided to confirm compliance.
- l. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning

and Assessment Regulations, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia

12. 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.

BASIX Requirements

13. 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.

Excavations & Support of Adjoining Land

14. Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.
15. 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*.

Stormwater Drainage

16. 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:

- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
- b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
- c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;
- d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;
- e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
- f) A certificate or statement from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions of consent must be complied with prior to the commencement of works on the site. The necessary documentation and information must be provided to the Principal Certifier for the development or the Council, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity.

Building Certification & Associated Requirements

17. The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work):
- a) a *Construction Certificate* must be obtained from a *Registered (Building) Certifier*, in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.
 - b) a *Registered (Building) Certifier* must be appointed as the *Principal Certifier* for the development to carry out the necessary building inspections and to issue an *occupation certificate*; and
 - c) a *principal contractor* must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in

accordance with the requirements of the *Home Building Act 1989*, and the *Principal Certifier* and Council must be notified accordingly (in writing); and

- d) the *principal contractor* must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the *Principal Certifier*; and
- e) at least two days' notice must be given to the *Principal Certifier* and Council, in writing, prior to commencing any works.

Home Building Act 1989

18. 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.

Construction Site Management Plan

19. 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.

20. 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.

Construction Noise & Vibration Management Plan

21. 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.

Demolition Work

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

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

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

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

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

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

Public Utilities

23. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
24. 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.

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

25. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- name, address, contractor licence number and telephone number of the principal building contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
- name, address and telephone number of the Principal Certifier,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

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

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

Construction Site Management

27. 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.*

28. Public safety and amenity 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.
- 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.

Demolition Work & Removal of Asbestos Materials

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

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

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

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

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

Excavations and Support of Adjoining Land

30. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details.

Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings.

Building Encroachments

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

Survey Report

32. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:
- prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,

- prior to construction (pouring of concrete) of new floor levels,
- prior to issuing an *Occupation Certificate*, and
- as otherwise may be required by the Principal Certifier.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.

Tree Management

33. Approval is granted for removal of the mature *Lophostemon confertus* (Brush Box) that is located in the rear setback of this site, towards the southeast corner, in the existing raised planter fronting Huddart Lane, so as to accommodate works associated with the garage at the Lower Ground Level, as well as the landscaped area at the Ground Level as shown, subject to full implementation of the approved Landscape Plans.

Pruning

34. Permission is granted for the minimal and selective pruning of only those lower order, lower growing branches from the western aspects of those trees that are located wholly in the rear yard of the adjoining private property to the east, no.87, only where they overhang the common boundary, above the subject site and need to be pruned in order to avoid damage to the trees; or; interference with the approved works.
35. This approval does not imply any right of entry onto a neighbouring property nor does it allow pruning beyond a common boundary; however, where such measures are desirable in the best interests of correct pruning procedures, and ultimately, the ongoing health of the trees, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
36. All pruning can only be undertaken by a Practicing Arborist who holds a minimum of AQF Level III in Arboriculture, and to the requirements of Australian Standard AS 4373-2007 'Pruning of Amenity Trees,' and NSW Work Cover Code of Practice for the Amenity Tree Industry (1998).

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation Certificate*.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

37. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

BASIX Requirements & Certification

38. 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 any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifier* and Council upon issuing an Occupation Certificate.

Council's Infrastructure, Vehicular Crossings, street verge

39. 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.
40. 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 Policy for "Vehicular Access and Road and Drainage Works" and the following requirements:
 - a) All work on Council land must be carried out by Council, unless specific written approval has been obtained from Council to use non-Council contractors.
 - b) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Pre-paid Works Application Form, prior to an occupation certificate being issued for the development, together with payment of the relevant fees.
 - c) If it is proposed to use non-Council contractors to carry out the civil works on Council land, the work must not commence until the written approval has been obtained from Council and the work must be carried out in accordance with the conditions of consent, Council's design details and payment of a Council design and supervision fee.
 - d) The civil works must be completed in accordance with Council's conditions of consent and approved design and construction documentation, prior to occupation of the development, or as otherwise approved by Council in writing.

Landscaping

41. 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 by Garden Life Pty Ltd, dwg's DA01-04, dated 25/05/16 and stamped received by Council 08/11/22.
42. 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.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

External Lighting

43. 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.

