

Randwick Local Planning Panel (Public) Meeting

Thursday 10 July 2025



RANDWICK LOCAL PLANNING PANEL (PUBLIC) MEETING

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

Acknowledgement of Country

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

Declarations of Pecuniary and Non-Pecuniary Interests

Address of RLPP by Councillors and members of the public

Privacy warning;

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

Development Application Reports

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Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D29/25

Subject: 77-79 Mount Street, Coogee (DA/222/2025)

Executive Summary

Proposal: New front hardstand car space with associated driveway and ancillary landscaping works

Ward: East Ward

Applicant: Jason Klumpp


Owner: D F & L Edser & A J Sparrow

Cost of works: \$36,250

Reason for referral: 33 unique submissions by way of objection were received.

That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/222/2025 for a new front hardstand car space with associated driveway and ancillary landscaping works at No. 77-79 Mount Street, Coogee subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/222/2025 - 77-79 Mount Street, COOGEE NSW 2034 - DEV - Jason Klumpp

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1. Executive Summary

This Report will assess DA/222/2025 (*the Application*) for 77-79 Mount Street, Coogee (*the Subject Site*) against the relevant heads of consideration under S4.15(1) of *Environmental Planning and Assessment Act 1979 (the Act)*.

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

- 33 unique submissions by way of objection were received

The Application proposes alterations to an existing residential flat building (*RFB*) to provide one new parking space within the front setback as well as new landscaping. A single crossover is proposed.

The Application is recommended for approval.

2. Site Description and Locality

The Subject Site is located at 77-79 Mount Street and is legally identified as Lot 11 in deposited Plan 1306015. The Subject Site is regular in shape, measuring an approximate 597.9sqm and being generally flat.

The Subject Site is improved by an existing two storey RFB, which comprises four apartments. The surrounding streetscape comprises similar development.



Figure 1 – Existing RFB (source: site inspection 25/04/2025)

3. Relevant history

CDC/348/2024 approved internal and external alterations to the RFB. Plans stamped 2/10/2024.

CDC/348/2024/A approved new hardstand within the front setback of the RFB. Plans dated 18/12/2024 (Figure 2).

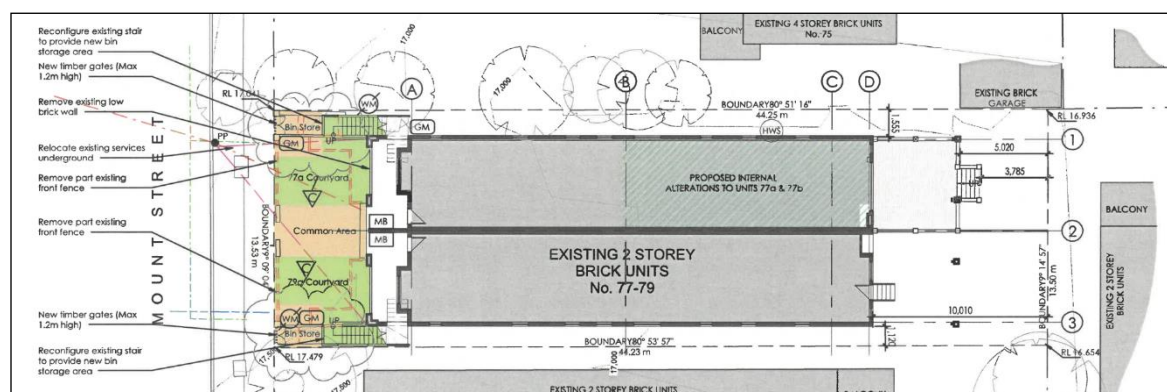


Figure 2 – Front setback works (source: CDC/348/2024/A)

CDC/355/2024 & CDC/355/2024/A approved strata subdivision of the existing RFB.

4. The Application

The Application seeks consent for alterations to an existing RFB to provide two new parking spaces within the front setback as well as new landscaping. Separate crossovers are proposed for each vehicle space.

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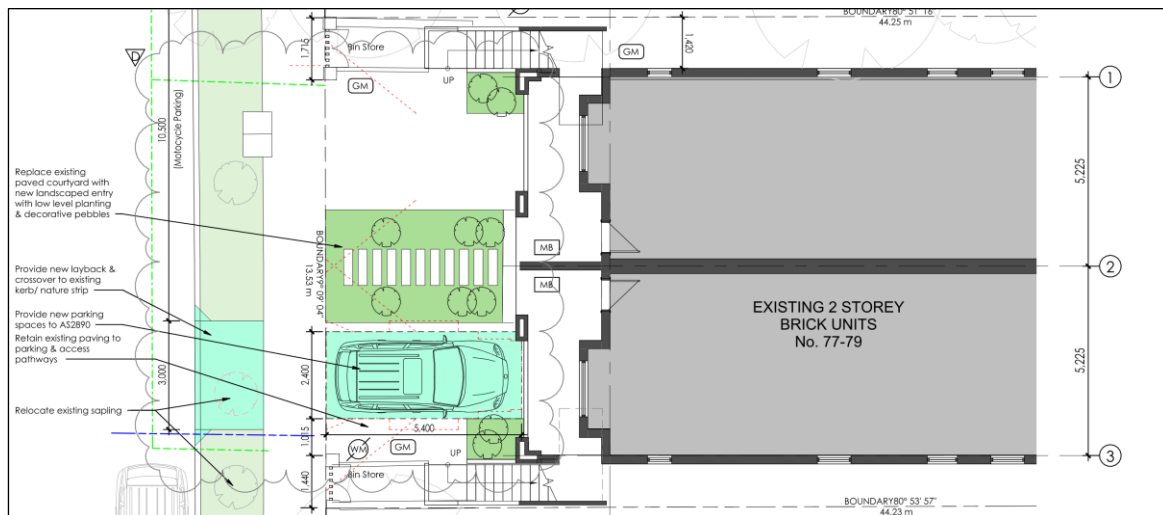


Figure 3 – Proposed parking plan (source: Studio23design, dated 9/05/2025).

4.1. Amendments to the Application

Figures 4 below illustrates the Application as originally proposed. Two car spaces were proposed with a shared crossover. Council's development engineers could not support a shared crossover due concerns regarding vehicle movement and safety.

Figure 5 below illustrates the Application's first amendment. The shared crossover was removed in favour of separate vehicle crossovers for each parking space. Amendment to provide two separate crossovers was considered to cause additional adverse impact to the locality. Accordingly the Application was renotified from 26/05/2025 until 4/06/2025. The majority of submission received for the Application were during this second notification period.

Separate crossovers would have required the northern car space to drive over an existing Telstra service pit. Development engineering questioned the Applicant to determine whether this would be suitable or if Telstra required that pit be moved. Council followed up numerous times regarding Telstra's response, however confirmation was never received.

The Applicant eventually responded to Council requesting to amend the drawings to delete the northern car space and crossover following their discussions with Telstra. Council accepted this change and final amendment to the scope of works, as shown in **Figure 6**.

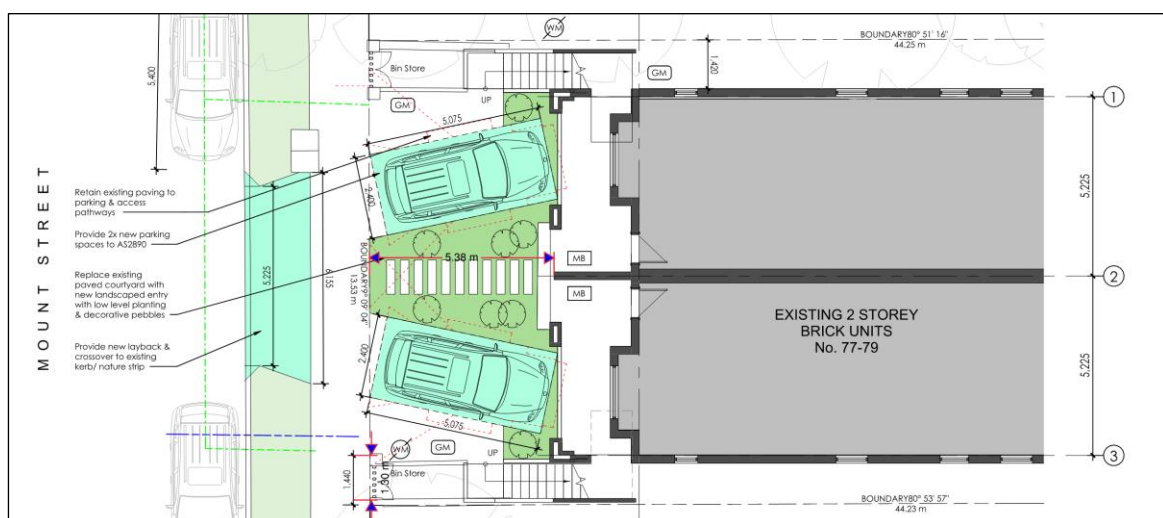


Figure 4 – Original proposed driveway configuration (source: Studio23design, dated 14/03/2025).

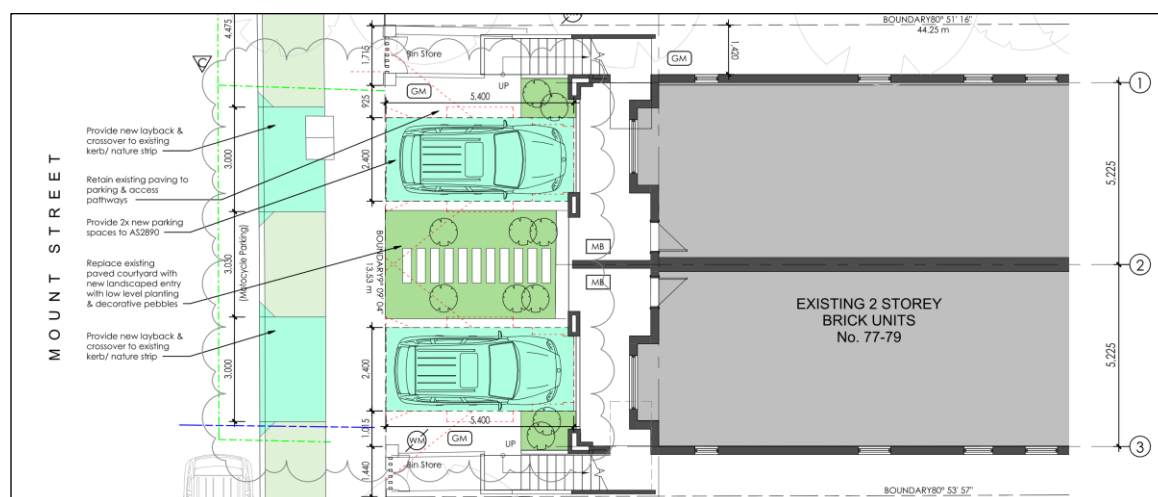


Figure 5 – Amended proposed parking plan (source: Studio23design, dated 9/05/2025).

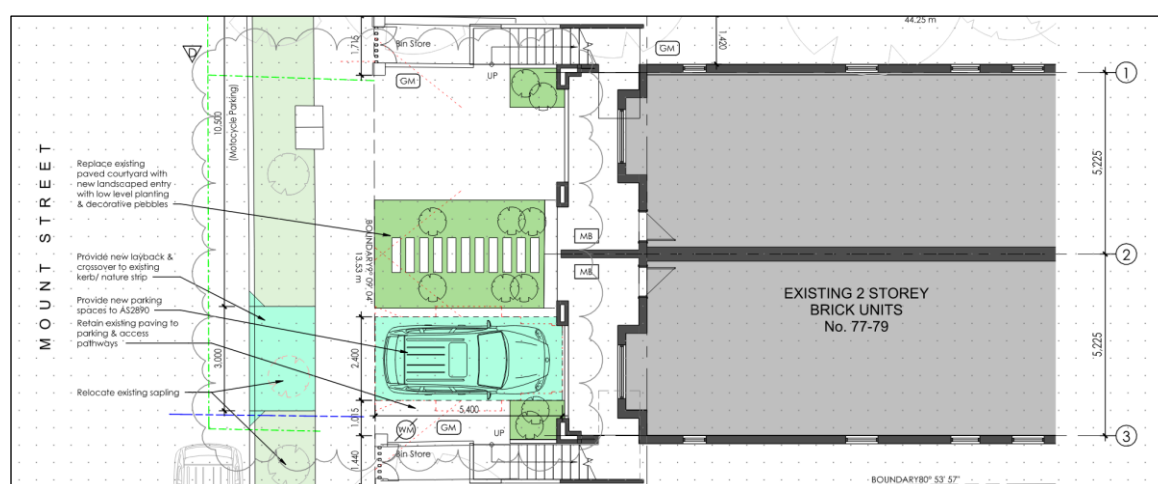


Figure 6 – Final proposed parking plan (source: Studio23design, dated 3/0/2025).

5. Notification

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

- 72-74 Mount Street Coogee (x2);
- U11, 73 Mount Street, Coogee (x2)
- U12, 73 Mount Street, Coogee (x2);
- 73 Mount Street Coogee;
- 89 Mount Street Coogee (unit not specified);
- U3, 89 Mount Street, Coogee;
- U4, 89 Mount Street, Coogee;
- U5, 89 Mount Street, Coogee (x2);
- U7, 89 Mount Street, Coogee (x2)
- U9, 89 Mount Street, Coogee;
- U10, 89 Mount Street, Coogee;
- U14, 89 Mount Street, Coogee;
- U15, 89 Mount Street, Coogee;
- U2, 81-83 Mount Street, Coogee;
- U3, 81-83 Mount Street, Coogee;

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- U4, 81-83 Mount Street, Coogee (x2);
- U4, 74 Dolphin Street, Coogee;
- U2, 47-49 Byron Street, Coogee;
- 155 Oberon Street, Coogee;
- U1, 7 Glenwood Avenue, Coogee;
- 80 Greens Road, Greenwell Point (x2); and
- 5 submissions from unknown addresses.

Matter Raised	Consideration
1. Loss of street parking. Application should have a positive or minimum neutral impact on parking.	1. See key issues.
2. Limited street parking in the locality is an existing issue. Street parking has slowly declined across the locality. Invalidated parking permits.	2. Application amended to achieve an improved outcome.
3. Street parking available to the public is preferable to privately allocated parking.	3. Council is supportive of the amended scope of works.
4. Advised others to provide submissions.	4. Noted.
5. Council should advise objectors of the application's determination.	5. Standard procedure and will be completed as a part of any determination.
6. Amended drawings have further increased loss of parking, being unacceptable. Many submission identify three spaces would be lost.	6. Further amendments have taken place. Application now acceptable.
7. The Application requires removal of trees. Not seen as a positive outcome. One resident questions whether trees are to be removed or not.	7. Council's landscaping officer supports removal due to small size.
8. Application improves profitability of the Subject Site at the expense of the public domain.	8. Council is supportive of the amended scope of works.
9. One resident relies on their car due to disability. Their dwelling only accommodates a single vehicle. Loss of street parking would further impact this.	9. Council is supportive of the amended scope of works.
10. Application should be rejected.	10. Council is supportive of the amended scope of works. Notwithstanding, RLPP retains delegation due to number of submissions received.
11. Other sites in the surrounding area have no off-street parking availability.	11. Council acknowledges parking in the locality to be an existing issue. The Application removes three metres of parking from the street to accommodate a 5.4m space, being a net improvement.

Matter Raised	Consideration
12. Application reduces footpath safety due to additional crossovers.	12. Single crossover proposed. Crossover is highly visible. One car to use that crossover, being low use.
13. Drawings have omitted a power pole in proximity to a proposed driveway.	13. Power pole was in proximity to northern parking space. That space has been removed.
14. Measurements on drawings do not align. Part of the crossovers are counted toward parking area.	14. Council has measured the drawings. They are to scale.
15. Telstra pit proposed in proximity to a crossover. Questions over protection/relocation.	15. Northern space removed.
16. Roundabout at intersection of Mount and Dolphin Street built by Council has removed parking. Two disabled space have further removed parking availability. (space is frequently vacant, Council has not audited use of the space).	16. Different Council unit. Notwithstanding, development assessment is aware of the street parking issue in the locality.
17. Building sites have occupied street parking to no resident benefit. Skip bins in front of properties.	17. Residents should contact Council in such instances.
18. Residents forced to park far from Mount Street due to limited parking availability. Safety concerns at night.	18. Council is aware of the street parking issue and is supportive of the amended scope of works.
19. Previous single crossover and creation of two car spaces was more acceptable.	19. Amended to single crossover, with reduced parking loss compared to original scope of works.
20. Application would negatively impact the amenity of the locality,	20. Council is supportive of the amended scope of works and views amenity would not be unreasonably impacted.
21. Apartments being advertised for sale with parking spaces.	21. Council's assessment has not changed.
22. Lost car spaces should be replaced by Council.	22. They can park at Darley Road.
23. Parking signs in the locality should be changed by Council.	23. Different Council unit.

Matter Raised	Consideration
<p>24. Spaces must be allocated to specific apartments. Applied to a nearby redevelopment and should for this Application.</p> <p>Apartments with parking spaces should not be allowed parking permits. Applied to a nearby redevelopment and should for this Application.</p>	<p>24.</p> <p>Conditioned specific to one unit.</p>

5.1. Renotification

The Application was renotified from 26/05/2025 until 4/06/2025. See 4.1 above for details.

6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the SEPP applies to the Application and Subject Site. The aims of this Chapter are:

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

The Application proposes removal of a street tree. Council's landscape officer reviewed the Application and confirmed support for that removal. The Application therefor achieves the relevant requirements of the SEPP.

6.2. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

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

The Subject Site has only previously been used for residential purposes and as such is unlikely to contain any contamination. The nature and location of the proposed development (involving two new parking spaces at street level) are such that any applicable provisions and requirements of the SEPP have been satisfactorily addressed.

6.3. Randwick Local Environmental Plan 2012 (LEP)

The Subject Site is zoned R3 under Randwick Local Environmental Plan 2012. Within that zone development for the purpose of an RFB is permissible with consent.

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

The Application does not propose to change any of the development standards prescribed by RLEP 2012, being minimum lot size, height, and floor space ratio.

<p>3 Permitted with consent</p> <p>Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Group homes; Home businesses; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shops; Tank-based aquaculture</p> <p>4 Prohibited</p> <p>Funeral homes; Any other development not specified in item 2 or 3</p>
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Figure 6 – R3 permitted and prohibited development (source: RLEP 2013, ver. 15/12/2023)

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

8. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	See discussion in sections 6 & 7 and key issues below.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Nil.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 2 and the discussion in key issues below
Section 4.15(1)(a)(iiia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant character in the locality.</p> <p>The proposal will not result in detrimental social or economic impacts on the locality.</p>

Section 4.15 'Matters for Consideration'	Comments
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

Street and off-street parking

The application proposes a 3m vehicular crossover to facilitate a single car space in the front setback of the Subject Site.

Council measures a car space as 5.4 metres in length. The three metre crossover would contribute approximately a loss of half on-street car space while providing an off-street space.

The remaining distance from the new crossover to the existing crossover at 75 Mount Street measures an approximate 10.5 metres. Two cars would be able to be accommodated by the remaining space.

The amended proposal is supportable on the basis it will have a neutral to positive impact on parking in the locality.

9. Conclusion

That the Application to *Amended Plans: Proposed revision to provide separate driveway crossovers to each parking spaces with associated changes to landscaping and fencing. Original Proposal: Alterations to an existing residential flat building to enable the provision of (2x) parking spaces within the front yard with a new driveway crossover and ancillary landscaping works* be approved (subject to conditions) for the following reasons:

- The Application is consistent with the relevant objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2013;
- The Application is consistent with the specific objectives of the R3 zone in that day to day needs and amenity of residents will continue to be met;
- The scale and design of the Application is considered to be suitable for the location and is compatible with the desired future character of the locality;
- The Application maintains the visual quality of the public domain/streetscape; and
- The Application will not result in a net parking loss.

Appendix 1: Referrals

1. External referral comments:

1.1. Ausgrid

TELEPHONE: 13 13 65
EMAIL: development@ausgrid.com.au



24-28 Campbell St
Sydney NSW 2000
All mail to
GPO Box 4009
Sydney NSW 2001
T +61 2 13 13 65
ausgrid.com.au

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

Ausgrid consents to the development subject to the following conditions: -

The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Overhead Powerlines are in the vicinity of the development.