Plant & Equipment

44. The operation of all plant and equipment (including air conditioners and pool pumps or other equipment) on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

Development Application Report No. D18/23

Subject: 88 Middle Street Kingsford (DA/473/2022)


Executive Summary

Proposal:	Alterations and additions to the rear of the existing dwelling house
Ward:	West Ward
Applicant:	Tessa Fallon
Owner:	C Franklin and R Coats
Cost of works:	\$140,591
Reason for referral:	The works involve partial demolition and alterations and additions to a Heritage Item

Recommendation

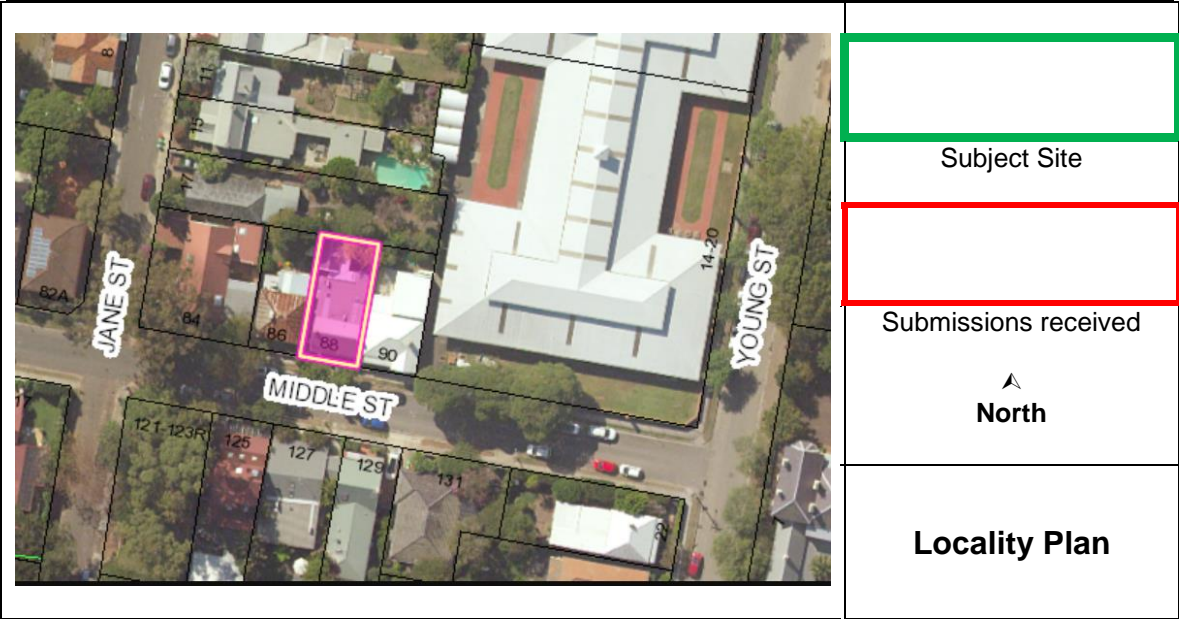
- A. That the RLPP grant consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 473/2022 for alterations and additions to the rear of the existing dwelling house at No. 88 Middle Street, Kingsford, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (dwellings dual occ) - DA/473/2022 - 88 Middle Street, RANDWICK NSW 2031

D18/23

D18/23



1. Executive summary

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

- The development involves alterations and additions and partial demolition of a heritage item

The proposal seeks development consent for the demolition of part of the rear of the dwelling and construction of an addition including internal floor plan reconfiguration of the rear portion of the dwelling.

The key issues associated with the proposal relate to the impact that the works may have upon the significance of the building which is listed under Schedule 5 of the RLEP as a Heritage Item.

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

2. Site Description and Locality

The subject site is legally described as Lot 1 in DP 83413. The site is 212m², is regular in shape and has a 10.02m frontage to Middle Street and depth of 21.245m. The site contains an existing single storey dwelling. See extract of site survey below.