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected to be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

New Driveways - Proximity to Existing Poles

Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance.

New or modified connection

To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; <https://www.ausgrid.com.au/Connections/Get-connected>

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:
www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

Should you require further information please contact Ausgrid via email to Development@ausgrid.com.au

Regards,
Ausgrid Development Team

2. Internal referral comments:**2.1. Development Engineer****"Car space Comments****Carspace Length**

In an ordinary Council meeting on the 24th July 2007 Council passed a resolution that;

(a) Councillors resolve not to use call up powers for a development application on the sole basis of a residential car parking space where the space does not comply with Australian Standard AS 2890.1 Parking Facilities or has a length of at least 5 metres, whichever is lesser; and

(b) Council not rely on the minimum dimension for open car spaces detailed in the Parking and Single Dwelling DCP and assess all the current and future Development Applications against the Australian Standard or a minimum length of 5 metres, whichever is the lesser.

*A site inspection by Council's Development Engineer has revealed that the distance from the front of the building to the front property alignment is approximately **5.40m**. This is greater than the 5.0m minimum requirement specified above and hence the proposed car space is supported by Development Engineering.*

Landscape Comments

Inspection was undertaken through google street view on Thursday 5 June with pictures of vegetation on D05649553.

*Councils Engineer has approved southern No79 dwelling crossover, applicant awaits decision on Telstra pit location, which is located centrally adjacent northern dwelling No77, within councils Mount Street verge, adjacent No79 property, immature Jacaranda tree, 2 metres high, not a species that is part of the street scape, in direct conflict with proposed new crossover, not a specimen that council would plant, probably been planted by a resident at some point, **to be removed**.*

A loss of amenity fee in recognition that the only reason this tree is being removed from public property is to accommodate the development of private property, with a replacement in front of this

site not possible due to the presence of other trees and driveways, with this fee to be used towards additional public plantings in the surrounding area. (NO GST)

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Appendix 2: DCP Compliance Table**3.1 Part C2: Medium Density Residential**

DCP Clause	Control	Application	Compliance
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.	Application scope is minimal. 18.51sqm improvement to deep soil.	Suitable given minimal scope.
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.	18.51sqm proposed.	Suitable given minimal scope.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.	Achieved.	
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Small planting proposed.	
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Not proposed.	
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Suitable as proposed.	
3.	Building Envelope		
3.4	Setbacks		
3.4.1	Front setback		
	(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for	i) No change. ii) N/A iii) Not proposed.	Yes

DCP Clause	Control	Application	Compliance
	<p>suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	iv) Landscape planting proposed.	
4. Building Design			
4.5	Pedestrian Entry		
	<p>(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.</p> <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	<p>i) Separate pedestrian pathways provided.</p> <p>Landscaping assists to distinguish pathways.</p> <p>No change to existing mailboxes.</p>	<p>Yes</p> <p>Yes</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</p>	<p>No schedule provided.</p> <p>Not required as works comprise paved parking spaces and front landscaping.</p>	<p>Yes</p>

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DCP Clause	Control	Application	Compliance
	properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.		
5. Amenity			
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	i) Existing access points retained.	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	iii) Direct access from parking to units proposed.	
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	iv) N/A outside of scope of works.	
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	v) Not proposed.	
	(vi) Resident car parking areas must be equipped with security grilles or doors.	vi) N/A, front setback hardstand proposed.	
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	vii) N/A outside of scope of works.	
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	viii) No change to existing lighting.	
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	ix) casual surveillance would be retained.	
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	x) N/A no change.	
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	xi) N/A no change.	
6. Car parking and access			
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	i) Not feasible.	Yes
	(ii) The location of car parking and access facilities must minimise the length of	ii) Deep soil proposed to offset	Yes

DCP Clause	Control	Application	Compliance
	driveways and extent of impermeable surfaces within the site.		
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	iii) Achieved.	Yes
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	iv) N/A	N/A
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	v) Old RFB. Front setback hardstand proposed. Acceptable due to existing built form.	Yes
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Hardstand proposed.	Yes
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	2.4m width. 3m crossover.	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible. (f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: - Installing security doors to avoid 'black holes' in the facades.	Not proposed. Old RFB.	Yes

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DCP Clause	Control	Application	Compliance
	<ul style="list-style-type: none"> - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7. Fencing and Ancillary Development			
7.1	Fencing		
	<ul style="list-style-type: none"> (i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials (i) Expansive surfaces of blank rendered masonry to street frontages must be avoided. 	No fencing proposed.	N/A

Responsible officer: Dean Lidis, Environmental Planning Officer

File Reference: DA/222/2025

Draft Development Consent Conditions



D29/25

Folder /DA No:	DA/222/2025
Property:	77-79 Mount Street, COOGEE NSW 2034
Proposal:	New front hardstand car space with associated driveway and ancillary landscaping works
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

Drawing	Drawn by	Dated	Received by Council
Site Plan / Site Analysis DA001 Rev D	Studio23design	3/06/2025	3/06/2025
Parking Plan DA002 Rev D	Studio23design	3/06/2025	3/06/2025

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

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

- Amendment of Plans & Documentation**
The approved plans and documents must be amended in accordance with the following requirements:

- The area in front of 77 Mount Street shall not be used as a car space and must be provided with deep soil area (i.e. lawn/turf).

Condition Reason: To maintain the character of the streetscape.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

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

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

Condition	
4.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$2000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
5.	<p>Building Code of Australia</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code - Building Code of Australia (BCA).</p> <p>Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.</p> <p>Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
6.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
7.	<p>Design Alignment levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall be:</p> <ul style="list-style-type: none"> • Match the back of the existing Council footpath levels along the site frontage opposite the proposed car space. <p>The design alignment levels at the property boundary as issued by Council and</p>

Condition	
	<p>their relationship to the Council footpath must be indicated on the building plans for the construction certificate <u>(a construction note on the plans is considered satisfactory)</u>. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881/9093-6923.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
8.	<p>Design Alignment levels</p> <p>The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$191. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
9.	<p>Internal Car space Design</p> <p>The gradient of the internal car space must be designed and constructed to not exceed a grade of 1 in 20 (5%) and the levels of the car space must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate documentation.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
10.	<p>Stormwater Drainage</p> <p>Surface water/stormwater (from the redeveloped portion of the site) must be drained and discharged to the street gutter in front of the site to the satisfaction of the Certifier and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>

BEFORE BUILDING WORK COMMENCES

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

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

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

12. **Dilapidation Reports**

A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer or other suitably qualified person, detailing the current condition and status of adjoining properties and 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).

Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.

13. **Construction Site Management Plan**

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

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

Condition
<p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>14. Construction Site Management Plan <i>A Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
<p>15. Construction Noise & Vibration Management Plan Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p><i>A Construction Noise & Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise & Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.</p> <p>(b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.</p> <p>(c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the <i>Construction Noise & Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise & Vibration Management Plan</i> and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.</p> <p>A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p>

Condition	
	(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.
	Condition Reason: To protect the amenity of the neighbourhood during construction.
16.	Public Liability 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. Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.
17.	Public Utilities <i>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 potholing, if necessary, to determine the position and level of service.</i> Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.
18.	Public Utilities The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority. Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to

DURING BUILDING WORK

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

Condition
existing building, if the work does not affect the external walls of the building, or
b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

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

20.

Restriction on Working Hours

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

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

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

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

21.

Noise & Vibration

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

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

22.

Construction Site Management

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

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

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

	Condition
	<p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i> <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
23.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council. Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines. During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident. The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land. Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council. A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in

Condition	
	<p>any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
24.	<p>Site Accessway</p> <p>A temporary timber, concrete crossing or other approved stabilised access is to be provided to the site entrance across the kerb and footway area, with splayed edges, to the satisfaction of Council throughout the works, unless access is via an existing suitable concrete crossover.</p> <p>Any damage caused to the road, footpath, vehicular crossing or nature strip during construction work must be repaired or stabilised immediately to Council's satisfaction.</p> <p>Condition reason: To minimise and prevent damage to public infrastructure.</p>
25.	<p>Survey Report</p> <p>A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
26.	<p>Street Tree Management</p> <p>The applicant must submit a payment of \$1105.93 to cover the following costs:</p> <ol style="list-style-type: none"> a) Being the cost for Council to remove and dispose of the existing immature street tree, Jacaranda species, adjacent No 79 dwelling, not a species that is part of the street scape, in direct conflict with proposed new crossover, not a specimen that council would plant, probably been planted by a resident at some point, to be removed. b) A loss of amenity fee in recognition that the only reason this established native tree is being removed from public property is to accommodate the development of private property, with a replacement in front of this site not possible due to the presence of other trees and driveways, with this fee to be used towards additional public plantings in the surrounding area. (NO GST) <p>This fee must be paid into Tree Amenity Income at the Cashier on the Ground Floor of the Administrative Centre prior to a Construction Certificate being issued for the development.</p> <p>The applicant must contact Council's Landscape Development Officer on 9093-6633 (quoting the receipt number) and giving at least four working weeks' notice (allow longer for public holidays or extended periods of rain) to arrange for removal of the street tree prior to the commencement of site</p>

Condition	
	works, as well as upon completion, to arrange for planting of the replacement street tree.
	After this, any further enquiries regarding scheduling/timing or completion of works are to be directed to Council's Central Area Tree Preservation & Maintenance Coordinator on 9093-6728.
	Condition Reason: To ensure residential amenity and permit appropriate landscaping to be provided.
27.	Road / Asset Opening Permit A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with. The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development. For further information, please contact Council's Road / Asset Opening Officer on 9093 6691 or 1300 722 542. Condition Reason: To ensure protection and/or repair of Council's Road & footpath assets and ensure public safety.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
28.	Occupation Certificate Requirements An Occupation Certificate must be obtained from the Principal Certifier prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> . Condition reason: Statutory requirement. To ensure the site is authorised for occupation.
29.	Council's Infrastructure, Vehicular Crossings, street verge The applicant must meet the full cost for a Council approved contractor to: <ol style="list-style-type: none"> Construct a new concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, at the southern end, to Council's specifications and requirements. Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
30.	Council's Infrastructure, Vehicular Crossings, street verge The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This

Condition	
	includes the removal of cement slurry from Council's footpath and roadway.
	Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
31.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ul style="list-style-type: none"> a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing. <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.</p>
32.	<p>Council's Infrastructure, Vehicular Crossings, street verge</p> <p>That part of the nature-strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense.</p> <p>Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public landscaping.</p>

OCCUPATION AND ONGOING USE

Condition	
33.	<p>Assigned Car Space and Ineligibility for Parking Permit</p> <p>The single approved hardstand car space must be assigned to ground floor unit 79A which directly adjoins that car space.</p> <p>Any prospective owner or tenant of that unit must be notified that Council will not issue any residential parking permits for ground floor unit 79A.</p>

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Condition	
	<p>The car space within the development is for the exclusive use of the occupants/tenants of ground floor unit 79A. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
34.	<p>Parking and Council's Footpath</p> <p>Vehicles parked within the car space must not protrude beyond the front property boundary onto the Council footpath at any time.</p> <p>Condition Reason: To maintain clearance of Council's walkway.</p>

Development Application Report No. D30/25

Subject: 21 Baden Street, Coogee (DA/331/2025)



Executive Summary

Proposal:	Integrated development for demolition of the existing residential flat building and construction of a four storey residential flat building with 4 apartments, lift, two level basement with car parking and plant, rooftop terrace, ancillary landscaping and strata subdivision.
Ward:	North Ward
Applicant:	Mr J A Hayek
Owner:	Mr J A Hayek & Mrs K M Hayek
Cost of works:	\$5,617,219.00
Reason for referral:	10 unique submissions (in objection) were received, the development is subject to Chapter 4 of the Housing SEPP, and the development contravenes the development standards for floor space ratio and building height by more than 10%.

Recommendation

- A. That the RLPP is satisfied that the applicant's written requests to vary the development standards relating to building height and floor space ratio in Clauses 4.3 and 4.4 (respectively) of Randwick Local Environmental Plan 2012 have demonstrated that;
- i. Compliance with the relevant development standard is unnecessary and unreasonable in the circumstances of the case; and
 - ii. There are sufficient environmental planning grounds to justify the contravention of the relevant development standards.
- B. That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/331/2025 for integrated development for demolition of the existing residential flat building and construction of a four storey residential flat building with 4 apartments, lift, two level basement with car parking and plant, rooftop terrace, ancillary landscaping and strata subdivision, at No. 21 Baden Street, Coogee, subject to the development consent conditions attached to the assessment report.

Attachment/s:

1.  RLPP Dev Consent Conditions (general) - DA/331/2025 - 21 Baden Street, COOGEE
 NSW 2034 - DEV - Randwick City Council

D30/25



1. Executive summary

The application is referred to the Randwick Local Planning Panel (RLPP) as 10 unique submissions (in objection) were received, the development is subject to Chapter 4 of the Housing SEPP, and the development contravenes the development standards for floor space ratio and building height by more than 10%.

The proposal seeks development consent for demolition of the existing residential flat building (RFB) and construction of a four (4) storey RFB, comprising 3 x three (3) bedroom apartments and 1 x two (2) bedroom apartments. The proposed RFB includes an internal lift and two (2) basement levels with seven (7) car parking spaces. The proposal also includes associated landscaping works and strata subdivision.

The application is identified as being integrated development pursuant to section 4.46 of the Environmental Planning and Assessment Act (EP&A Act) 1979, and approval from Water NSW is required under the Water Management Act 2000. Water NSW granted concurrence to the proposed development, subject to General Terms of Approval.

The key issues associated with the proposal relate to non-compliance with the development standards for building height and floor space ratio (FSR) pursuant to clauses 4.3 and 4.4 (respectively) of Randwick Local Environmental Plan (RLEP) 2012.

The proposed variations are supported as the proposal is consistent with the objectives of the height of buildings development standard, FSR development standard, and the R3 zone. The applicant's written requests have adequately addressed the matters for consideration pursuant to clause 4.6 of RLEP 2012.

The proposal is recommended for approval subject to conditions.

2. Site Description and Locality

The subject site is known as 21 Baden Street, Coogee and is legally described as Lot 8 in DP 8843. The site is located on the northern side of Baden Street and is one (1) lot removed from Dunningham Reserve. The site has an area of 581m² and a 14.63m frontage to Baden Street. The site has 39.625m side boundaries to the east and west and a 14.68m rear boundary to the north. The site has a moderate fall of approximately 2m from the rear to the front (north to south) and approximately 2m from east to west (refer Figure 1).

As shown in Figures 2 and 3, the site is currently occupied by a three (3) storey RFB of brick construction. The existing building include a single car garage at ground floor level.

Surrounding development comprises a mix of three (3) to nine (9) storey RFBs.

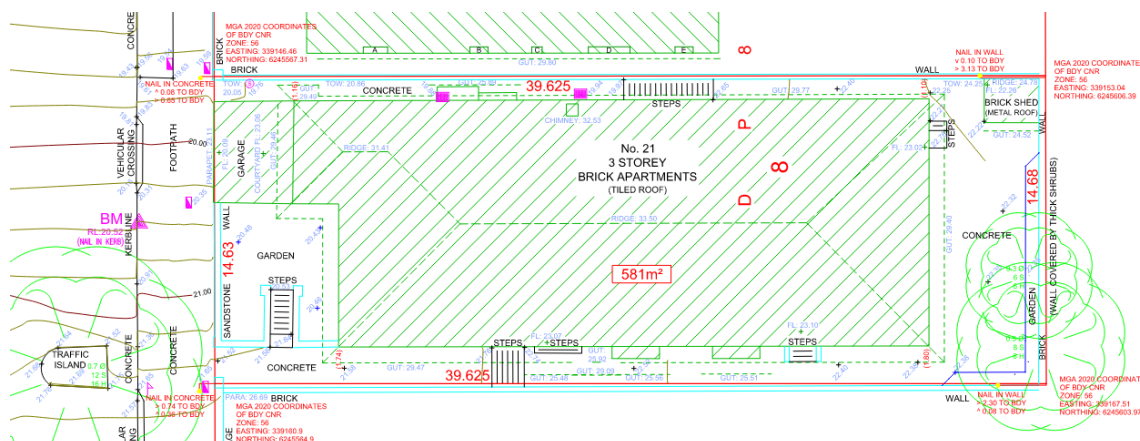


Figure 1: Site survey plan (Source: Peak Surveying)

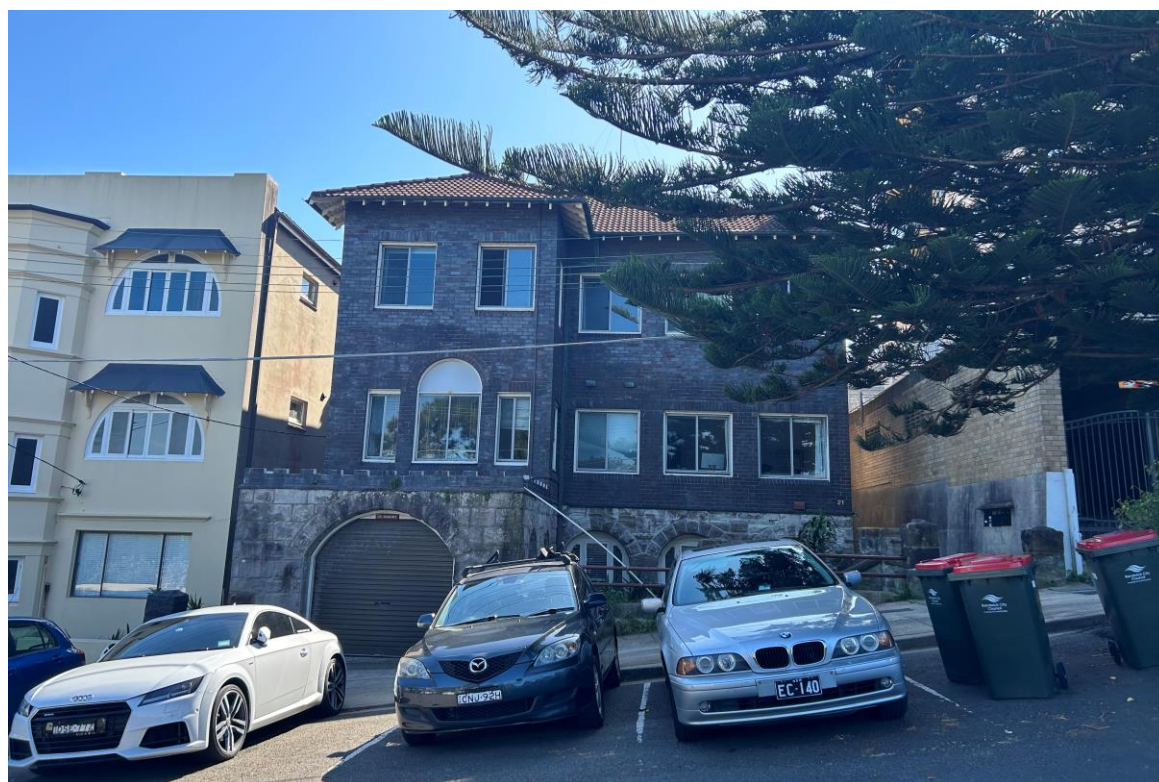


Figure 2: Existing building at subject site, viewed to north (Source: Council officer)



Figure 3: Existing building at subject site, viewed from Dunningham Reserve (*Source: Council officer*)

3. Relevant history

DA/132/2023

Development Application No. DA/132/2023 was lodged on 13 April 2023 and sought consent for demolition of the existing residential flat building, construction of a four storey building with 4 apartments, lift, basement car park, rooftop terrace and related landscaping.

The application was refused by the RLPP on 12 October 2023. The application was subsequently refused by the Land and Environment Court on 09 October 2024. The Commissioner was not satisfied that the clause 4.6 requests for building height and FSR adequately addressed the matters required to be demonstrated by clause 4.6 of RLEP 2012.

Following the refusal of DA/132/2023, the Applicant has been in discussions with Council officers regarding amendments to address the Court's reasons for refusal. Key changes made in the current application (relative to the Court refused scheme) include:

- Reducing the footprint of Level 3 and recessing Level 3 further to the rear of the building to ensure view sharing and to minimise overshadowing impacts to the coastal use area.
- Reducing the maximum building height from 16.11m to 14.78m by setting back Level 3 from the front, reducing floor heights, and reducing the lift overrun.
- Reducing the overall FSR from 1.31:1 to 1.25:1.