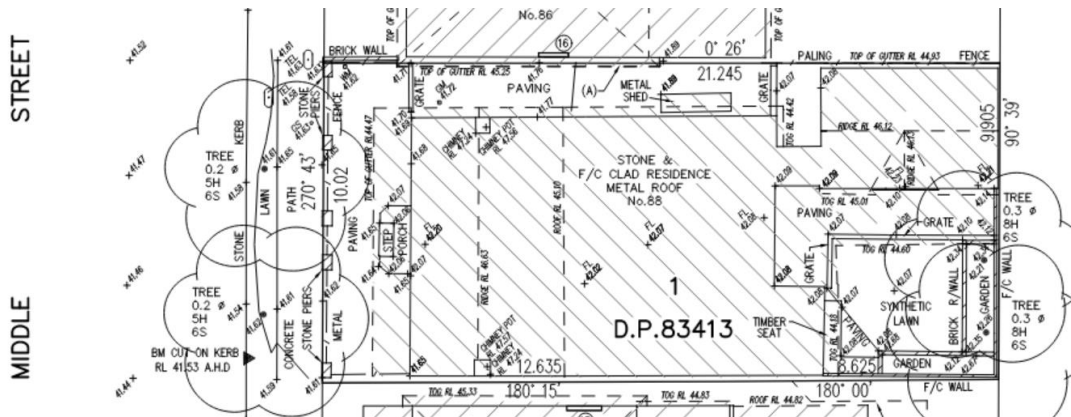


Figure 1. Site survey



Figure 2: Existing dwelling as viewed in the street



Figure 3: Existing rear of dwelling

3. Relevant history

There are no other relevant matters relating to this property.

4. Proposal

The proposal seeks development consent for the demolition of the middle portion of the dwelling that contains the dining and family room to provide for a larger open plan kitchen and family room.

The floor plans will also be reconfigured to provide for a new family bathroom.

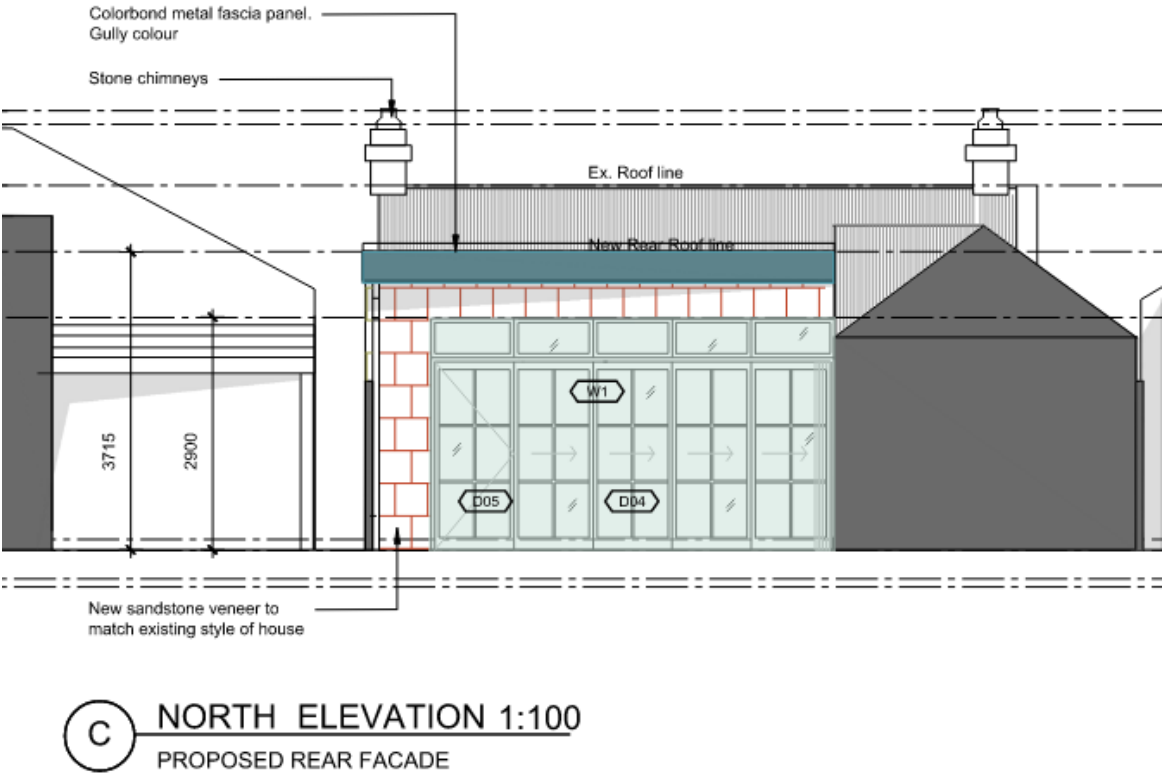


Figure 4: Proposed northern, rear elevation

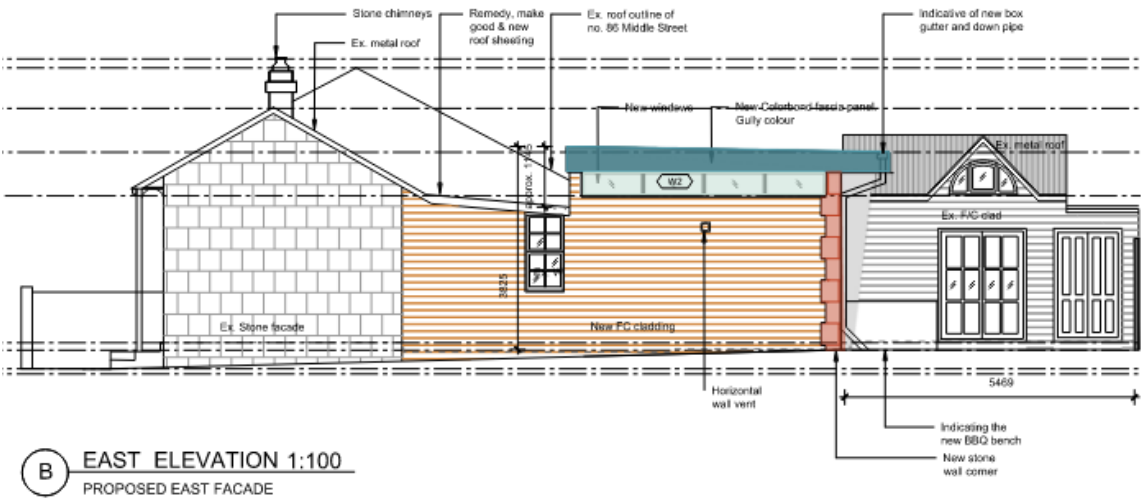


Figure 5: Proposed eastern side elevation

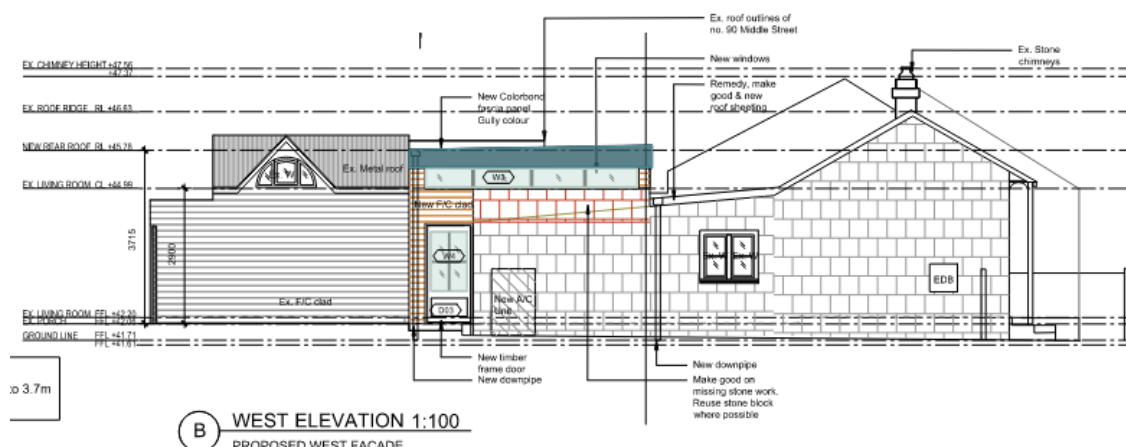


Figure 6: Proposed western elevation

5. Notification

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Community Participation Plan. No response has been received.

5.1. Randwick Local Environmental Plan 2012 (LEP)

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

The proposal is consistent with the specific objectives of the zone in that the proposed activity and built form will maintain the residential use without any adverse impact to the amenity of the adjoining properties and locality.

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)	On merit	0.48:1	Yes
Cl 4.3: Building height (max)	9.5m	4.17m to new portion of dwelling	Yes

5.1.1. Clause 5.10 - Heritage conservation

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

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

The proposal has been considered by Council's Heritage Planner who has provided detailed comments which are addressed in Section 7.1, Key Issues below.

6. Development control plans and policies

6.1. 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 2.

7. 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)(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)(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 environmental impacts of the proposed development on the natural and built environment have been addressed in this report. 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	No response has been received.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

7.1. Discussion of key issues

Heritage

As noted above in Section 5.1.1, the proposal has been considered by Council's Heritage Planner in relation to the impact of the works upon the heritage item. The advice provided is that there are no objections to the proposal subject to conditions. Refer to the heritage referral in Appendix 1.

8. Conclusion

That the application to carryout alterations and additions to the dwelling be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013

- The proposal is consistent with the specific objectives of the R2 zone in that 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 desired future character of the locality.
- The development enhances the visual quality of the public domain/streetscape

D18/23

Appendix 1: Referrals

1. Internal referral comments:

1.1. 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.