4. Proposal

The proposal seeks development consent for demolition of the existing RFB and construction of a four (4) storey RFB. As shown in Figures 4-7, the proposed RFB comprises:

- Lower basement level – services, fire pump room, fire tank, and accessible bathroom.
- Basement level – car parking for seven (7) cars, bathroom, residential storage, bicycle and motorcycle parking, bin storage room, and bulky waste room.
- Ground floor – 1 x three (3) bedroom apartment with rear and front balconies, rear terrace and yard, and communal entry/lobby.
- Level 1 – 1 x three (3) bedroom apartment with rear and front balconies.
- Level 2 – 1 x three (3) bedroom apartment with rear and front balconies.
- Level 3 – 1 x two (2) bedroom apartment with rear balcony and front terrace.

The proposal also includes associated landscaping works and strata subdivision.

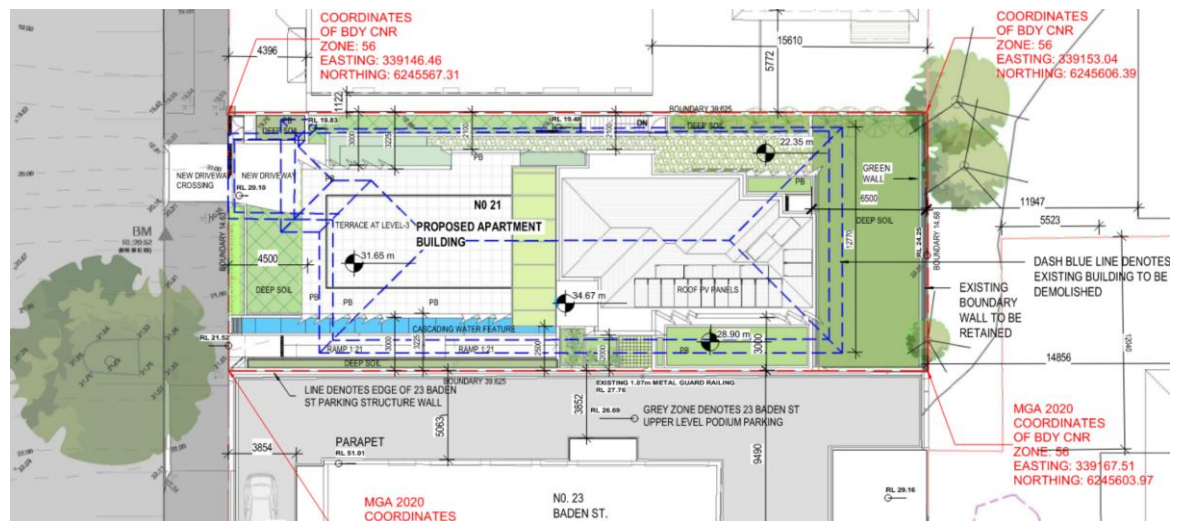


Figure 4: Proposed site plan (Source: Legge & Legge Architects)



Figure 5: Proposed elevations (Source: Legge & Legge Architects)

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Figure 6: Proposed section plan (Source: Legge & Legge Architects)



Figure 7: Photomontage of proposed development (Source: Legge & Legge Architects)

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:

- 37 Arcadia Street
- 48 Arcadia Street
- 23 Baden Street
- 8/23 Baden Street
- 13/23 Baden Street
- 21/23 Baden Street
- 5/15 Baden Street
- 17-19 Baden Street
- Coogee Precinct Committee
- 1 Berwick Street
- 7 Berwick Street

Issue	Comment
FSR non-compliance	Refer to clause 4.6 assessment at Section 8 of this report.
Building height non-compliance	Refer to clause 4.6 assessment at Section 8 of this report.
Side setback non-compliance	Refer to detailed assessment at Section 10 of this report.
External wall height non-compliance	Refer to detailed assessment at Section 10 of this report.
Car parking and traffic impacts	Council's Development Engineer has reviewed the proposed parking and traffic arrangement. As detailed at Appendix 1 of this report, no concerns are raised, subject to conditions.
Construction impacts, including excavation, vibration, structural damage, dust, noise, parking, and public safety	Suitable conditions of consent are included to mitigate construction impacts to neighbouring properties.
Heritage impacts, including impacts to heritage item on Arcadia Street	The subject site is not listed as a heritage item, however is located in proximity to a heritage item. Council's Heritage Planner has reviewed the proposal and raises no concerns. Refer to detailed comments at Appendix 1 of this report.
Impacts to foreshore and Dunningham Reserve	Refer to detailed assessment at Section 7.4 of this report.
Visual bulk impacts	As detailed in this report, Council is satisfied that the proposed development is unlikely to result in significant adverse visual bulk impacts. The proposed development includes suitable façade treatments, landscaping, and recessed elements to minimise the visual bulk of the building.
Inconsistent with local character and surrounding streetscape	Council is satisfied that the proposed development is compatible with the surrounding streetscape character. The

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Issue	Comment
	<p>proposal provides a suitable built form transition between the nine (9) storey RFB at No. 23 and the three (3) storey RFB at No. 17-19.</p> <p>Baden Street comprises buildings with a diverse mix of architectural styles and eras. With regard to the Planning Principle established in <i>Project Venture Developments v Pittwater Council [2005]</i>, compatibility is different from sameness but is one whereby buildings can exist together in harmony. The Planning Principle establishes that buildings can exist together in harmony without having the same density, scale, or appearance. In this regard, it is considered that the proposed design is suitably compatible with the surrounding streetscape.</p>
View loss impacts	Refer to detailed assessment at Section 10 of this report.
Solar access impacts	Refer to detailed assessment at Section 10 of this report.
Visual and acoustic privacy impacts	<p>Refer to detailed assessment of visual privacy at Section 10 of this report.</p> <p>The proposed land use, being for a small residential flat building, is unlikely to result in significant noise impacts. As detailed at Appendix 1, Council's Environmental Health Officer has reviewed the proposal and raises no concerns, subject to conditions.</p>
Insufficient landscaped area, deep soil area, and canopy cover	Refer to detailed assessment at Section 10 of this report. As detailed at Appendix 1, Council's Landscape Officer has reviewed the application and raises no concerns, subject to suitable conditions.
Impacts to nearby Norfolk Island Pine trees during construction	As detailed at Appendix 1, Council's Landscape Officer has reviewed the application and raises no concerns, subject to suitable conditions.

6. Water Management Act 2000

The application is identified as being integrated development pursuant to section 4.46 of the EP&A Act 1979, and approval from Water NSW is required under the Water Management Act 2000. Water NSW granted concurrence to the proposed development, subject to general terms of approval, which are included in the consent conditions.

7. Relevant Environment Planning Instruments

7.1. SEPP (Sustainable Buildings) 2022

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

BASIX Certificate includes a BASIX materials index which calculates the embodied emissions and therefore the consent authority can be satisfied the embodied emissions attributable to the development have been quantified.

7.2. SEPP (Housing) 2021

Chapter 2 – Affordable Housing – Retention of Existing Affordable Rental Housing

Chapter 2, Part 3 of the Housing SEPP applies to existing affordable housing in the form of low-rental residential buildings. Consideration of this Part is required to determine whether the proposal will result in a reduction in affordable rental housing, and therefore whether a monetary contribution might be considered to substitute any loss.

The Housing SEPP defines a low-rental residential building as follows:

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

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

The Housing SEPP defines a low-rental dwelling as follows:

“low-rental dwelling means a dwelling that was let at a rental level no greater than the median rental level, as specified in the Rent and Sales Report, during the relevant period in relation to a dwelling –

- (a) of the same type, and
- (b) with the same number of bedrooms, and
- (c) in the same local government area.”

The relevant period is defined as “the period commencing 5 years before the day on which the development application involving the building is lodged and ending on that day.”

The subject site is currently occupied by a three (3) storey RFB comprising eight (8) units (1 x studio, 1 x storage unit, 3 x one (1) bed, and 3 x two (2) bed). The existing building has not previously been subdivided and is currently held in single ownership.

The below table provides the median rent for one (1) and two (2) bedroom units over the relevant period (i.e. previous five (5) year period) for the Randwick LGA. The data has been sourced from the Rent and Sales Report published by the NSW Department of Communities & Justice.

Quarter	Median Rent – 1 Bed Unit	Median Rent – 2 Bed Unit
December 2024	\$700	\$880
September 2024	\$700	\$850
June 2024	\$695	\$875
March 2024	\$700	\$880
<i>Average 2024</i>	<i>\$698.75</i>	<i>\$871.25</i>
December 2023	\$680	\$850
September 2023	\$625	\$800
June 2023	\$600	\$780
March 2023	\$600	\$800
<i>Average 2023</i>	<i>\$626.25</i>	<i>\$807.50</i>
December 2022	\$580	\$750
September 2022	\$530	\$680
June 2022	\$515	\$640

March 2022	\$493	\$600
<i>Average 2022</i>	<i>\$529.50</i>	<i>\$667.50</i>
December 2021	\$470	\$600
September 2021	\$450	\$590
June 2021	\$450	\$560
March 2021	\$450	\$550
<i>Average 2021</i>	<i>\$455</i>	<i>\$575</i>
December 2020	\$430	\$550
September 2020	\$450	\$560
June 2020	\$450	\$580
March 2020	\$500	\$630
<i>Average 2020</i>	<i>\$457.50</i>	<i>\$580</i>

The below table provides the details of median rent received for the existing building in the previous five (5) year period, as provided by the Applicant.

Median Rent	2024	2023	2022	2021	2020	Low-Rental
Unit 1 (2 bed)	Owner occupied	Owner occupied	Owner occupied	Owner occupied	Owner occupied	No
Unit 2 (1 bed)	Vacant	Vacant	\$549	\$549	\$549	No
Unit 3 (1 bed)	Owner occupied	Owner occupied	Owner occupied	Owner occupied	Owner occupied	No
Unit 4 (2 bed)	Owner occupied	Owner occupied	Owner occupied	Owner occupied	Owner occupied	No
Unit 5 (1 bed)	Vacant	Vacant	\$529.97	\$529.97	\$529.97	No
Unit 6 (2 bed)	Airbnb	Airbnb	\$704.97	\$704.97	\$704.97	No
Unit 7 (Storage)	Storage	Storage	Storage	Storage	Storage	No
Unit 8 (studio)	Owner occupied	Owner occupied	Owner occupied	Owner occupied	Owner occupied	No

As shown in the above table, Units 1, 3, 4, and 8 have been owner-occupied during the past five (5) years. As such, these apartments do not constitute low-rental dwellings.

Unit 7 has been used as a storage unit during the past five (5) years and has not been rented. As such, this apartment does not constitute a low-rental dwelling.

Units 2, 5, and 6 were rented above the relevant median rate for apartments in the Randwick LGA between 2020 and 2022. Units 2 and 5 have been vacant since December 2022 and Unit 6 has been used as a short-term rental accommodation (i.e. Airbnb) since December 2022. As such, these apartments do not constitute low-rental dwellings.

On this basis, the existing RFB at the subject site does not constitute a low-rental residential building and further consideration of Chapter 2, Part 3 of the Housing SEPP is not required.

Chapter 4 – Design of Residential Apartment Developments

Chapter 4 of the Housing SEPP seeks to improve the design of residential apartment development. The proposed development is subject to Chapter 4 of the Housing SEPP as it involves a four (4) storey residential flat building with four (4) apartments.

Section 147 of the Housing SEPP requires the consent authority to consider:

- the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,
- the Apartment Design Guide,
- any advice (if any) obtained from the design review panel.

Design Excellence Advisory Panel

The application was referred to the Design Excellence Advisory Panel for advice regarding the design quality of the development.

Detailed comments provided by the Panel are provided at Appendix 1. The below table details how the amended proposal satisfies the comments raised by the Panel.

Panel Comment	Response
<p><u>Context and Neighborhood Character</u> <i>The proposal does not adequately engage with the architectural character and quality landscaping found in neighbouring properties. There is a positive atmosphere in the streetscape that could be captured and extended through more careful design referencing the surrounding buildings and verdant gardens. The group of buildings to the west of the subject site have a positive architectural character and features that could be used as reference points and clues as to a design characteristic for the new development.</i></p> <p><i>The landscape in the front garden areas of the existing building on the subject site, as well as the group of 4 or so buildings to the west is very green and forms a positive contribution to the streetscape. The proposed front yard landscaping design for the subject site does not emulate those sites and is lacking in greenscape. The panel considers that the front garden landscape design needs to be improved to contribute positively to the streetscape</i></p>	<p>Refer to below responses relating to landscaping and aesthetics.</p>
<p><u>Built Form and Scale</u> <i>The proposed development should be “overlayed” against existing building footprint.</i> <i>The Panel are of the opinion that 3100 floor to floor heights will be difficult to achieve. Inclusive of any parapets, falls and drainage and needs to be demonstrated that this can comply with building codes and good practice and still achieve this dimension.</i> <i>Placing the Master Bedroom of the Ground Floor and Level 1 against the east boundary is a good use of site conditions.</i></p>	<p>The Applicant has submitted floor plans showing the existing building footprint, which is considered suitable.</p> <p>Detailed sections have been submitted to confirm that 3.1m floor heights can be achieved.</p>
<p><u>Density</u> <i>The application proposes a four-apartment development and represents a reduction in dwelling numbers, replacing an aging apartment building containing 8 apartments. However, as it is a small development, the number of apartments is acceptable, provided the new dwellings that will replace older units provide a high level of amenity to replace units that have limited amenity due to their age.</i></p> <p><i>The number of bedrooms is increased by one compared with the existing building, therefore density is maintained and acceptable.</i></p> <p><i>The applicant has not presented a scheme considering an adaptive re-use of the existing building. The existing building has no parking and is it considered acceptable that the new development will provide adequate off-street parking.</i></p> <p><i>The Panel are of the opinion that the design of the apartments as presented has a low level of amenity. The internal unit layouts are compromised, evidenced by the awkwardly design living space, including very tight dining</i></p>	<p>Noted.</p> <p>Refer to below response relating to internal amenity of apartments.</p>

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<p><i>areas, bedrooms that are not well laid out and bathrooms that will be cramped and difficult to use.</i></p>	
<p><u>Sustainability</u> <i>The Panel are of the opinion that Water features in the rear and entry areas are problematic and dubious as they are noisy, always create maintenance issues, and the likelihood of abandonment is high.</i></p> <p><i>The Panel recommends that these elements are replaced with soft landscaping and increased greenery from the outset.</i></p> <p><i>The screens to the west glazed elements will provide some solar control.</i></p>	<p>Amended plans have been submitted to delete the originally proposed water feature in the rear yard. This area has been replaced with landscaped area.</p> <p>The water feature at the front of the site is considered acceptable as it provides visual interest and amenity for future occupants. Relative to the noise of crashing waves and the wider recreation precinct with the locality, the water feature is unlikely to result in significant noise impact.</p>
<p><u>Landscape</u> <i>A high-quality landscape design would help the scheme considerably.</i></p> <p><i>Grass-crate paving is considered an inadequate landscape proposal.</i></p> <p><i>The landscaping in the front garden areas of the existing building on the subject site, as well as the group of 4 or so buildings to the west is very green and forms a positive contribution to the streetscape. The proposed front yard landscaping design for the subject site does not emulate those sites and is lacking in Greenscape. The panel considers that the front garden landscape design needs to be improved to contribute positively to the streetscape</i></p>	<p>Amended plans have been submitted to provide additional planting to the front yard. Consistent with the existing arrangement at the site, the front yard is sunken below street level and is not readily visible from the public domain.</p> <p>The use of grass-crate paving is considered a suitable and sustainable solution to provide an on-site car wash bay.</p>
<p><u>Amenity</u> <i>The Panel has numerous concerns about liveability within the apartments.</i></p> <p><i>Ground & Level 1 Bathrooms (Bed 1 & Bed 2):</i></p> <ul style="list-style-type: none"> - <i>Current layout is quite tight.</i> - <i>Consider removing the planter to extend bathroom length.</i> <p><i>Powder Room:</i></p> <ul style="list-style-type: none"> - <i>Include glazing to public entry walkway.</i> <p><i>Ensuite (Bed 1):</i></p> <ul style="list-style-type: none"> - <i>Could have a better layout if entering the robe area through a more central location which could enhance privacy from Family Room.</i> - <i>Moving the toilet to the north-west corner of the ensuite bathroom to eliminate a clash between the Bed 1 door and ensuite entry.</i> <p><i>L3 Unit</i></p> <ul style="list-style-type: none"> - <i>The Dining space is particularly narrow, at approximately 2.3–2.4m wide.</i> - <i>It is unclear what defines the red “view line” shown on the plans.</i> - <i>The Master Bedroom currently places the bed against the balcony. The Panel suggests squaring off the room to the west and relocating the bed to the western wall.</i> 	<p>Amended plans have been submitted to improve the internal amenity and layout of the apartments.</p>

<ul style="list-style-type: none"> - The drawings are unclear with respect to window and sliding door configurations. The small annotation arrows are difficult to interpret and require clarification. - Floor to parapet dimension of 2950mm will be difficult to achieve, inclusive of any parapets, falls and drainage. Needs to be demonstrated that this can comply with a ceiling height requirement of 2700mm, and sound construction practice. 1:20 sections should be provided. 	
<u>Safety</u> Not discussed at meeting.	Not applicable.
<u>Housing Diversity and Social Interaction</u> The application is for 4 apartments. As it is a small development the apartment mix is acceptable and supported.	Noted.
<u>Aesthetics</u> The existing building on the site, together with the group of three buildings to the west of the site, exhibit some strong character features that contribute positively to a streetscape of strong character. the Panel are of the opinion that this group of buildings, even though they are of a certain period, can provide good clues as to designing a new building albeit of contemporary design, referencing features to the building group. for example, less glazing and more character masonry and brick form could enhance a design on this site.	<p>The site's locality comprises buildings with a diverse mix of architectural styles and eras. With regard to the Planning Principle established in <i>Project Venture Developments v Pittwater Council</i> [2005], compatibility is different from sameness but is one whereby buildings can exist together in harmony. The Planning Principle establishes that buildings can exist together in harmony without having the same density, scale, or appearance. In this regard, it is considered that the proposed design is suitably compatible with the surrounding locality.</p> <p>Amended plans have been submitted to increase the opacity of the front balconies (to Baden Street). This will reduce the extent of glazing whilst ensuring that views are preserved for future occupants. It is considered that the proposal provides a suitable mix of glazed and solid elements (i.e. sliding privacy screens), as well as landscaped features.</p>

Design Quality Principles

The above table details how each of the nine (9) design quality principals have been considered in the amended proposal.

Apartment Design Guide

The table below provides an assessment of the proposal against the relevant design criteria contained in Parts 3 and 4 of the Apartment Design Guide (ADG). 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.

Clause	Design Criteria	Proposal	Compliance	
Part 3: Siting the Development				
3D-1	Communal and Public Open Space			
	Communal open space has a minimum area equal to 25% of the site.	Nil – numeric non-compliance is acceptable on merit noting that each apartment is provided with generous private open space areas (in excess of the minimum ADG requirements). Additionally, the site is in close proximity to several public open space areas (including Dunningham Reserve and Coogee Beach), which provide suitable opportunities for communal activities and social interaction.	On merit	
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	N/A	N/A	
3E-1	Deep Soil			
	Deep soil zones are to meet the following requirements: 3m dimension, 7% site area	149.8m² (25.78%)	Yes	
3F-1	Visual Privacy			
	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:		On merit – refer to Key Issues section of this report	
	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
		East side = nil to 3.2m West side = 2.1m to 3.2m Rear = 6.5m (complies) NB: window openings are generally oriented towards the front/rear of the site to prevent direct overlooking.		

Clause	Design Criteria	Proposal	Compliance
	<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>		
3J-1	Bicycle and Car Parking		
	<p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	<p>The proposal (comprising seven (7) car parking spaces) complies with the relevant car parking requirements of Part B7 of RDCP 2013.</p>	Yes
Part 4: Designing the Building			
4A	Solar and Daylight Access		
	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 midwinter.	100% of apartments will receive at least two (2) hours of solar access	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	No apartments will receive no solar access	Yes
4B	Natural Ventilation		
	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	100% of apartments will be naturally cross ventilated	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	The units are greater than 18m in depth. However, these apartments have been suitably designed to ensure that all habitable rooms are provided with adequate ventilation and solar access.	On merit
4C	Ceiling Heights		

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Clause	Design Criteria	Proposal	Compliance
	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable – 2.4m Attic spaces – 1.8m at edge with min 30 degree ceiling slope Mixed use areas – 3.3m for ground and first floor <p>These minimums do not preclude higher ceilings if desired.</p>	Compliant (2.7m) ceiling heights are provided to all apartments, except for a portion of the living/dining area to Unit 4, which has a ceiling height ranging from 2.2m-2.7m. Noting that this area is sited below a glass roof, adequate amenity and solar access will be provided for future occupants.	On merit – refer clause 4.6 discussion
4D	Apartment Size and Layout		
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> Studio - 35m² 1 bedroom - 50m² 2 bedroom - 70m² 3 bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each.</p>	<p>Unit 1 (3 bed) = 203.8m² Unit 2 (3 bed) = 203.8m² Unit 3 (3 bed) = 185.3m² Unit 4 (2 bed) = 113.5m²</p>	Yes
	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.	Complies	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Complies	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Complies	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Complies	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Complies	Yes
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments 	Complies	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Complies	Yes
4E	Private open space and balconies		

Clause	Design Criteria	Proposal	Compliance															
	<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	Unit 1 (3 bed) = 20.7m ² Unit 2 (3 bed) = 20.7m ² Unit 3 (3 bed) = 13m ² Unit 4 (2 bed) = 55.5m ²	Yes
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																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Complies	Yes															
4F	Common Circulation and Spaces																	
	The maximum number of apartments off a circulation core on a single level is eight.	Complies	Yes															
4G	Storage																	
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none">• Studio apartments - 4m³• 1 bedroom apartments - 6m³• 2 bedroom apartments - 8m³• 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	Unit 1 (3 bed) = 10.3m ³ Unit 2 (3 bed) = 10.7m ³ Unit 3 (3 bed) = 10.7m ³ Unit 4 (2 bed) = 8.2m ³	Yes															

Non-discretionary Development Standards

Section 148 of the Housing SEPP provides standards that cannot be used as grounds to refuse development consent, which include:

- (a) *the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide*

Assessing officer's comment: The proposal (comprising seven (7) car parking spaces) complies with the relevant car parking requirements of Part B7 of RDCP 2013.

- (b) *the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide*

Assessing officer's comment: The proposed apartments comply with the minimum internal area requirements under the ADG.

- (c) *the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide*

Assessing officer's comment: Compliant (2.7m) ceiling heights are provided to all apartments, except for a portion of the living/dining area to Unit 4, which has a ceiling height ranging from 2.2m-

2.7m. Noting that this area is sited below a glass roof, adequate amenity and solar access will be provided for future occupants. Refer to detailed discussion at Section 8 of this report.

7.3. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW. The proposed development does not involve the removal of any vegetation (including any trees). As such, the proposal achieves the relevant objectives and provisions under Chapter 2.

7.4. SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

Chapter 2 of the Resilience and Hazards SEPP relates to coastal management.

Clause 2.11(1)(a) of the SEPP requires the consent authority to consider whether the proposal is likely to cause an adverse impact on the following:

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

Noting the location and nature of the proposed works, the proposal is unlikely to result in adverse impact on existing, safe access to and along the foreshore, beach, headland, or rock platform. Additionally, the proposal is unlikely to result in wind funnelling or the loss of views from public places to foreshores. There are no significant views available from public places to the foreshore which are viewed over and/or through the subject site.

The submitted shadow diagrams demonstrate that suitable solar access will be maintained to the foreshore area, including Dunningham Reserve. Between 10am and 3pm (midwinter), additional shadows (relative to the existing situation) will fall to the road reserve of Baden Street only. The additional shadows to Dunningham Reserve at 8am, 9am, and 4pm are the same (or lesser) than the shadows which would be cast by a fully compliant development.

In this regard, Council is satisfied that the non-compliant portion of the proposed building does not directly result in any significant adverse overshadowing of Dunningham Reserve.

The proposed building design and materials are considered to be consistent with the visual amenity and scenic qualities of the coast.

The proposal is unlikely to result in adverse impact to Aboriginal cultural heritage, practices and places, or to cultural and built environment heritage.

Clause 2.11(1)(b) requires the consent authority to be satisfied that:

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact*

Council is satisfied that the proposed development has been designed to avoid the adverse impacts referred to in paragraph (a). Importantly, the non-compliant portion of the proposed building does not directly result in any significant adverse overshadowing of the foreshore area, including Dunningham Reserve.

Consistent with clause 2.11(1)(c), Council has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

On this basis, clause 2.11 of the Resilience and Hazards SEPP is satisfied.

Chapter 4 – Remediation of Land

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

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

7.5. SEPP (Transport and Infrastructure) 2021

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

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

The application has been referred to Ausgrid (the relevant electricity supply authority) and suitable conditions have been provided by the service authority.

7.6. Randwick Local Environmental Plan (RLEP) 2012

The site is zoned R3 Medium Density Residential under Randwick Local Environmental Plan 2012. The proposal, being for a residential flat building, 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
Cl 4.3: Building height	12m	14.78m (RL34.67 lift overrun above RL19.89 existing ground level)	No
Cl 4.4: Floor space ratio	0.9:1 (522.9m ²)	1.28:1 (747m ²)	No

7.6.1. Clause 4.6 – Exceptions to development standards

The non-compliances with the development standards are discussed in Section 8 of this report.

7.6.2. *Clause 5.10 – Heritage conservation*

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

The site is not listed as a heritage item and is not located in a heritage conservation. However, the site is in proximity to a heritage item at 39 Arcadia Street, Coogee (Item No. I41).

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

7.6.3. *Clause 6.2 – Earthworks*

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

The proposal involves excavation up to 7.2m in depth to accommodate the basement and lower basement (plant) levels and the lift pit. The proposed piling has nil to 900mm setbacks to the side boundaries. As such, the proposal fails to comply with the minimum 1m depth and 900mm setbacks pursuant to Part C2, Section 4.12 of RDCP 2013.

However, the extent of excavation is considered acceptable on merit. The basement levels are necessary to accommodate off-street car parking, storage, bin storage, and mechanical services. The basement levels are generally located below ground, and as such, do not contribute to any additional building bulk.

It is noted that Part C2, Section 6.1(v) of RDCP 2013 requires basement/underground car parking for a residential flat building. Despite the exceedance to the depth of excavation, the proposed basement is consistent with that anticipated for medium density development within the locality. Insistence on reduced excavation depth would inhibit the ability for compliant car parking, storage, and waste facilities to be provided on-site.

The development satisfies clause 6.2(3) as detailed below:

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

7.6.4. *Clause 6.7 – Foreshore scenic protection area*

The subject site is located in the Foreshore Scenic Protection Area. Clause 6.7 of RLEP 2012 requires Council to be satisfied that the development has minimal visual impact on the coastline and contributes to the scenic quality of the foreshore.

The proposed development is generally consistent with the scale of surrounding development, which comprises RFBs ranging in height from three (3) to nine (9) storeys. As demonstrated in this report, the proposal will not compromise the scenic qualities of the foreshore location and has been designed to minimise adverse impacts to views from neighbouring properties. On this basis, the development is satisfactory with regard to clause 6.7 of RLEP 2012.

7.6.5. Clause 6.11 – Design Excellence

Clause 6.11 of RLEP 2012 applies to a development application in circumstances where the proposed development will be at least 15m in height. Pursuant to subclause 6.11(3), development consent must not be granted unless the consent authority is satisfied that the proposed development exhibits design excellence.

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

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

8. Clause 4.6 exception to a development standard

The proposal seeks to vary the following development standards contained within RLEP 2012 and the Housing SEPP:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
Building height (clause 4.3 of RLEP)	12m	14.78m	2.78m	23.16%
Floor space ratio (clause 4.4 of RLEP)	0.9:1 (522.9m ²)	1.28:1 (747m ²)	224.1m ²	42.85%
Ceiling height (section 148(2)(c) of Housing SEPP)	2.7m (habitable rooms)	2.2m	0.5m	18.5%

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

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

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

Pursuant to section 35B(2) of the *Environmental Planning and Assessment Regulation 2021*, a development application for development that proposes to contravene a development standard

must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3).

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

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

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

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

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

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

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

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

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

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

The approach to determining a clause 4.6 request as summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, has been used in the following

assessment of whether the matters in Clause 4.6(3) have been satisfied for each contravention of a development standard. The assessment and consideration of the applicant's request is also documented below in accordance with clause 4.6(4) of RLEP 2012.

8.1. Exception to the building height development standard

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

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

The applicant's written request seeks to justify the contravention of the building height 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 building height standard are set out in clause 4.3(1) of RLEP 2012 and comprise:

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

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Council is satisfied that the objectives of the development standard are achieved, as follows:

- (a) The size and scale of the proposed development is compatible with the existing and desired future character of the locality, which comprises three (3) to nine (9) storey residential flat buildings. The proposed four (4) storey building provides a suitable transition between the nine (9) storey RFB at No. 23 Baden Street and the three (3) storey RFB at No. 19 Baden Street. Additionally, noting that the upper level is significantly setback from the front building façade, the proposal will generally present to Baden Street as a three (3) storey (plus basement) building.
- (b) The subject site is not located within a heritage conservation area. Council's Heritage Planner has reviewed the application and confirms that the proposal will not adversely impact the heritage significance of the adjacent heritage item at 39 Arcadia Street – refer Appendix 1.
- (c) As demonstrated in this report, the proposed development will not adversely impact on the amenity of neighbouring properties in terms of visual bulk, loss of privacy, overshadowing, or views.

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

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

- *The building height departure is limited to the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof. The remainder of the development complies with the building height standard. Refer to the extract of the Height Plane Diagram above.*
- *The components that breach the height control are recessed from the front of the building to minimise the visual impact of the non-compliance.*

- The building height non-compliance is small in scale (2.78m) and will be indiscernible from the streetscape and surrounding properties.
- The site slopes moderately from the rear (north) to the front (south) by approximately 2.5m and slopes from the east to west by approximately 1.8m. The height variation is partly due to the slope of the site, which has been established in the Land and Environment Court judgement of *Merman Investments v Woollahra Council* [2021] as constituting a sufficient environmental ground.
- The height non-compliance when calculated as per the extrapolated ground level approach in Bettar (refer to extract of Section EE below) is 12.45m, providing a variation of 3.75% for a very minor portion of the front roof of Level 3.



Figure 3. Extract of the Section EE showing the extrapolated ground level

- The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west. Despite the building height non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street noting that the street wall is below the 12m height control.

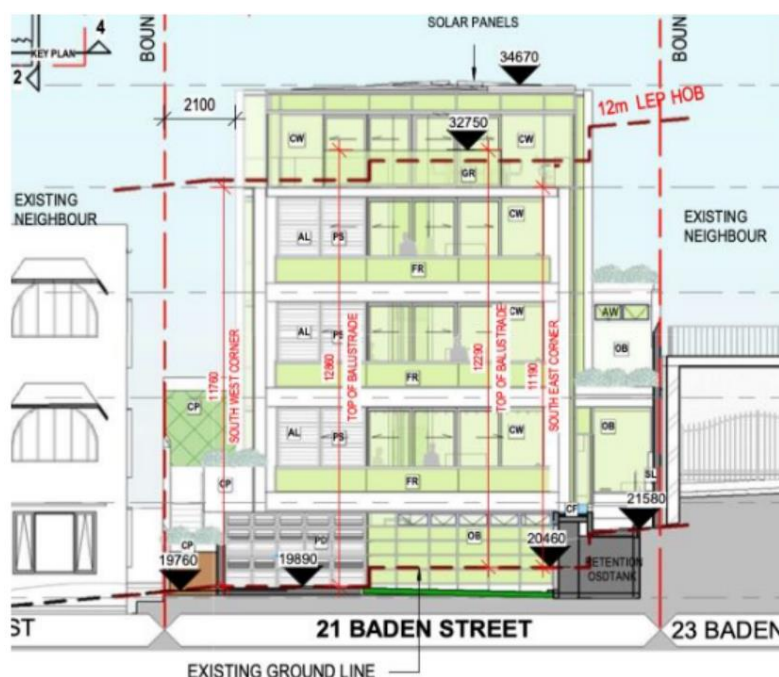


Figure 4. Extract of the South Elevation

- The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) are minor elements of the overall built form and will not generate any adverse streetscape, visual bulk or amenity impacts.
- On 9 October 2024, the Land and Environment Court (LEC) refused the previous DA on the site for the construction of a 4-storey residential flat building (DA/132/2023; Hayek v Randwick City Council [2024] NSWLEC 1631).

[...]

The proposal subject to this DA has amended that proposed under DA/132/2023 which was refused by the Court. In particular, the maximum building height has been reduced by 1.33m from 16.11m to 14.78m.

The components of the development above the building height control have been further setback from the front of the building to reduce the visual impact of the non-compliance, which is consistent with objective cl 4.3(1)(c) of the building height standard. Setting the upper level back has the effect of reducing the height non-compliance when calculated as per the extrapolated ground level approach in Bettar (refer to Figure 3 above). The maximum height using the extrapolated method is 12.45m, providing a variation of 3.75% for a very minor portion of the front roof of Level 3.

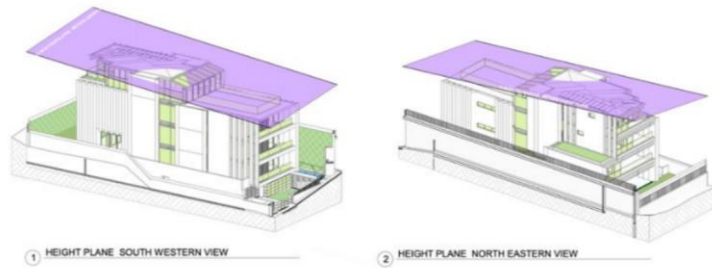


Figure 5. Extract of the Height Plane Diagram using the extrapolated method for DA/132/2023

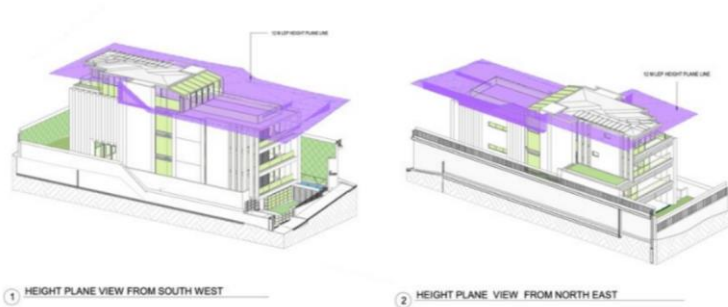


Figure 6. Extract of the Height Plane Diagram using the extrapolated method for subject DA

- *Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:*
 - *Views: The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable view loss impacts.*

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- *Overshadowing: The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable overshadowing to the adjoining properties.*

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- *to the adjoining residential flat building to the west at 9.30am.*
- *to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.*
- *to Dunningham Reserve to the south at 8am, 9am and 4pm.*
- *to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.*

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space and public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- Privacy: *In terms of privacy, the components of the building that slightly exceed the height control are limited and are setback to provide adequate separation from the adjoining properties. The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.*

Assessing officer's comment: Council is satisfied that the applicant's written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

As shown in Figure 8, the non-compliant portion of the proposed building is limited to the lift overrun and a portion of the rear roof form. The subject site is constrained by its irregular topography and the extent of excavation that has already been undertaken to accommodate the existing building. The lower ground floor of the existing building effectively lowers the level of 'existing ground' so that the extent of variation to the height standard is significantly increased.

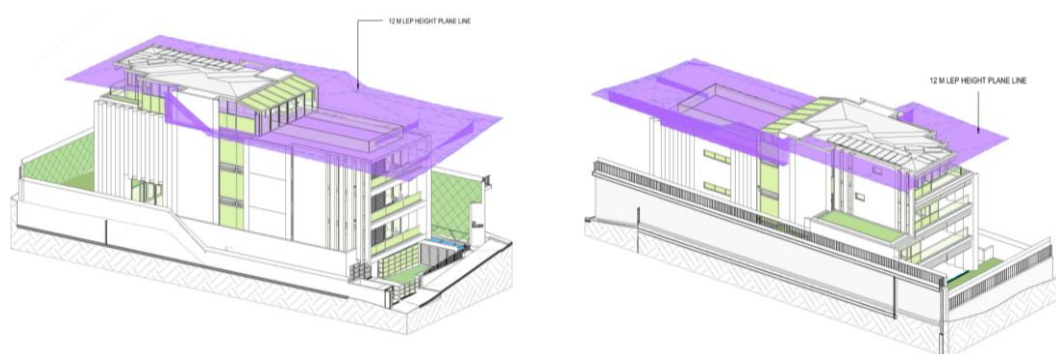


Figure 8: Height plane diagram (Source: Legge & Legge Architects)

The height plane diagram at Figure 9 shows the proposed extent of variation using the 'extrapolated method'. Whilst Council does not consider the 'extrapolated method' to be correct for the purposes of calculating building height, it is useful to show the perceived extent of variation if 'existing ground' was taken from the ground levels at the edges of the site.

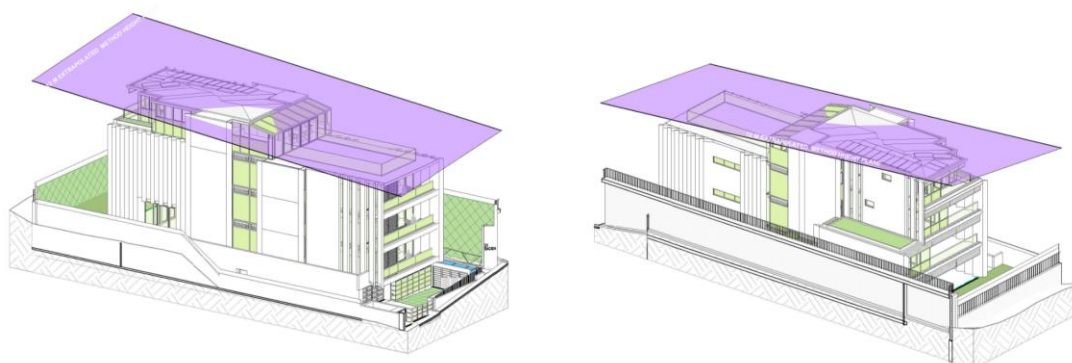


Figure 9: Extrapolated method height plane diagram (Source: Legge & Legge Architects)

It is considered that the height variation can be attributed to the topography of the site. The additional building height results from where the land has previously been excavated to provide a lower ground level.

The lift overrun is necessary to provide equitable access to the building and is not considered to result in any significant addition impact relative to view loss, overshadowing, visual privacy, or the like.

Notwithstanding, the proposal has incorporated suitable articulation, built form recesses, and material diversity to minimise the visual impact of the non-compliant portion of the building (i.e. the uppermost level). The front alignment of the upper level has been substantially setback behind the levels below to reduce the extent of non-compliance, to preserve views across the site from neighbouring properties, and to minimise overshadowing impacts to Dunningham Reserve.

The proposed development would predominantly present as three (3) to four (4) storeys to Baden Street and would not be inconsistent with the existing streetscape, which comprises three (3) to nine (9) storey RFBs. The proposed building height provides a suitable transition between the three (3) storey RFB at No. 19 Baden St and the nine (9) storey RFB at No. 23 Baden St.

Conclusion

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

8.2. Exception to the FSR development standard

The applicant's written justification for the departure from the FSR development standard is contained in Appendix 3.

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

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

The objectives of the FSR standard are set out in clause 4.4(1) of RLEP 2012 and comprise:

- (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.*

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Council is satisfied that the objectives of the development standard are achieved, as follows:

- (a) The size and scale of the proposed development is compatible with the existing and desired future character of the locality, which comprises three (3) to nine (9) storey residential flat buildings. The proposed four (4) storey building provides a suitable transition between the nine (9) storey RFB at No. 23 Baden Street and the three (3) storey RFB at No. 19 Baden Street. Additionally, noting that the upper level is

significantly setback from the front building façade, the proposal will generally present to Baden Street as a three (3) storey (plus basement) building.