The Site

The subject dwelling is located at 88 Middle Street, Randwick and is identified with a legal land parcel address of Lot 1 in Deposited Plan 83413. The site is a relatively flat, rectangular land parcel, with a total area of approximately 210 sqm, with a 10m front and rear boundary, and 21m side boundaries. It currently contains a single storey detached dwelling house. There is no vehicular access or on-site parking to the site and the rear grounds are landscaped with shrubs and grass. At the front boundary there are sandstone pilasters and introduced palisade-style fencing.

The dwelling is located on the north side of Middle Street, between Young Street and Jane Street, with its front façade presenting to the Street. It adjoins single-storey detached dwellings to the east and west at 86 and 90 Middle Street. The rear boundary adjoins the rear garden of 17 Jane Street, which also contains a domestic residence.

The subject dwelling is a locally listed heritage item within Schedule 5 of the Randwick Local Environmental Plan 2012 and listed as item number 412. It is identified as the 'Old Stone Cottage' and is believed to date from about 1860, being possibly one of the oldest houses in Randwick. It is of simple, single fronted form, in stone with its main roof clad in slate and with simple gable ends to the east and west sides. The rear roof is a skillion corrugated iron form. The flat cast iron verandah posts, shutters and window grilles have been assessed as later introductions. The dwelling is deemed to be in fine condition and has been professionally deemed to have a high level of heritage significance for its presentational intactness when viewed from the street.

While previous internal and rear works are of a contemporary nature, they are deemed to be without significant impact on the character of the dwelling as viewed externally. However, the dwelling only retains its original and readable floor plan in its front section.

The dwelling is located within the Struggletown Heritage Conservation Area (HCA) C19. This HCA includes several cottages dating from the late Georgian period to the early Federation period, which are essentially simple dwellings. They demonstrate the historic significance of the first period of the settlement of Randwick, particularly as an area for workers employed on nearby estates and in the racing industry. Notably, the subject item (number 88 Middle Street and Item number 412) is located in the immediate vicinity of three further individually listed heritage items at the local level: number 84 Middle Street (Item number 411); number 90 Middle Street (Item number 413); and number 22 Young Street (Item number 457). However, the proposed works are deemed to have no perceivable negative visual or physical impact on these items.

Background

The dwelling has been extensively modified by way of contemporary-style additions to the rear and some internal reconfigurations and flooring. However, it retains the front portion of the original cottage and its principal presentation to Middle Street. This presentation, scale and form is deemed to be its chief heritage value within its precinct.

Proposal

The Development Application proposes alterations within the dwelling, as well as low-scale additions at the rear. Specifically, the proposed development comprises:

- Demolition of portions of internal walls, being a relatively minor removal of a small section of dividing double brick (approx. 1 m) wall in existing front bedroom for conversion to sitting room area, and removal of an existing bathroom enclosure wall to the internal rear
- Demolition of existing contemporary joinery and floor finishes (tiles on concrete)
- External walls and openings to the rear of the dwelling, being a mix of early and contemporary formation, but including a small section of earlier stonework (may have been part of the original utilities/service area)
- Demolition of the rear-most portion of the existing roof
- Construction of a rear extension to the dwelling house
- External and internal upgrades
- Retention of trees in the rear garden
- Retention of the important front façade and its presenting single storey scale

Submission

For the purposes of this heritage assessment, it is noted that the proposal has been accompanied by a comprehensive set of documents. These include:

- A full set of architectural plans drawn by *TRD STUDIO* Mosman NSW, 15 September 2022 (Received by Council 23 September 2022)
- These plans include an acceptable schedule of materials finishes and colours
- Comprehensive Structural Engineering Report by *ROSS ENGINEERS* Consulting Structural Engineers, Glebe NSW, written 12 September 2022 (received by Council 23 sept 2022)
- A professionally constructed Statement of Environmental Effects (SEE) prepared *Corona Projects* Bondi Junction NSW, September 2022 (Received by Council 23 September 2022)
- A professionally analysed Heritage Impact Assessment (HIA) prepared by *Corona Projects*, Bondi Junction NSW, September 2022 (Received by Council 23 September 2022)
- The submission is accompanied by a professionally set out Schedule of Materials Colours and Finishes by *TRD STUDIO* Mosman NSW (Received by Council 23 September 2022)
- Full set survey Plans Stutchbury Jacques PTY Ltd Brookvale NSW (24 February 20220)
- Affected Properties Map

Controls

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

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

The Heritage section of Randwick Development Control Plan 2013 provided Objectives and Controls in relation to heritage properties. In particular for this project, relevant considerations are

outlined in Heritage 2.2 – 2.10, Design and Character, Scale and Form, Siting and Setbacks, Detailing, Materials and Finishes, Roofs and Chimneys, Verandahs and Balconies, Fencing.