- (b) The proposed building is well articulated and responds to environmental and energy needs, as demonstrated in the submitted BASIX Certificate.
- (c) The subject site is not located within a heritage conservation area. Council's Heritage Planner has reviewed the application and confirms that the proposal will not adversely impact the heritage significance of the adjacent heritage item at 39 Arcadia Street – refer Appendix 1.
- (d) As demonstrated in this report, the proposed development will not adversely impact on the amenity of neighbouring properties in terms of visual bulk, loss of privacy, overshadowing, or views.

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

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

- *The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west. Despite the FSR non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street.*

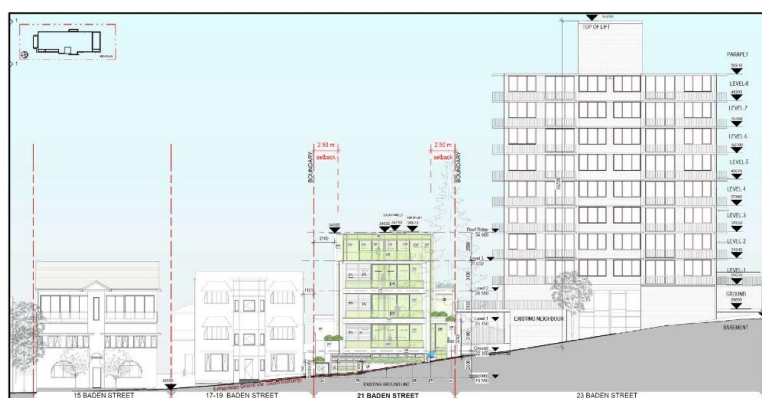


Figure 1. Extract of the South Elevation

- *The proposed FSR of 1.25:1 is less than the FSR of the existing building on the site (1.33:1), thereby further demonstrating that the proposed bulk and scale is consistent with the existing streetscape, providing a 3 storey height to Baden Street.*
- *The external facades are articulated and indented and Level 3 is recessed to minimise the perceived bulk and scale of the building and the visual impact of the FSR non-compliance.*
- *The FSR non-compliance will be indiscernible from the streetscape and surrounding properties and will not generate any adverse streetscape, visual bulk or amenity impacts.*
- *Despite the FSR variation, the proposed building has been appropriately setback to respond to the site, streetscape and to ensuring that the amenity of the neighbouring properties in terms of privacy and overshadowing. The proposed building has a front setback 4.5m, which is consistent with the prevailing setback line along the street. The proposed building is setback 6.5m from the rear boundary, which is greater than that required by the DCP rear setback control (5.9m). The proposed building provides greater setbacks than the existing*

building on the site, thereby improving the existing building separations to the adjoining properties.

- *Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:*

- *Views: The FSR non-compliance will not result in unreasonable view loss impacts to the adjoining properties.*

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- *Overshadowing: The FSR non-compliance will not result in unreasonable overshadowing to the adjoining properties.*

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- *to the adjoining residential flat building to the west at 9.30am.*
- *to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.*
- *to Dunningham Reserve to the south at 8am, 9am and 4pm.*
- *to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.*

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space and public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- *Privacy: The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained. All of the apartments are oriented to the front to alleviate overlooking impacts to the neighbouring properties. Windows have been appropriately sited and designed to minimise any potential overlooking. The proposal includes privacy screen blades on the side openings to allow solar access whilst providing privacy. The balconies are orientated towards the front and rear of the site to reduce privacy impacts to adjoining neighbours. Unit 4 has a private front terrace on Level 3 which has been designed and limited in size to ensure amenity impacts, including noise and overlooking, are minimised. Within the development, the layout has been designed to ensure that mutual privacy is provided within the residential flat building. The Ground Floor private courtyards of Unit 1 is screened by fencing and landscaping to ensure that the amenity of adjoining properties is maintained.*

Assessing officer's comment: Council is satisfied that the applicant's written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Importantly, the proposed FSR of 1.28:1 (747m² GFA) is less than that of the existing building at the site (1.35:1 FSR, 773m² GFA). This demonstrates that the proposed bulk and scale is consistent with the existing streetscape.

The proposal has incorporated suitable articulation, built form recesses, and material diversity to minimise the visual impact of the non-compliant portion of the building. The front alignment of the upper level has been substantially setback behind the levels below to reduce visual bulk, to preserve views across the site from neighbouring properties, and to minimise overshadowing impacts to Dunningham Reserve.

The proposed development would predominantly present as three (3) to four (4) storeys to Baden Street and would not be inconsistent with the existing streetscape, which comprises three (3) to nine (9) storey RFBs. The proposed built form provides a suitable transition in building bulk between the three (3) storey RFB at No. 19 Baden St and the nine (9) storey RFB at No. 23 Baden St.

Conclusion

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

8.3. Exception to the ceiling height development standard

The applicant's written justification for the departure from the ceiling height development standard is contained in Appendix 4.

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

The applicant's written request seeks to justify the contravention of the ceiling height 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 objective of the ceiling height standard is set out at Objective 4C-1 of the ADG, which states: *Ceiling height achieves sufficient natural ventilation and daylight access.*

Assessing officer's comment: The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Council is satisfied that the objective of the development standard is achieved, as follows:

- *The proposed development has ceiling heights of 2.7m for habitable rooms and 2.4m for non-habitable rooms, except for the southern part of the living/dining area of Unit 4 which has a ceiling height of 2.2m to 2.7m.*
- *The southern part of the living/dining area of Unit 4, which does not comply with the ceiling height control, will receive abundant solar access due to the glass roof and walls of the southern part of Unit 4.*
- *100% of the apartments (4 of 4) will receive a minimum of 2 hours of solar access to the living rooms and private open space between 9am and 3pm in mid-winter, thereby complying with the minimum ADG Objective 4A which only requires 70% of apartments to comply.*
- *100% of the apartments (4 of 4) are naturally cross-ventilated, thereby complying with the minimum ADG Objective 4B which only requires 60% of apartments to comply.*

- *The non-compliant ceiling height only relates to a small part of the living/dining area of Unit 4. The remainder of the living room and the development complies with the ceiling height control.*
- *Compliance with the development standard is unreasonable and unnecessary as Unit 4 will receive natural ventilation and abundant solar access due to the glass roof and walls and thereby meets the objective of the development standard.*

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

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

- *The ceiling height departure is limited to the southern part of the living/dining area of Unit 4 for that portion below the glass roof. The remainder of the development complies with the ceiling height standard. Refer to the extract of the Section above.*
- *The southern part of the living/dining area of Unit 4, which does not comply with the ceiling height control, will have a high standard of amenity in terms of natural ventilation, solar access, outlook, floor layout and room size. Despite the ceiling height non-compliance, the living/dining area of Unit 4 will receive abundant solar access due to the glass roof and walls.*
- *The development complies with ADG Objective 4A (solar and daylight access) and ADG Objective 4B (natural ventilation).*
- *The ceiling height of the southern part of Unit 4 reduces the visual impact of Level 3 when viewed from the adjoining residential flat building to the east, the streetscape and Dunningham Reserve.*
- *Compliance with the development standard is unreasonable and unnecessary as Unit 4 will receive natural ventilation and abundant solar access due to the glass roof and walls and thereby meet the objective of the development standard.*

Assessing officer's comment: Council is satisfied that the applicant's written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The extent of non-compliance is limited to a minor portion of the living/dining room at the uppermost level (Unit 4). The remainder of the development complies with the 2.7m ceiling height development standard.

The non-compliance is a direct result of the need to minimise view loss impacts to neighbouring properties and to minimise overshadowing impacts to Dunningham Reserve. An increased ceiling height to 2.7m would result in overshadowing of Dunningham Reserve in the morning (at midwinter). Consistent with the requirements of clause 2.11 of the Resilience and Hazards SEPP, the proposal has been designed to avoid adverse impacts to the foreshore area.

Despite numeric non-compliance, suitable internal amenity will be provided to future occupants of Unit 4. The proposed glass roof to this portion of the building provides for suitable natural ventilation, solar access, and visual outlook.

Conclusion

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

9. Development control plans and policies

9.1. Randwick Comprehensive DCP 2013

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

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

10. Environmental Assessment

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1)(a)(i) – Provisions of any environmental planning instrument	Refer to discussion above.
Section 4.15(1)(a)(ii) – Provisions of any draft environmental planning instrument	Not applicable.
Section 4.15(1)(a)(iii) – Provisions of any development control plan	The proposal generally satisfies the objectives and controls of the Randwick Comprehensive DCP 2013. Refer to Appendix 5.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	The relevant clauses of the Regulations have been satisfied.
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment have been addressed in this report.</p> <p>The proposed development is consistent with the dominant 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.

10.1. Key Issues

Landscaped Area

Pursuant to Part C2, Section 2.2 of RDCP 2013, at least 50% of the site must be provided as landscaped area.

The proposal provides 251.50m² of landscaped area, which equates to 43.28% of the site area, which falls short of the minimum requirement. Numeric non-compliance is acceptable on merit for the following reasons:

- The proposal provides an additional 31.9m² of landscaping above ground level, resulting in a total of 283.4m² of landscaped area (48.78%) at ground and on structure.
- The proposal provides a significant increase in landscaped area relative to the existing situation, in which only 143m² of landscaped area is provided.
- The proposal includes a high-quality landscape design, including a variety of trees, shrubs and turf. Planter landscaping is provided at each level of the building and a green wall is provided to the front part of the eastern boundary wall.
- The proposed landscape scheme results in a positive contribution to the streetscape quality of the site and suitably softens the visual impact of the proposed built form.
- The use of grass-crate paving is considered a suitable and sustainable solution to provide an on-site car wash bay.

Notwithstanding numeric non-compliance, the proposal satisfies the objectives of Section 2.2, as outlined below:

- The proposal provides landscaped open space of sufficient size to enable the space to be used for recreational activities, or be capable of growing substantial vegetation.
- The proposal has been designed to minimise impermeable surfaces and hard paving.
- The proposed landscape scheme will improve stormwater quality and reduce quantity.
- The proposed landscape scheme has been designed to improve the amenity of open space and built form at the site.

On this basis, the proposed development is acceptable as it is consistent with the objectives of Part C2, Section 2.2 of RDCP 2013.

Side Setbacks

Pursuant to Part C2, Section 3.4 of RDCP 2013, minimum 2.5m side setbacks are required.

The proposed building is setback 2.1m to 3.6m from the western side and 0m to 3.2m from the eastern side. Numeric non-compliance is acceptable on merit for the following reasons:

- The averaged setbacks (approx. 2.6m to 2.9m) comply with the minimum 2.5m control.
- The nil eastern side setback at ground floor level and level 1 directly adjoins a blank garage wall of the neighbouring building. Insistence on 2.5m setbacks would result in an inappropriate outcome.
- The proposal provides increased setbacks relative to the existing building on the site.
- The non-compliant portions of the side elevations are limited in length and have minimal side openings. The side openings are treated with angled privacy fins to prevent direct overlooking to/from neighbouring properties.
- Suitable amenity will be retained to neighbouring properties in terms of visual and acoustic privacy, view sharing, and solar access.
- The side façades are suitably articulated to provide visual interest and reduce the perceived bulk and scale of the building.

Notwithstanding numeric non-compliance, the proposal satisfies the objectives of Section 3.4, as outlined below:

- The proposal maintains a consistent rhythm of street setbacks and front gardens that contribute to the local character of the locality.
- Adequate separation is provided between buildings for visual and acoustic privacy, solar access, air circulation, and views.
- Adequate contiguous areas are provided for open space and deep soil planting.

On this basis, the proposed development is acceptable as it is consistent with the objectives of Part C2, Section 3.4 of RDCP 2013.

External Wall Height

Pursuant to Part C2, Section 4.4 of RDCP 2013, a maximum external wall height of 10.5m applies to the site.

The proposed external wall height (14.78m) exceeds the DCP control, however is acceptable on merit for the following reasons:

- As shown in Figure 10, the proposed building will generally present as four (4) storeys to Baden Street. The uppermost level is significantly recessed from the front elevation and will not be readily visible from the public domain.



Figure 10: Photomontage of proposed development (Source: Legge & Legge Architects)

- The proposed development provides a suitable transition between the height of the three (3) storey RFB at 19 Baden St and the nine (9) storey RFB at 23 Baden St.
- The proposal is considered to respond appropriately to the context of the site and is compatible with the character of the locality, which comprises development of varying scale, architectural style, and typology.
- The overall height, bulk, and scale of the proposal is compatible with surrounding development and will not result in adverse amenity impacts to neighbouring properties. As demonstrated in this report, the non-compliant portion of the development is unlikely to result in significant adverse view loss, overshadowing, or visual privacy impacts.
- The proposal has been designed with a flat roof form (rather than a pitched roof or similar) to assist in mitigating potential view loss impacts to neighbouring properties).

- The building façades are suitably articulated to provide visual interest and reduce the perceived bulk and scale of the building.

Notwithstanding numeric non-compliance, the proposal satisfies the objectives of Section 4.4, as outlined below:

- The proposal provides an interesting roof form and is compatible with the streetscape. The proposal provides a flat roof form, which is consistent with contemporary development and the emerging character of the immediate area.
- Suitable ceiling heights are provided for all habitable rooms to promote light and quality interior spaces.
- The bulk and scale of the development has been designed to minimise impacts on neighbouring properties in terms of overshadowing, privacy, view loss and visual amenity.

On this basis, the proposed development is acceptable as it is consistent with the objectives of Part C2, Section 4.4 of RDCP 2013.

Solar Access

Pursuant to Part C2, Section 5.1 of RDCP 2013, living areas and private open space (POS) areas should receive a minimum of three (3) hours of direct sunlight between 8am and 4pm, midwinter.

The submitted shadow diagrams demonstrate that more than three (3) hours of solar access will be provided to the living areas and POS areas at the subject site.

Relative to the existing situation, the proposal will result in some minor additional overshadowing of the property at No. 17-19 Baden Street (in the morning at midwinter). Notwithstanding, more than three (3) hours of solar access will be provided to a portion of the POS area (i.e. courtyard) at this property between 10am and 2pm (at midwinter).

There are no north-facing living room windows at No. 17-19 Baden Street. However, suitable solar access will be provided to the east-facing living room windows at this property in the morning. As shown in Figure 11, the proposal has been designed to maximise solar access to the eastern façade of No. 17-19 Baden Street. Relative to the existing situation and/or a compliant building envelope (in terms of building height and setbacks), the proposed development results in a lesser overshadowing impact to the living room windows at this neighbouring property.

From 11:30am onwards (at midwinter), the eastern façade of No. 17-19 Baden Street is completely in shadow, which is consistent with the existing situation.

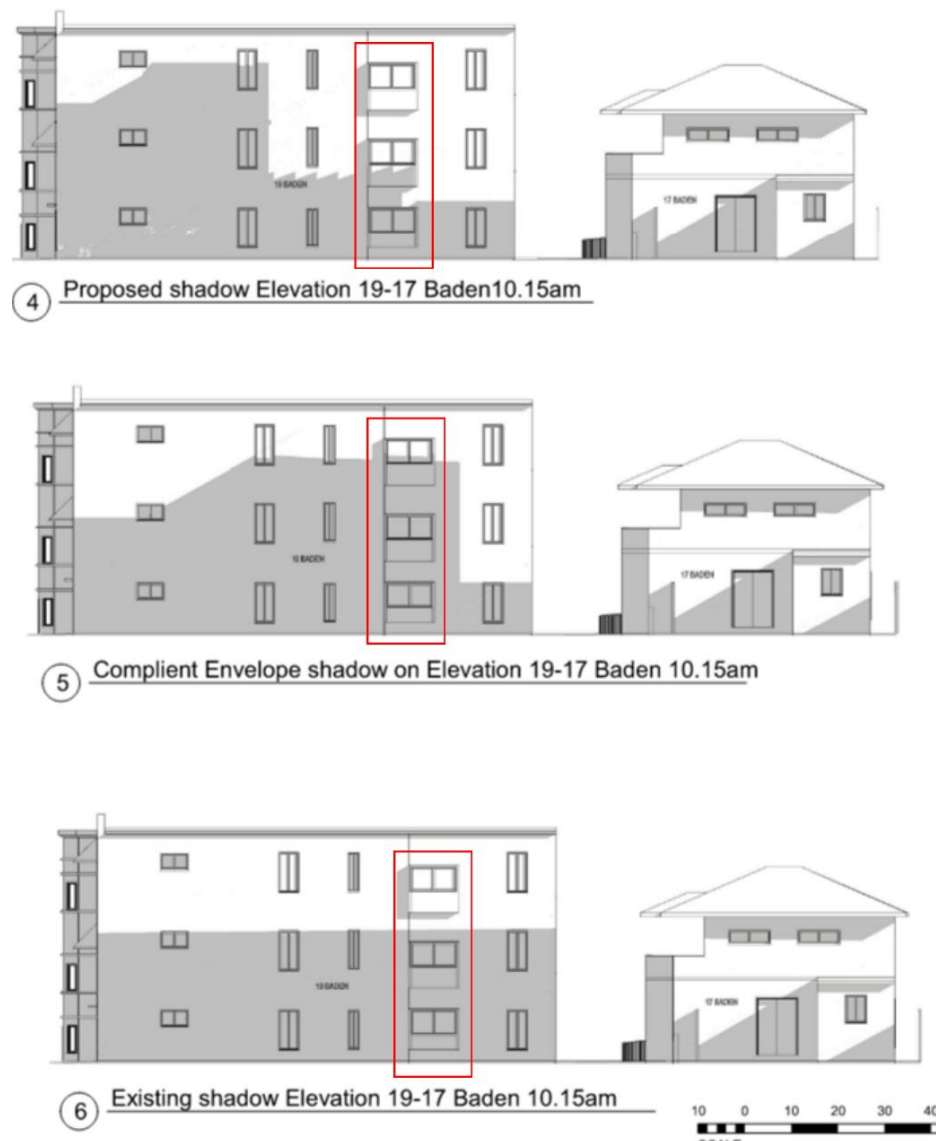


Figure 11: Shadow analysis – proposed (top), compliant (middle), and existing (bottom) shadows to eastern façade of 17-19 Baden Street – NB: living room windows outlined in red (*Source: Legge & Legge Architects*)

Relative to the existing situation, the proposal will result in some minor additional overshadowing of the western elevation of the property at No. 23 Baden Street (in the afternoon at midwinter). Notwithstanding, more than three (3) hours of solar access will be provided to the living room windows and balconies on the western elevation.

The submitted shadow analysis demonstrates that the extent of overshadowing resulting from the development is generally consistent with that which is envisaged under the relevant planning controls for the site. The proposal reflects the desired future character of the locality (which is currently undergoing built form transition) and is compatible with the scale of development in the wider locality. The extent of proposed overshadowing is largely dictated by the orientation of the subject and adjoining sites and the subdivision pattern of the urban block.

The proposal is consistent with the objectives of Part C2, Section 5.1 of RDCP 2013, as follows:

- The design, orientation and siting of the development maximises solar access to the living areas of dwellings and open spaces, as well as other areas of the development.
- The development retains reasonable levels of solar access to the neighbouring properties and the public domain.
- Adequate ambient lighting is provided to minimise the need for artificial lighting during daylight hours.

On this basis, the proposed development is acceptable as it is consistent with the objectives of Part C2, Section 5.1 of RDCP 2013.

Visual Privacy

Objective 3F-1 of the ADG prescribes building separation distances to achieve reasonable levels of external and internal visual privacy. For buildings up to four (4) storeys, 6m setbacks should be provided to habitable rooms and 3m setbacks should be provided to non-habitable rooms.

The proposed nil setbacks to the rear portion of the eastern side (at ground and first floor levels) is acceptable noting that the proposed blank wall will adjoin the blank wall at No. 23 Baden St.

The eastern and western façades of the proposed building are treated with angled privacy fins to prevent direct overlook to/from neighbouring properties. The proposed kitchen and bathroom windows (to east) and bathroom windows (to west) are provided with obscured glazing, which is a suitable privacy solution.

At Level 3, the east-facing and west-facing living room windows are provided with obscured glazing (to a height of 1.5m above FFL). To ensure consistency with RDCP 2013, a condition is included to raise the obscured portion of the windows to a height of 1.6m above FFL. To the western façade, a combination of obscured glazing and external roller blinds are provided to the bedroom windows, which is an acceptable privacy solution.

The proposed front terrace at Level 3 has been designed to prevent adverse privacy impacts to neighbouring properties. The trafficable portion of the terrace is setback approximately 4.6m from the east and west side boundaries. Noting that the terrace has a floor level of RL 31.65, any overlooking towards No. 17-19 Baden St would fall to the roof only (RL 30.58 parapet level).

Whilst it is acknowledged that there may be some overlooking to/from No. 23 Baden St towards the Level 3 terrace, noting the coastal location of the site, it is considered that occupants of the terrace would naturally direct their views towards the south (i.e. towards the beach), rather than towards the east (i.e. towards neighbouring properties). As shown in Figures 12 -13, there is an established precedent within the site's locality for large balconies and/or terraces that remain unscreened to preserve coastal views. It is not uncommon for mutual overlooking to occur between dwellings located along the coastline.

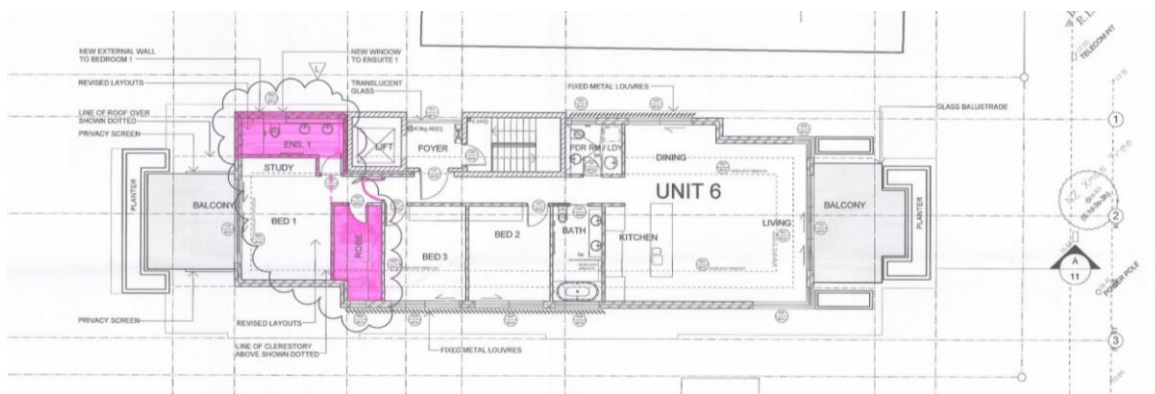


Figure 12: Approved floor plan (DA/743/2006/C) – 112-114 Beach St, Coogee (Source: Ergo Architecture)

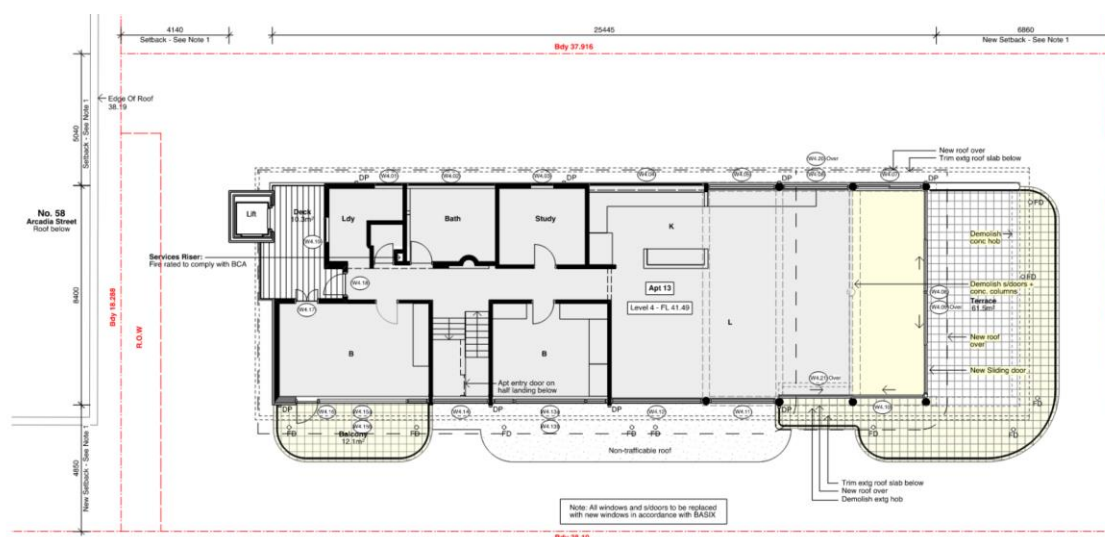


Figure 13: Approved floor plan (DA/3/2023) – 10 Major St, Coogee (Source: Ergo Architecture)

Noting the above, the proposal is consistent with the objectives of Part C2, Section 5.3 of RDCP 2013, as follows:

- A high level of amenity is achieved by providing for reasonable level of visual privacy for future occupants and neighbouring properties.
- The proposal has been designed to ensure visual and acoustic privacy for future occupants, whilst maintaining suitable privacy for adjoining and nearby properties.

View Sharing

View sharing is to be considered where there is a potential for view loss impacts to ensure the equitable distribution of views between new development, neighbouring properties, and the public domain. The proposed development has been designed to maintain existing views from neighbouring residential properties.

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the Planning Principle for view sharing established by *Tenacity Consulting v Warringah [2004] NSWLEC 140* which establishes a four (4) step assessment of view sharing.

1. The assessment of the views affected

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

- 8/23 Baden St – views of Coogee Beach and district views.
- 13/23 Baden St – views of Coogee Beach, Coogee Pavilion, and district views.

2. From what part of the property are views obtained?

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

- 8/23 Baden St – views are obtained from a balcony.
- 13/23 Baden St – views are obtained from a living room and balcony.

3. What is the extent of the impact?

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

8/23 Baden St

The proposed development will result in a minor loss of views from the balcony at 8/23 Baden Street. As shown in Figures 14-15, whilst a minor portion of views of Coogee Beach will be lost, a substantial portion of beach views will be retained. Additionally, views of the Coogee Pavilion will likely be obtained from the balcony. It is noted that a fully compliant building (refer purple line) would result in greater view loss impacts than the proposed development (refer green line).

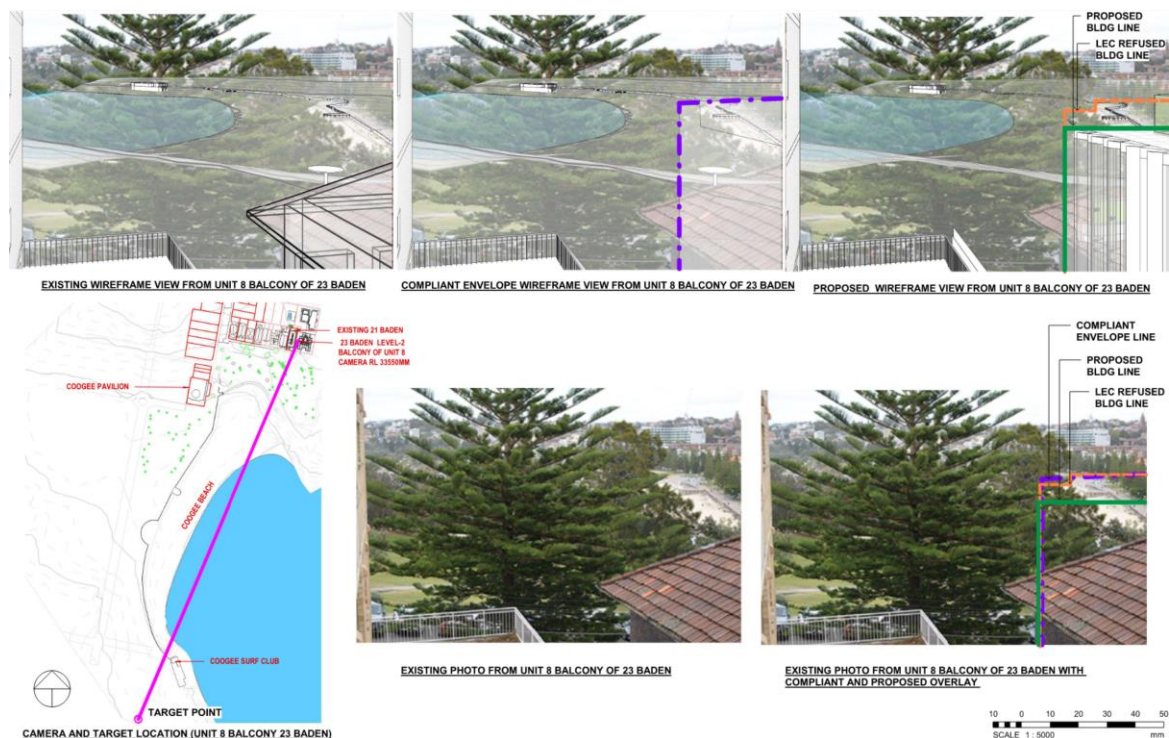


Figure 14: View analysis – 8/23 Baden St balcony (Source: Legge & Legge Architects)

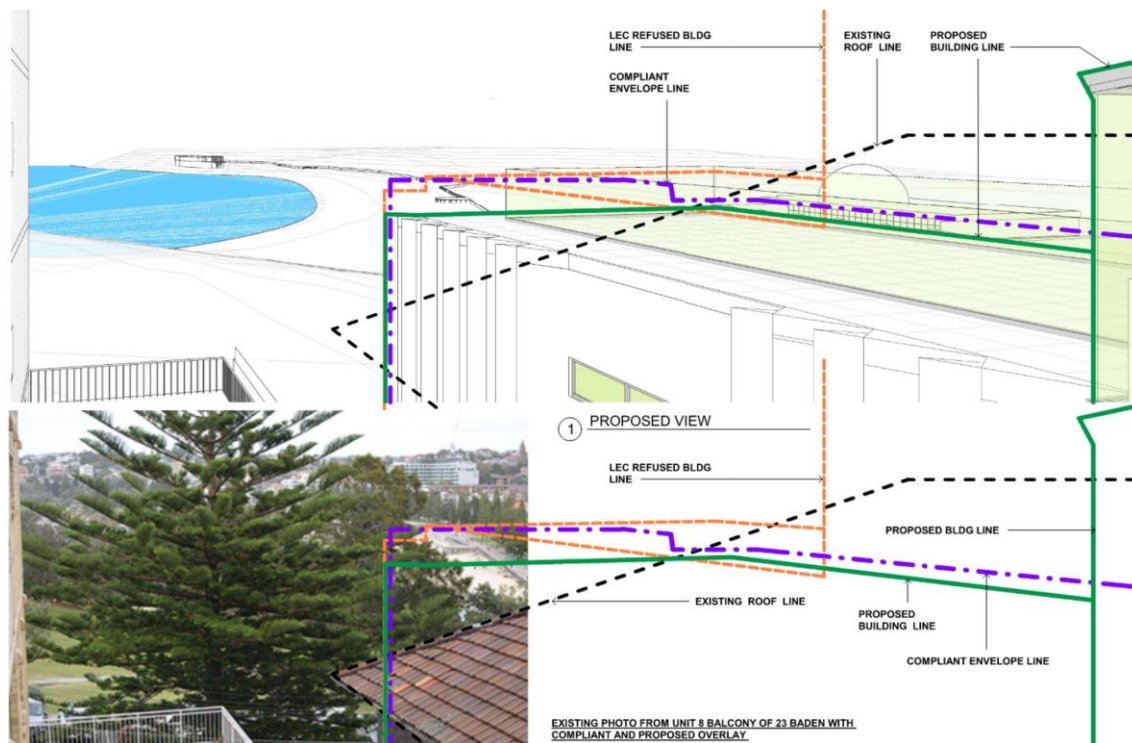


Figure 15: View analysis – 8/23 Baden St balcony – wider view (Source: Legge & Legge Architects)

13/23 Baden St

The proposed development will result in a minor loss of views from the balcony at 13/23 Baden Street. As shown in Figures 16-17, whilst a minor portion of views of Dunningham Reserve will be lost, views of Coogee Beach and Coogee Pavilion will be retained. It is noted that a fully compliant building (refer purple line) would result in greater view loss impacts than the proposed development (refer green line).



Figure 16: View analysis – 13/23 Baden St balcony (Source: Legge & Legge Architects)

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D30/25

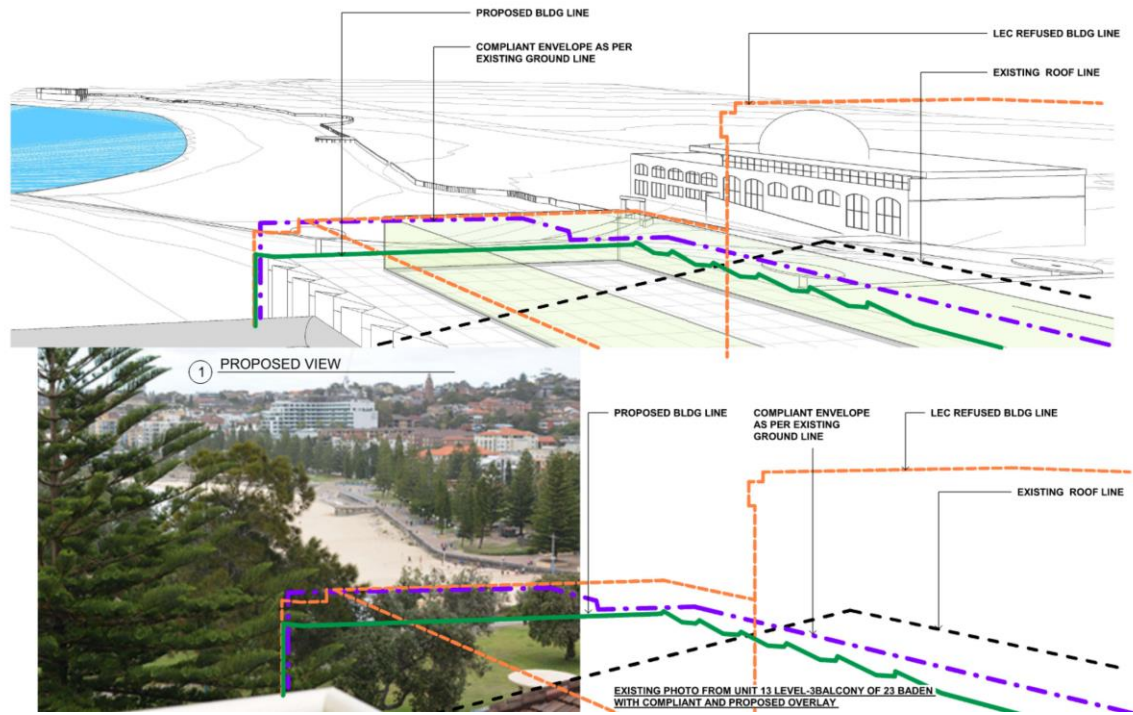


Figure 17: View analysis – 13/23 Baden St balcony – wider view (Source: Legge & Legge Architects)

As shown in Figures 18-19, whilst a minor portion of district views will be lost from the living room at 13/23 Baden St, substantial district views, including views of Coogee Pavilion will be retained.

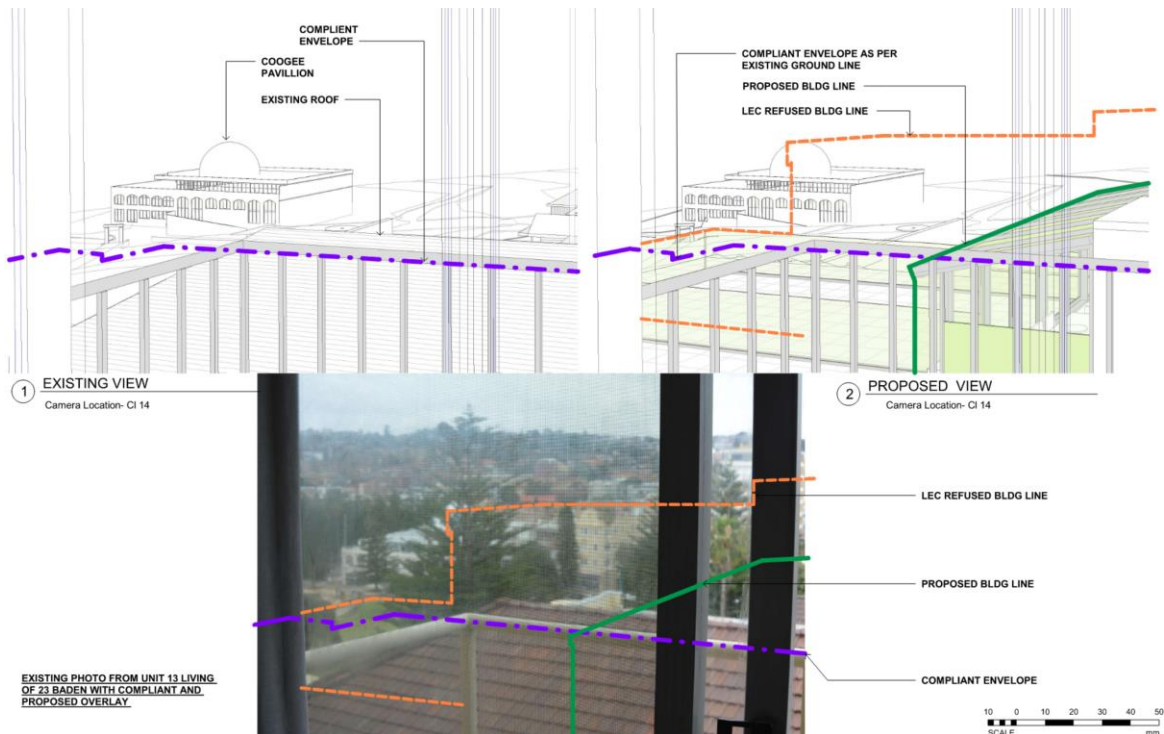


Figure 18: View analysis – 13/23 Baden St living room – view 1 (Source: Legge & Legge Architects)

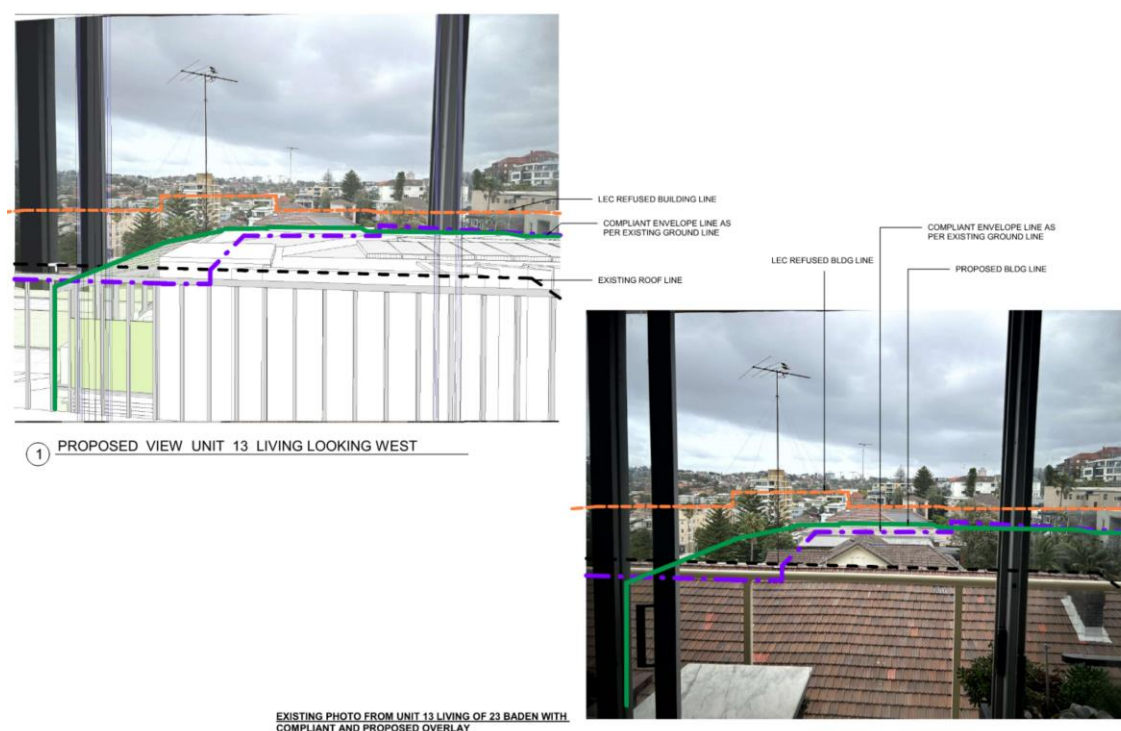


Figure 19: View analysis – 13/23 Baden St living room – view 2 (Source: Legge & Legge Architects)

4. What is the reasonableness of the proposal that is causing the impact?

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

The Court poses two (2) questions in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* at paragraphs 23-33. The first question relates to whether a non-compliance with one or more planning controls results in view loss. The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

The following comments are made with regard to the reasonableness of the proposal:

- The proposal will have a minor impact on views obtained from Units 8 and 13 at 23 Baden Street. Refer to detailed assessment above.
- The proposal generally presents as a four (4) storey residential flat building. As detailed in this report, the proposal reflects the desired future character of the locality and is compatible with the scale of neighbouring development.
- The height, bulk, and scale of the proposed built form is reasonable. As demonstrated in this report, the variations to the building height and FSR development standards are acceptable on merit, and the proposed development would not be inconsistent with the level of built form anticipated for a medium density residential development.
- The components of the development that do not comply with the building height development standard (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable view

loss impacts.