Comments

Over time the dwelling has been subject to internal alterations and rear extensions, which have been deemed to be sympathetic in scale, and generally conceived as quality contemporary improvements. In these previous works the small-scale exterior contributory façade was retained, and the interior configuration was acceptably readable, particularly in the important forward section of the dwelling.

The current proposed works are substantially limited to ongoing amendment of these earlier reconfigurations and additions, especially the cement fibre board additions at the rear.

The minor partial demolition of internal, as well as external rear-portions of the site is acceptable as an upgrade for ongoing contemporary amenity, and reasonably for the best use of internal spaces and ongoing functionality.

There is an acceptable degree of removal of interior extant significant fabric since the key historical configurations will remain readable. New internal works are also substantially and/or located to the rear within a similar footprint. They are of simple design and form and not discernible from the outside the building, thus there is no change to character.

The external partial demolition and additions retain the key aspects of the house, presentation. Changes to the existing roof are minimised and located to the rear.

Overall, the configuration and addition upgrades retain the visual appearance of the dwelling in single-storey form and scale.

The internal introductions and external components utilise high quality materials and detailing.

They align with surrounding neighbours, retaining key original features such as modest single storey structures, established front and side setbacks, traditional development patterns, and mature plantings

Appendix 2: DCP Compliance Table

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

The relevant provisions of the DCP are addressed below.

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

3.1 Section C1: Low Density Residential

DCP Clause	Controls	Proposal	Compliance
	Classification	Zoning = R2	
2	Site planning		
2.3	Site coverage		
	Up to 300 sqm = 60%	Site = 212m ² Proposed = 60%	Yes
2.4	Landscaping and permeable surfaces		
	i) Up to 300 sqm = 20% ii) Deep soil minimum width 900mm. iii) Maximise permeable surfaces to front iv) Retain existing or replace mature native trees v) Minimum 1 canopy tree (8m mature). Smaller (4m mature) If site restrictions apply. vi) Locating paved areas, underground services away from root zones.	Site = 212m ² Proposed = 9.4%, as existing no change	N/A
2.5	Private open space (POS)		
	Dwelling & Semi-Detached POS		
	Up to 300 sqm = 5m x 5m	Site = 212m ² Proposed = As existing	N/A
3	Building envelope		
3.1	Floor space ratio LEP 2012 = On merit	Site area = 212m ² Proposed FSR = 0.48:1	Yes
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m	Proposed = 4.17m to new portion of dwelling.	Yes
	i) Maximum external wall height = 7m (Minimum floor to ceiling height = 2.7m) ii) Sloping sites = 8m iii) Merit assessment if exceeded	Proposed = 2.8m	Yes
3.3	Setbacks		
3.3.1	Front setbacks		
	i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites	No change to existing front setback of dwelling.	N/A

D18/23

DCP Clause	Controls	Proposal	Compliance
	iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front		
3.3.2	Side setbacks: Semi-Detached Dwellings: <ul style="list-style-type: none"> • Frontage less than 6m = merit • Frontage b/w 6m and 8m = 900mm for all levels 	No change to existing side setbacks, the alterations and additions to the dwelling remain within the side walls building envelope.	Yes
3.3.3	Rear setbacks <ol style="list-style-type: none"> Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. Provide greater than aforementioned or demonstrate not required, having regard to: <ul style="list-style-type: none"> - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access 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. For irregularly shaped lots = merit assessment on basis of:- <ul style="list-style-type: none"> - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts <p>Refer to 6.3 and 7.4 for parking facilities and outbuildings</p>	Minimum = 5.25m Proposed = 5.64m to new portion of dwelling. NB: The existing dwelling is in part sited to the rear boundary.	Yes
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - <ul style="list-style-type: none"> • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design 	The proposal generally complies with the building design controls of the DCP.	Yes
4.4	Roof Design and Features		
	Rooftop terraces <ol style="list-style-type: none"> on stepped buildings only (not on uppermost or main roof) above garages on sloping sites (where garage is on low side) Dormers <ol style="list-style-type: none"> Dormer windows do not dominate Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. Multiple dormers consistent Suitable for existing 	Skillion roof form to rear addition. No terrace or dormers.	Yes