- The property at 23 Baden Street adjoins the eastern boundary of the subject site and the affected views are obtained across a side boundary. It has been established in the Tenacity planning principle that *“the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries”*.
- It is considered that the proposal represents a skilful design that minimises the impacts of the development to the neighbouring properties. A more skilful design would be unlikely to reduce view impacts without compromising the intent of the redevelopment of the site.

In conclusion, the proposal satisfies the aims and objectives for view sharing pursuant to Part C2, Section 5.5 of RDCP 2013, as well as the case law established by *Tenacity Consulting v Warringah [2004] NSWLEC 140*.

Housing and Productivity Contribution

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

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

Residential development means:

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

Medium or high-density development means:

- Attached dwellings,*
- Build-to-rent housing,*
- Dual occupancy;*
- Multi-dwelling housing,*
- Residential flat building,*
- Semi-detached dwellings,*
- Seniors living (independent living units),*
- Shop top housing.*

As the proposed development involves a reduction in the number of dwellings on the site, the HPC is not applicable in this instance.

11. Conclusion

That the application for integrated development for demolition of the existing residential flat building and construction of a four storey residential flat building with 4 apartments, lift, two level basement with car parking and plant, rooftop terrace, ancillary landscaping and strata subdivision, at 21 Baden Street, Coogee, 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 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.
- The development enhances the visual quality of the public domain and streetscape.

D30/25

Appendix 1: Referrals

1. Water NSW



Contact: Tracy White
Phone: 1300 662 077
Email: tracy.white@waternsw.com.au

The General Manager
Randwick City Council

Our ref: IDAS1161140
Your ref: DA/331/2025

julia.warren@randwick.nsw.gov.au

1 May 2025

Dear Sir/Madam

**Integrated Development Referral – General Terms of Approval
Proposed Development DA/331/2025
Lot 8 DP 8843, 21 Baden Street, Coogee NSW 2034**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47(3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.
- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO Box 398, Parramatta, NSW 2124
customer.helpdesk@waternsw.com.au | www.waternsw.com.au



Dewatering activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

The attached GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any dewatering activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) of the EP&A Act.

Information to the proponent:

- An extraction limit will be determined by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) following a further hydrogeological assessment and included on the conditions applied to the approval authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The [Minimum requirements for building site groundwater investigations and reporting](#) (DPE Oct 2022) identify what data needs to be collected and supplied.
- The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely

Tracy White

Tracy White
Water Regulation Specialist

2. Sydney Water

D30/25



29 April 2025

Our reference: N/A

Julia Warren
 Randwick City Council
julia.warren@randwick.nsw.gov.au

RE: Development Application DA/331/2025 at 21 Baden Street, Coogee

Thank you for notifying Sydney Water of DA/331/2025 at 21 Baden Street, Coogee, which proposes demolition of existing structures and construction of a 4-level residential flat building comprising four units, a basement carpark and associated landscaping. Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

Sydney Water position:	Condition of Consent applies
Condition of Consent which applies:	Section 73 and Building Plan Approval required See Attachment 1 for recommended wording for Sydney Water conditions to be included in the consent letter.
Additional comments:	N/A
Other information:	This advice is not formal approval of our servicing requirements. Detailed requirements will be provided once the development is referred to Sydney Water for further applications. The <i>Sydney Water Development Application Information Sheet (for proponent)</i> enclosed contains details on how to make further applications to Sydney Water and further information on Infrastructure Contributions. A copy of this should be provided to the proponent in conjunction with the development consent.

If you require any further information, please contact the Growth Analytics Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

Growth Analytics Team
 Growth and Development, Water and Environment Services
 Sydney Water, 1 Smith Street, Parramatta NSW 2150

Sydney Water Corporation ABN 49 776 225 038
 1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
 Telephone 13 20 92 Media (24/7) 8849 5151 sydneywater.com.au



Attachment 1 – Recommended Development Conditions

Prior to the issue of an Occupation/Subdivision Certificate:

Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Prior to the issue of a Construction Certificate/Complying Development Certificate:

Building Plan Approval (including Tree Planting Guidelines)

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in@](#) to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

Tree Planting

Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's [Technical guidelines – Building over and adjacent to pipe assets](#).

Sydney Water Corporation ABN 49 776 225 038
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 92 Media (24/7) 8849 5151 sydneywater.com.au



3. Ausgrid

TELEPHONE: 13 13 65
EMAIL: development@ausgrid.com.au



24-28 Campbell St
Sydney NSW 2000
All mail to
GPO Box 4009
Sydney NSW 2001
T +61 2 131 525
ausgrid.com.au

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

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

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

Ausgrid's Network Standards can be sourced from Ausgrid's website, www.ausgrid.com.au

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:
www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

Should you have any enquiries, please contact Ausgrid at Development@ausgrid.com.au

Regards,
Ausgrid Development Team

4. Sydney Airport Corporation

SYD

D30/25

Reg No.: 25/0295

Tuesday, 15 April 2025

To: RANDWICK CITY COUNCIL & NSW PLANNING
PORTAL

Notice to Proponent of Property Development

Dear Sir / Madam,

Application for approval of a controlled activity pursuant to:

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

Proposed Activity: PROPERTY DEVELOPMENT
Location: 21 BADEN STREET COOGEE
Proponent: RANDWICK CITY COUNCIL & NSW
PLANNING PORTAL
Date: 15/04/2025

Sydney Airport received the above application from you.

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

The application sought approval for the PROPERTY DEVELOPMENT to a height of 56.45 metres Australian Height Datum (AHD).

In my capacity as Senior Airspace Protection Officer and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 56.45 metres AHD.

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

Sydney Airport

Sydney Airport Corporation Limited ACN 082 578 809 — The Nigel Love Building, 10 Arrivals Court, Locked Bag 5000
Sydney International Airport NSW 2020 Australia — Telephone +61 2 9667 9111 — sydneyairport.com.au

SYD Classification: Confidential

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

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

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

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

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

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

The height of the prescribed airspace at this location is 140 metres above AHD.

Planning for Aircraft Noise and Public Safety Zones:

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

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

Sincerely,

5. Heritage Planner

The Site:

- This subject site is not listed as a heritage item or within a heritage conservation area.
- It is located within the vicinity of two heritage items, known as “Ballamac”, Victorian villa’ at 39 Arcadia Street, Coogee (Item no. 41) and ‘Coogee Palace, replica of original building’ at 169–181 Dolphin Street (Item no. 87).

Background:

DA/132/2023

- 12 April 2023 – A DA was lodged for the demolition of the existing residential flat building, construction of a four storey building with 4 apartments, lift, basement car park, rooftop terrace and related landscaping at 21 Baden Street, Coogee.
- 22 April 2023 - Hector Abrahams issued its peer review report which essentially confirmed that 3 Bishops Avenue and 41-43 Kyogle Street did not meet heritage significance criteria and thresholds for heritage listings. However, 21 Baden Street, Coogee, was found to meet heritage significance criteria, specifically, Criterion (a) historical significance; criterion (b) historical association; and criterion (c) aesthetic significance.
- 19 May 2023 - An Interim Heritage Order (IHO) was placed on the building and site. The IHO became effective from Friday 19 May 2023 following the notification of the IHO in the Government Gazette (Government Gazette No. 217 – Planning and Heritage). Section 25 of the Heritage Act authorises a Council to make an IHO for a building or place that Council considers may be found to be of local heritage significance and is being or is likely to be harmed. The property warrants preservation in line with the assessment and recommendations of the heritage study prepared by Council’s heritage consultant, Hector Abrahams Architects, dated 22 April 2023.
- 6 June 2023 - A Class 1 Appeal was lodged with the Land and Environment Court against the IHO placed on 21 Baden Street, Coogee.
- 26 July 2023 - The appeal is upheld, and the IHO is revoked.

DA/388/2022

- A DA was lodged involving the conservation of the 1860s original house and the construction of a new apartment building, proposed to the east of the original house towards Dunningham Reserve, includes basement car parking and seven new apartments over three levels at 39 Arcadia Street, Coogee (Item no. 41).

Referral comments:

- The proposal is unlikely to create additional privacy and view impacts (from Arcadia Street) to “Ballamac”, Victorian villa’ at 39 Arcadia Street, Coogee (Item no. 41). Views of the heritage item from Arcadia Street are currently adversely impacted by the residential flat building at 23 Baden Street.
- The proposal is unlikely to impact ‘Coogee Palace, replica of original building’ at 169–181 Dolphin Street (Item no. 87) due to the physical separation between the proposed development and the heritage item.
- Overall, the proposal is acceptable from a heritage perspective in this instance. No conditions are required.

6. Design Excellence Advisory Panel

Context and Neighborhood Character

The proposal does not adequately engage with the architectural character and quality landscaping found in neighbouring properties. There is a positive atmosphere in the streetscape that could be captured and extended through more careful design referencing the surrounding buildings and verdant gardens. The group of buildings to the west of the subject site have a positive architectural character and features that could be used as reference points and clues as to a design characteristic for the new development.

The landscape in the front garden areas of the existing building on the subject site, as well as the group of 4 or so buildings to the west is very green and forms a positive contribution to the

streetscape. The proposed front yard landscaping design for the subject site does not emulate those sites and is lacking in greenscape. The panel considers that the front garden landscape design needs to be improved to contribute positively to the streetscape

Built Form and Scale

The proposed development should be “overlayed” against existing building footprint.

The Panel are of the opinion that 3100 floor to floor heights will be difficult to achieve. Inclusive of any parapets, falls and drainage and needs to be demonstrated that this can comply with building codes and good practice and still achieve this dimension.

Placing the Master Bedroom of the Ground Floor and Level 1 against the east boundary is a good use of site conditions.

Density

The application proposes a four-apartment development and represents a reduction in dwelling numbers, replacing an aging apartment building containing 8 apartments. However, as it is a small development, the number of apartments is acceptable, provided the new dwellings that will replace older units provide a high level of amenity to replace units that have limited amenity due to their age.

The number of bedrooms is increased by one compared with the existing building, therefore density is maintained and acceptable.

The applicant has not presented a scheme considering an adaptive re-use of the existing building. The existing building has no parking and is it considered acceptable that the new development will provide adequate off-street parking.

The Panel are of the opinion that the design of the apartments as presented has a low level of amenity. The internal unit layouts are compromised, evidenced by the awkwardly design living space, including very tight dining areas, bedrooms that are not well laid out and bathrooms that will be cramped and difficult to use.

Sustainability

The Panel are of the opinion that Water features in the rear and entry areas are problematic and dubious as they are noisy, always create maintenance issues, and the likelihood of abandonment is high.

The Panel recommends that these elements are replaced with soft landscaping and increased greenery from the outset.

The screens to the west glazed elements will provide some solar control.

Landscape

A high-quality landscape design would help the scheme considerably.

Grass-crate paving is considered an inadequate landscape proposal.

The landscaping in the front garden areas of the existing building on the subject site, as well as the group of 4 or so buildings to the west is very green and forms a positive contribution to the streetscape. The proposed front yard landscaping design for the subject site does not emulate those sites and is lacking in Greenscape. The panel considers that the front garden landscape design needs to be improved to contribute positively to the streetscape

Amenity

The Panel has numerous concerns about liveability within the apartments.

Ground & Level 1

- *Bathrooms (Bed 1 & Bed 2):*
 - *Current layout is quite tight.*
 - *Consider removing the planter to extend bathroom length.*
- *Powder Room:*
 - *Include glazing to public entry walkway.*
- *Ensuite (Bed 1):*
 - *Could have a better layout if entering the robe area through a more central location which could enhance privacy from Family Room.*
 - *Moving the toilet to the north-west corner of the ensuite bathroom to eliminate a clash between the Bed 1 door and ensuite entry.*

L3 Unit

- *The Dining space is particularly narrow, at approximately 2.3–2.4m wide.*
- *It is unclear what defines the red “view line” shown on the plans.*
- *The Master Bedroom currently places the bed against the balcony. The Panel suggests squaring off the room to the west and relocating the bed to the western wall.*
- *The drawings are unclear with respect to window and sliding door configurations. The small annotation arrows are difficult to interpret and require clarification.*

Floor to parapet dimension of 2950mm will be difficult to achieve, inclusive of any parapets, falls and drainage. Needs to be demonstrated that this can comply with a ceiling height requirement of 2700mm, and sound construction practice. 1:20 sections should be provided.

Safety

Not discussed at meeting.

Housing Diversity and Social Interaction

The application is for 4 apartments. As it is a small development the apartment mix is acceptable and supported.

Aesthetics

The existing building on the site, together with the group of three buildings to the west of the site, exhibit some strong character features that contribute positively to a streetscape of strong character. The Panel are of the opinion that this group of buildings, even though they are of a certain period, can provide good clues as to designing a new building albeit of contemporary design, referencing features to the building group. For example, less glazing and more character masonry and brick form could enhance a design on this site.

Council officer note: As detailed in this report, the amended plans suitably address the matters raised by the Panel. As such, re-referral to the Panel was not considered necessary.

7. Development Engineer

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

Drainage Comments

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

detailed drainage plans to the Principal Certifier for approval prior to the issuing of a construction certificate.

The stormwater must be discharged (by gravity) either:

- i. Directly to the kerb and gutter in front of the subject site in Baden Street, or
- ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system).

Should the Stormwater be discharged to Council's street gutter or underground drainage system, an onsite stormwater detention (OSD) system will be required for this development.

Flooding Comments (not impacted)

The site lies within the catchment for the Council commissioned and adopted 'Coogee Bay Flood Risk Management Study and Plan'. The study does not predict the site will be impacted by flooding for all storm events up to and including the 1% AEP (1 in 100yr) storm event and the property has not been tagged as a "flood control lot".

No flood controls are therefore applicable and there are no objections to the proposal from a flooding perspective.

Parking Comments

Standard assessment Under Part B7 of DCP

Parking Requirements for the future development will be assessed as per the following applicable parking rates specified in Part B7 of Randwick Council's Development Control Plan 2013.

- 0.5 spaces per studio unit
- 1.0 space per 1-bedroom unit
- 1.2 spaces per 2-bedroom dwelling
- 1.5 spaces per 3-bedroom unit
- 1 visitor space per 4 units (but none where development is less than 4 dwellings)

Parking required under DCP = (3 x 1.5) + (1 X 1.2) + 4/4 (visitor)
= 6.7

Parking proposed = 7 spaces (compliant)

Motorbike Parking

Motorbike Parking is to be provided at 5% of the vehicle parking requirement.

Motorbike Parking Required = 0.05 x 6.7
= 0.335

Motorbike Parking proposed = 1 (compliant)

Bicycle Parking

For Flats/multi dwelling bicycle parking to be provided at 1 space per 2 units plus 1 visitor space per 10 units.

Bicycle Parking Required = 4/2 + 4/10
= 2.4

Bicycle Parking proposed = 3 (compliant)

Carpark Layout

The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) have been designed in accordance with the requirements of Australian Standard 2890.1:2004.

Service Authority Comments

Section 3 Part F5 of Council's DCP 2013 states;

- i) *All overhead service cables, including power lines, telecommunications cables and associated infrastructure on the development site and in the street/s immediately adjacent to the development are to be placed underground in accordance with the requirements of the relevant power supply authority, at the applicant's cost where:*
 - *the development comprises the erection of a new mixed use or medium density residential building containing 40 or more apartments or is a substantial non- residential development; and*
 - *there is at least one full span located immediately adjacent to the development, with no responsibility for other property connections.*
- ii) *If the applicant considers that the undergrounding of the power lines will not achieve the objectives set out in 1.1, the applicant must submit written and detailed justification with its DA documentation for consideration by Council.*

*The subject **is not** subject to this clause. A suitable condition has been included in this report.*

Undergrounding of site feed power lines

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

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

*The subject **is** located within 15m of a power pole on the same side of the street hence the above clause **is** applicable. A suitable condition has been included in this report.*

Waste Management Comments

The Waste Management Plan submitted with the application shall not be approved as part of this consent as it does not meet Council requirements. Development Engineering has included waste management conditions in this report requiring a new waste management plan to be approved prior to commencement of any works.

The applicant is required to submit to Council and have approved by Council's Strategic Waste Management Team, a Waste Management Plan (WMP) detailing waste and recycling storage and disposal for the development site.

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

Comments on the number of Waste Bins

Appendix 3 in Part B6 of Council's DCP specifies a waste bin requirement rate for residential flat buildings houses of 1 x 240L bin per 2 units for normal garbage and 1 x 240L bin per 2 units for recycling.

i.e. Garbage/recycling Bins Required = Number of units/2 (rounded up to nearest whole number))

There are no specific requirements for green waste in Part B6 of the DCP however since March of 2021 Council has introduced a Garden Organic Food organic (FOGO) collection service. As some

landscape areas are also proposed it is recommended that a minimum of 1 x 240L bins also be provided for FOGO.

Total Number of BINS required = 2 (normal) + 2 (recycling) + 1 (FOGO)
= 5 x 240L BINS

Total Number of BINS proposed = 5 x 240L BINS (compliant)

8. Environmental Health Officer

Acoustic Report

The Acoustic report response is not considered satisfactory/resolved, as per planning request conditions of consent have been provided.

Request

In the acoustic report Table 10 to Table 12 specify Rw sound reduction index ratings for façade elements, in the interest of thoroughness provide the equivalent $R_w + C_{tr}$ values to provide additional guidance for the design team on what materials will be suitable for the detailed design stage of the development particularly when verifying low-frequency performance.

Response

Council have requested that $R_w + C_{tr}$ values are provided for the glazing and façade systems, unfortunately the current calculation methodology employed in the standards only provides a method for determining the R_w rating, not the C_{tr} . This is also the case for many suppliers of glazing in the marketplace, most tested systems are based on R_w rating only. To avoid issues with window system not performing, Acoustic Works has nominated the minimum R_w performance, and the minimum glass thickness required to achieve predicted compliance of the installed systems including a requirement for NATA test reports of the proposed systems. It's our recommendation that council also include a clause in the DA approval that requires a compliance assessment on completion of the development with certification to be provided for aircraft noise.

Council do not concur with this statement as AS/NZS ISO 12354.3:2017 - "Clause 5.2: Prediction of $R_w + C_{tr}$ for composite façades based on elemental data."

AS/NZS ISO 717.1:2012 (Identical to ISO 717-1) - (Clause 1): Defines the single-number quantities " R_w " (weighted sound reduction index), " C " (spectrum adaptation term for pink noise), and " C_{tr} " (spectrum adaptation term for traffic noise, including aircraft spectra).

Clause 4.5 (Spectrum Adaptation Terms):

- Explains how to derive C and C_{tr} from a measured one-third-octave laboratory spectrum.
- Provides reference spectra (e.g. IEC 61260 pink noise for " C "; traffic/aircraft spectrum shape for " C_{tr} ").