DCP Clause	Controls	Proposal	Compliance
	<i>Clerestory windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.		
4.5	Colours, Materials and Finishes		
	i) Schedule of materials and finishes ii) Finishing is durable and non-reflective. iii) Minimise expanses of rendered masonry at street frontages (except due to heritage consideration) iv) Articulate and create visual interest by using combination of materials and finishes. v) Suitable for the local climate to withstand natural weathering, ageing and deterioration. vi) recycle and re-use sandstone (See also section 8.3 foreshore area.)	As noted by Council's Heritage Planner the submitted schedule of colours and materials is satisfactory and is referenced in the conditions of consent.	Yes
4.6	Earthworks		
	i) Excavation and backfilling limited to 1m, unless gradient too steep ii) Minimum 900mm side and rear setback iii) Step retaining walls. iv) If site conditions require setbacks < 900mm, retaining walls must be stepped with each stepping not exceeding a maximum height of 2200mm. v) sloping sites down to street level must minimise blank retaining walls (use combination of materials, and landscaping) vi) cut and fill for POS is terraced <i>where site has significant slope:</i> vii) adopt a split-level design viii) Minimise height and extent of any exposed under-croft areas.	Minimal earthworks are proposed and do not exceed the DCP controls.	Yes
5	Amenity		
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: <ul style="list-style-type: none"> • Skylights (ventilated) • Clerestory windows • Fanlights above doorways • Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	The design of the alterations and additions to the dwelling will promote light and ventilation throughout the dwelling. A BASIX Certificate has been provided with the application.	Yes
5.3	Visual Privacy		
	Windows		
	i) Proposed habitable room windows must be	The proposal will	Yes

D18/23

D18/23

DCP Clause	Controls	Proposal	Compliance
	<p>located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following measures:</p> <ul style="list-style-type: none"> - windows are offset or staggered - minimum 1600mm window sills - Install fixed and translucent glazing up to 1600mm minimum. - Install fixed privacy screens to windows. - Creating a recessed courtyard (minimum 3m x 2m). <p>ii) Orientate living and dining windows away from adjacent dwellings (that is orient to front or rear or side courtyard)</p>	<p>not result in any privacy impacts to the amenity of the adjoining properties.</p> <p>The new windows are a combination of high light style windows 2900mm above floor level and the new door within the western side will be screened by side fencing.</p>	

Responsible officer: Perry Head, Environmental Planning Officer

File Reference: DA/473/2022

Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/473/2022
Property:	88 Middle Street, RANDWICK
Proposal:	Alterations and additions to the rear of the existing dwelling house (Heritage Item & Heritage Conservation Area).
Recommendation:	Approval

GENERAL CONDITIONS

The development must be carried out in accordance with the following conditions of consent.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of environmental amenity.

Approved Plans & Supporting Documentation

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

Plan	Drawn by	Dated
A1.00	TRD Studio	15/9/2022
A1.02	TRD Studio	15/9/2022
A1.04	TRD Studio	15/9/2022
A2.00	TRD Studio	15/9/2022
A2.01	TRD Studio	15/9/2022
A2.02	TRD Studio	15/9/2022
A3.00	TRD Studio	15/9/2022
A3.01	TRD Studio	15/9/2022
A3.02	TRD Studio	15/9/2022
A3.04	TRD Studio	15/9/2022

BASIX Certificate No.	Dated
A213577	15/9/2022

REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

The following conditions of consent must be complied with before a relevant 'Construction Certificate' is issued for the development by a Registered (Building) Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the relevant construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

Consent Requirements

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

Heritage Conservation

3. A photographic archival recording of the dwelling internally and externally shall be prepared and submitted to and approved by Council prior to a construction certificate being issued for the development. This is to have particular regard to elements and areas to be changed.

- This is to be a digital photographic archival recording in accordance with the NSW Heritage Office 2006 Guidelines for Photographic Recording of Heritage Items using Digital Capture
- During the subsequent stages of demolition and rebuild, an additional photographic record of such is to be attached to the original 'as is' record
- Two digital copies (DVD or USB) of the archival recording are to be submitted to Council for deposit in the Local History Collection of Randwick City Library and Council's own records
- A PDF copy of the archival record, incorporating the already written Heritage Impact Assessment shall also be prepared. This shall include a formal copyright permission for Council to use the photographs for research purposes

4. The Sandstone Blocks on the elevations should be labelled prior to removal and rebuilt exactly as per existing if moved during the construction stage of this development. In general, demolition and rebuild work pertaining to heritage fabric shall be overseen by an architect or tradesperson suitably qualified and experienced in heritage conservation.
5. The appearance of the front façade from the street should be entirely retained by development, locating all new works to the rear and/or internally, without impacting on significant original fabric.

External Colours, Materials & Finishes

6. The colours, materials and finishes of the external surfaces are to be compatible with the existing building and surrounding buildings in the heritage conservation area and consistent with the architectural style of the building and are to be in accordance with the proposed schedule of materials finishes and colours prepared by TRD STUDIO Mosman NSW, 15 September 2022 (Received by Council 23 September 2022). Details of any changes to the proposed materials finishes and colours are to be submitted to and approved by Council prior to a construction certificate being issued for the development.
7. Unpainted surfaces, e.g.- brickwork/stonework are to remain unpainted, and no applied finishes are to be used.

Section 7.12 Development Contributions

8. In accordance with Council's Development Contributions Plan effective from 21 April 2015, based on the development cost of \$140 591 the following applicable monetary levy must be paid to Council: \$702.95.

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

Please contact Council on telephone 9093 6000 or 1300 722 542 for the indexed contribution amount prior to payment.

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

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

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Long Service Levy Payments

9. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, must be forwarded to the Long Service Levy Corporation or the Council, in accordance with Section 6.8 of the *Environmental Planning and Assessment Act 1979*.

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

Sydney Water Requirements

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

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

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

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

Sydney Water's **Tap in™** online service is available at:
<https://www.sydneywater.com.au/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.

REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the relevant construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

Building Code of Australia

11. 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.

BASIX Requirements

12. 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.

Excavations & Support of Adjoining Land

13. Details of proposed excavations and support of the adjoining land and buildings are to be prepared by a professional engineer and be included in the construction certificate, to the satisfaction of the appointed Certifier.

Stormwater Drainage

14. 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:
- a) Surface water/stormwater drainage systems must be provided in accordance with the relevant provisions of the Building Code of Australia (Volume 2) and relevant Standards;
 - b) The surface water/stormwater must be drained and discharged to the street gutter or, subject to site suitability, the stormwater may be drained to a suitably designed absorption pit;
 - c) Any absorption pits or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises;
 - d) External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining

premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises;

- e) Details of any proposed drainage systems or works to be carried out in the road, footpath or nature strip must be submitted to and approved by Council before commencing these works;
- f) A certificate or statement from a suitably qualified person must be submitted to the Principal Certifier and Council, prior to the issue of an Occupation Certificate, which confirms that the stormwater drainage system has been provided in accordance with the requirements of this consent, relevant standards and requirements.

REQUIREMENTS PRIOR TO THE COMMENCEMENT OF WORKS

The following conditions of consent must be complied with prior to the commencement of works on the site. The necessary documentation and information must be provided to the Principal Certifier for the development or the Council, as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity.

Building Certification & Associated Requirements

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

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

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

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

Home Building Act 1989

16. 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.

Construction Site Management Plan

17. 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.

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

Demolition Work

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

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

- Methods and location of disposal of any hazardous materials (including asbestos)
- Other measures to be implemented to ensure public health and safety
- Date the demolition works will commence/finish.

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

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

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

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

REQUIREMENTS DURING CONSTRUCTION & SITE WORK

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations and to provide reasonable levels of public health, safety and environmental amenity during construction.

Site Signage

20. A sign must be installed in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- name, address, contractor licence number and telephone number of the principal building contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)
- name, address and telephone number of the Principal Certifier,
- a statement stating that "unauthorised entry to the work site is prohibited".

Restriction on Working Hours

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

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

	Vibration Management Plan <ul style="list-style-type: none"> • Saturday - No work permitted • Sunday & public holidays - No work permitted
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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.

Construction Site Management

22. 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.*

23. Public safety and amenity 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.
- 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.

Demolition Work & Removal of Asbestos Materials

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

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

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

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

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

Survey Report

25. A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:
- prior to construction (pouring of concrete) of footings for the building and boundary retaining structures,
 - prior to construction (pouring of concrete) of new floor levels,
 - prior to issuing an *Occupation Certificate*, and
 - as otherwise may be required by the Principal Certifier.

The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.

REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions of consent must be complied with prior to the *Principal Certifier* issuing an *Occupation Certificate*.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

Occupation Certificate Requirements

26. An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

BASIX Requirements & Certification

27. 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 any relevant BASIX commitments and requirements have been satisfied.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the *Principal Certifier* and Council upon issuing an Occupation Certificate.

OPERATIONAL CONDITIONS

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning and Assessment Act 1979* and associated Environmental Planning and Assessment Regulations, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

External Lighting

28. 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.

Plant & Equipment

29. The operation of all plant and equipment (including air conditioners and pool pumps or other equipment) on the premises shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

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