Provides a calculation methodology to estimate the weighted façade airborne sound insulation index (denoted R_{wF} , or $R_w + C_{trF}$ when adapted for specific outdoor noise spectra).

- Addresses how to combine laboratory values (element-by-element R_w , C and C_{tr}) with field-relevant corrections (flanking, room absorption, mounting effects) to yield a predicted in-situ performance.

Clause 5.2 (Façade Sound Insulation Estimation):

- Shows how to calculate a façade's single-number rating for a given "traffic-type" spectrum, i.e. $R_w + C_{tr}$.
- In particular, it instructs users to shift each element's one-third-octave reduction curve by the C_{tr} offsets and then combine them according to area fractions and flanking transmission paths.

Obtaining a separate C_{tr} figure requires measurement or calculation against a traffic/aircraft spectrum, which is an extra step beyond basic R_w testing.

Contact the suppliers (if they have only provided R_w values), request the raw one-third-octave attenuation data so that C_{tr} corrections can be calculated per ISO 717-1. The acoustic report prior to construction certificate must demonstrate compliance with the relevant noise criteria provided.

Request

Council requires that as per the ADG objective 4B-1 natural ventilation to all habitable rooms and internal noise levels are satisfied concurrently, if the internal acoustic comfort cannot be met with windows open an alternative means of passive ventilation must be provided to the habitable rooms such as plenums, attenuations of lined ducts, acoustic louvres, wintergardens, setbacks, shielding or the like. The alternative method of natural ventilation cannot be mechanically assisted, air-conditioning or mechanical ventilation may be provided to supplement occupant comfort but cannot replace natural ventilation.

The current statement in the acoustic report "9.1.3 Alternative ventilation - To achieve the required internal noise levels for the development, we recommend all locations listed in Table

10 that require acoustic seals have the provision for an alternative ventilation system (in accordance with National Construction Code requirements and AS1668.2) similar to air conditioning or mechanical ventilation to allow doors and windows to be closed and supply fresh air" does not satisfy this requirement and should be revised accordingly

Response

In Note 1, Section 1.1 Scope, of AS2021:2015, the following is outlined regarding ventilation: "The recommendations for building construction are based on the assumption that external windows and doors are shut. If external windows or doors are opened for ventilation or other purposes, the noise attenuation values for various components given in Clause 3.3 will not be achieved. Item (c) above implies that mechanical ventilation will need to be installed when external windows and doors are shut to provide adequate protection against aircraft noise intrusion. Whether or not sufficient ventilation can be achieved by mechanical or other means should be considered before the selection of building components described in Clause 3.3."

To clarify as per AS2021:2015 Acoustics - Aircraft Noise Intrusion, Council concur that compliance can be demonstrated with windows closed.

However, the ADG object 4B-1 referred to in Councils original RFI is in relation to the general background noise of the area (excluding aircraft noise) as per Housing SEPP 2021. Relevant noise criteria has been conditioned as part of the consent, compliance to be demonstrated prior to construction certificate stage.

Response

The mechanical noise criteria was added to the updated acoustic report 1022125 R01F 21 Baden Street Coogee ENV. The mechanical noise assessment will be conducted at CC stage, as recommended in the updated acoustic report (Section 9.3) with reference to the octave band criteria added in Section 6.3.3. This requirement should be conditioned by Council at the construction certification stage of the development for mechanical plant. Council should also condition a compliance assessment prior to OC of the development for mechanical plant.

Mechanical plant to be assessed prior to construction certificate, to be conditioned as part of the consent. Apartment residential plant must be inaudible as per the intent of the POEO noise control regulations 2017.

9. Landscape Officer

There is a mature, 15m tall Araucaria heterophylla (Norfolk Island Pine) in the garden bed that extends beyond the kerb, out in the actual roadway, and in line with the eastern site boundary, which is automatically protected by the DCP due to its location on public property, appears in good

health and condition, and also forms part of a formal strategy of this species that exists along either side of the street as well as over into Dunningham Reserve.

There is an existing layback towards the western site boundary that provides access to the existing garage, with these plans showing that the crossing and basement ramp for this new proposal will be maintained in this same area, meaning that the setback provided between the tree and these external civil works will be sufficient to avoid any major impacts, and in recognition of its presence and importance to the streetscape, protection conditions and a bond have been imposed to prevent secondary damage caused by trucks, deliveries, machinery and similar.

It is also noted that the existing road surface to its south and the public footpath to its north will also assist in minimising impacts on the tree as they will act as a form of ground protection to prevent compaction and root damage from repeated vehicle movements during works, and while the footpath will be replaced, this constitutes 'like-for-like', in the same material and in the same area, so no impacts are expected, particularly as a grass verge will now be introduced rather than full width concrete, which should improve infiltration.

Clearance pruning/crown lifting of the lowest rungs of branches may be necessary to avoid damage from trucks and similar during works, so if needed, conditions require this can only be performed by Council, prior to the commencement of any site works, and wholly at the applicant's cost.

The only vegetation within this development site is in the rear setback, on the rear/northern boundary, closest to the northeast site corner, being a 6m tall *Schefflera actinophylla* (Dwarf Umbrella Tree, Tree 2 in the Arborist Report) which is recognised as a low value exotic species, and while its southern aspect has been heavily lopped, provides partial screening and privacy between the subject property and the construction project on higher ground to the north, at 39 Arcadia Street.

While the site survey appears to show it being located wholly within this development site, the position of its trunk has not been included, which makes accuracy of ownership difficult, with Appendix 1A – Existing Site Plan, and Appendix 1B – Proposed Site Plan of the Arborist Report then both plotting its trunk right on the common boundary with the adjoining private property at 37 Arcadia Street, so shared/joint ownership has been assumed, meaning that removal cannot be facilitated without the agreement of both parties.

The site inspection of 11 June 2025 revealed a high brick wall/fence to its east, on the common boundary with 23 Baden Street, with another brick wall immediately to the south of its trunk which supports the difference in ground levels between the courtyard and where the tree is growing, and while the survey notes another wall to the north of this tree, across the width of the rear boundary, access to this area/level where the tree originates was not possible, so this could not be viewed.

This means the tree is growing within a narrow, confined strip of deep soil between two retaining walls, so is dependent on both walls for its stability, so they could not be demolished as this would then directly affect the tree, but as all plans show these walls as being retained and incorporated into the future open space/landscape works, conditions formally requiring this have been included into the report.

It is also noted that the northern wall of both the Basement and upper floor levels will be setback well away (6500mm) from the rear boundary and tree, and as existing ground levels in the rear courtyard will also be retained as existing, these works pose no obvious threats to its preservation.

The site inspection confirmed that the other tree shown on the survey immediately to its west, and to the south of the retaining walls described above, has already been physically removed, and as it no longer exists, no comments are made.

The only other trees requiring comments are further to the northeast of those discussed above, being a mature, 17m tall *Eucalyptus botryoides* (Bangalay, Tree 3) then a closely planted *Agonis flexuosa* (Willow Myrtle, Tree 4), which are both located on higher ground, wholly within 37 Arcadia Street, to the north of the free-standing brick shed which occupies the northwest corner of the development site.

The same as what was described for the other trees earlier also applies here, in that the presence of the existing brick retaining wall/fence (including the brick shed), would have already acted as a physical barrier to root growth being able to enter this site, and combined with the difference in ground levels, as well as their distance from any new works, all means that, providing the existing boundary walls are retained in-situ, as has been shown on all plans and recommended by the Arborist, their root plates would not be directly impacted, with conditions formally ensuring this included in the report.

Some middle and lower order branches from their southern aspects were also observed to overhang into the development site, with consent granted for minimal clearance pruning if needed.

Landscape Plan Comments

The Basement Level architectural plan notes the area of deep soil in the front setback, bounded by the building, internal driveway, front boundary and OSD tank/water & gas services enclosure as 'Grasscrete Paving - Deep Soil', with the Landscape Plan also noting this area as deep soil, but then indicating permeable pavement will be provided for a dedicated 'Car Wash Space'.

This is both contradictory and an undesirable outcome as the Deep Soil definition relates to areas that are capable of growing plants, shrubs and trees, which clearly will not be possible here due to the compacted base and regular use by vehicles, with this area also having the obvious potential to be used purely as an additional hardstand space, directly adjacent the basement ramp, which raises safety/access/line of sight issues.

For these reasons, and also consistent with the DEAP comments, conditions in this report require that the whole front setback area be occupied purely by planting/landscape treatment only, which is critical to assist with presentation of such a new development to the streetscape.

Further, the Landscape Plans contain an insufficient level of detail to understand exactly what will be planted where, with conditions requiring the inclusion of Planting Plans to explain species selection, function, quantities, locations and similar, and also applies to the podium planters on the upper floor levels, as no details have been provided for these either.

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

D30/25



21 Baden Street, Coogee

REQUEST FOR VARIATION TO HEIGHT OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF RANDWICK LEP 2012

This Clause 4.6 variation relates to a proposal for the demolition of the existing building and the construction of a 4-storey residential flat building containing 4 apartments, a basement carpark and related landscaping on the subject site.

The proposed residential flat building comprises the following:

Plant Room Level

- Services room
- Fire pump room
- Fire tank room
- Disabled toilet
- Lift and stairs leading to the level above

Basement Level

- Driveway at the western end of the site leading from Baden Street to the Basement Level
- 7 car parking spaces
- 1 motorcycle space
- 4 residential storage areas
- Bin room and bulky goods room
- Front landscaped garden
- Landscaping along the western side setback
- Lift and stairs leading to the levels above and below

Ground Floor

- Pedestrian path at the eastern end of the site leading from Baden Street to entry on the eastern side of the building
- Lobby with lift and stairs leading to the upper and lower levels
- Unit 1 - 3-bedrooms with a front and rear balcony
- Landscaping and water feature along the eastern side setback

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- Landscaping along the western side setback
- Landscaping and water feature at the rear of the site

Level 1

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 2 - 3-bedrooms with a front and rear balcony
- Green wall on the front part of the eastern boundary wall
- Planter landscaping along the front, rear and eastern parts of Level 1

Level 2

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 3 – 3-bedrooms with a front and rear balconies
- Planter landscaping along the front, rear and eastern parts of Level 2

Level 3

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 4 – 2-bedrooms with front roof terrace and rear balcony
- Planter landscaping along the rear and eastern parts of Level 3

The proposal results in a non-compliance with clause 4.3 of the Randwick Local Environmental Plan 2012 (**RLEP**) which relates to height of buildings. As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the RELP, which applies to the subject site.

The request demonstrates that compliance with the development standard relating to building height is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the RLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be consistent with the objectives of the height of buildings development standard.

The nature of the exceedance to the development standard relating to height is set out below, followed by consideration of the relevant matters in clause 4.6 of the RLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R3 – Medium Density Residential. The objectives of the R3 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.

Clause 4.3 – Building Height

The Standard

Clause 4.3 of the RLEP and the associated map prescribe a maximum building height of 12 metres for this site. The proposal seeks to construct a residential flat building with a maximum height of 14.78 metres, providing a non-compliance with this control. The percentage variation is 23.16%.

Refer to the extract of the Height Plane Diagram below.



Figure 1. Extract of the Height Plane Diagram showing the height non-compliance from the existing ground level

The objectives of Clause 4.3

The objectives of Clause 4.3 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 development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- c) 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 – Exceptions to Development Standards

Clause 4.6 of the RLEP allows for exceptions of Development Standards. The objectives of this 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.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (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.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*

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

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

Clause 4.6(4) requires that Council keep a record of its assessment carried out under Clause 4.6(3).

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

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

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may be applicable in each case. Therefore, not all tests need to be met.

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴.

Objective (a)

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

Comment: The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west.

The external facades are articulated and indented, and Level 4 is recessed to minimise the perceived bulk and scale of the building and the visual impact of the building height non-compliance.

Despite the building height non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street noting that the street wall is below the 12m height control.

Objective (b)

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

Comment: The existing building on the site is not identified as a Heritage Item. The site is not located within a Heritage Conservation Area. The adjoining property to the north (rear) is identified as a heritage item (I41 – “Ballamac”, Victorian villa) at No. 39 Arcadia Street, Coogee.

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

A Heritage Impact Statement prepared by Weir Phillips Heritage Planning is submitted with this application. The Heritage Impact Statement concludes the following:

"The site is not subject to any statutory heritage listings but lies in the immediate vicinity of a heritage item, Ballamac, at No. 39 Arcadia Street and within the wider setting of the Coogee Palace.

The proposed new building will not impact on the fabric of, or block significant view corridors to/from, the heritage item at No. 39 Arcadia Street or the more distant Coogee Pavilion. It will read within the setting of both items as a well-mannered contemporary residential flat building, one of many within their settings. No. 39 Arcadia Street is, as is the subject site, dominated by a 10 storey residential flat building on its boundary. A four storey residential flat building is currently under construction on the site of this heritage item. There is nothing in the form, detailing, materials or finishes of the proposed flat building that will give it undue prominence in the setting of these items.

The proposed works fulfil the requirements for new works in the vicinity of heritage items set out by the Randwick LEP 2013 and the Randwick DCP."

Objective (c)

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

Comment: Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:

- **Visual bulk:** The components of the development above the building height control are set back from the front of the building to reduce the visual impact of the non-compliance. The external facades are articulated and indented to minimise the perceived bulk and scale of the building height non-compliance. Setting the upper level back has the effect of reducing the height non-compliance when calculating as per the extrapolated ground level approach in Merman (refer to the extract of Section EE below). The maximum height using the extrapolated method is 12.45m, providing a variation of 3.75% for a very minor portion of the front roof of Level 3.

- **Views:** The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, lift overrun, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable view loss impacts.

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- **Overshadowing:** The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable overshadowing to the adjoining properties.

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- to the adjoining residential flat building to the west at 9.30am.
- to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.
- to Dunningham Reserve to the south at 8am, 9am and 4pm.
- to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space or public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- **Privacy:** In terms of privacy, the components of the building that slightly exceed the height control are limited and are setback to provide adequate separation from the adjoining properties. The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.

Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

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

The components proposed above the height control are:

- Front southern and south-western parts of Level 3
- Roof of Level 3
- Lift overrun
- Solar panels on the roof

Refer to the extract of the Height Plane Diagram below.



Figure 2 .Extract of the Height Plane Diagram showing the height non-compliance from the existing ground level

In addition to the consistency of the proposal against the height objectives (see **Point 2 above**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

There are sufficient environmental planning grounds which demonstrate that the proposed height can be achieved without adverse impacts for the following reasons:

- The building height departure is limited to the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof. The remainder of the development complies with the building height standard. Refer to the extract of the Height Plane Diagram above.
- The components that breach the height control are recessed from the front of the building to minimise the visual impact of the non-compliance.
- The building height non-compliance is small in scale (2.78m) and will be indiscernible from the streetscape and surrounding properties.
- The site slopes moderately from the rear (north) to the front (south) by approximately 2.5m and slopes from the east to west by approximately 1.8m. The height variation is partly due to the slope of the site, which has been established in the Land and Environment Court judgement of *Merman Investments v Woollahra Council* [2021] as constituting a sufficient environmental ground.
- The height non-compliance when calculated as per the extrapolated ground level approach in *Bettar* (refer to extract of Section EE below) is 12.45m, providing a variation of 3.75% for a very minor portion of the front roof of Level 3.

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]



Figure 3. Extract of the Section EE showing the extrapolated ground level

- The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west. Despite the building height non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street noting that the street wall is below the 12m height control.



Figure 4. Extract of the South Elevation

- The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) are minor elements of the overall built form and will not generate any adverse streetscape, visual bulk or amenity impacts.
- On 9 October 2024, the Land and Environment Court (LEC) refused the previous DA on the site for the construction of a 4-storey residential flat building (DA/132/2023; Hayek v Randwick City Council [2024] NSWLEC 1631). Below is an extract of the consideration for building height in the LEC judgement:

81 Secondly, the Amended Height Request does not demonstrate that there are sufficient environmental planning grounds to justify contravening the Height Standard for the following reasons:

(1) I accept the submission of the respondent that the Amended Height Request promotes the benefits of the development as a whole, rather than focussing on the contravening element. There is little to no consideration of the specific aspects of the height breach and why they are necessary (see Initial

Action at [24] and Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31]).

(2) Any purported grounds regarding the deficiencies in the condition or the design of the existing building which the proposal seeks to replace in its entirety do not in and of themselves constitute an environmental planning ground justifying a breach of the Height Standard. I accept Ms Warren's evidence that the Amended Height Request does not demonstrate (beyond mere assertion) that a breach of the Height Standard is integral to site redevelopment and why site redevelopment cannot be achieved with a compliant built form.

(3) As recognised by O'Neill C in Merman (at [47]), the pre-existing excavation of a site may artificially reduce the height of a proposal when compared to a neighbouring property which has not been similarly excavated and this may form an environmental planning ground justifying a breach of a height standard. However, in the case of Merman, if an extrapolated ground level was adopted, the proposed development would not have contravened the relevant height standard in that case. That is not the case here, where regardless of the approach adopted, the proposed development will still result in a not insignificant breach of the Height Standard (up to one storey in some locations). I do not consider that this amounts to an environmental planning ground having regard to the facts of this case.

The proposal subject to this DA has amended that proposed under DA/132/2023 which was refused by the Court. In particular, the maximum building height has been reduced by 1.33m from 16.11m to 14.78m.

The components of the development above the building height control have been further setback from the front of the building to reduce the visual impact of the non-compliance, which is consistent with objective cl 4.3(1)(c) of the building height standard. Setting the upper level back has the effect of reducing the height non-compliance when calculated as per the extrapolated ground level approach in Bettar (refer to Figure 3 above). The maximum height using the extrapolated method is 12.45m, providing a variation of 3.75% for a very minor portion of the front roof of Level 3.

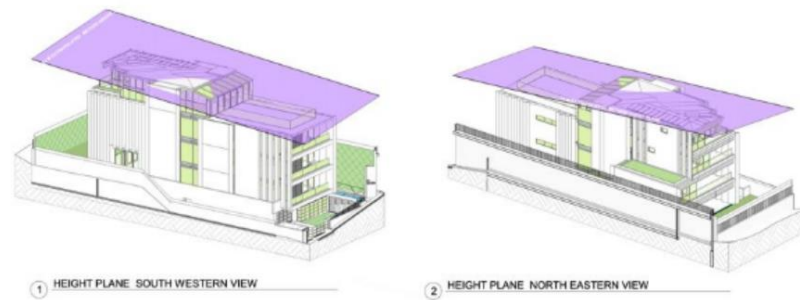


Figure 5. Extract of the Height Plane Diagram using the extrapolated method for DA/132/2023

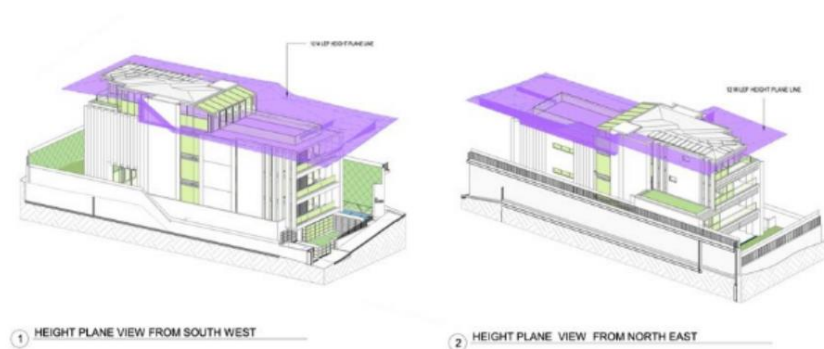


Figure 6. Extract of the Height Plane Diagram using the extrapolated method for subject DA

- Exceedance of the height control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:
 - Views: The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable view loss impacts.

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- Overshadowing: The components of the development that do not comply with the building height control (i.e. the front southern and south-western parts of Level 3, the roof of Level 3, lift overrun, and the solar panels on the roof) will not result in unreasonable overshadowing to the adjoining properties.

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- to the adjoining residential flat building to the west at 9.30am.
- to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.
- to Dunningham Reserve to the south at 8am, 9am and 4pm.
- to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space and public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- Privacy: In terms of privacy, the components of the building that slightly exceed the height control are limited and are setback to provide adequate separation from the adjoining properties. The

proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.

- On 9 October 2024, the Land and Environment Court (LEC) refused the previous DA on the site for the construction of a 4-storey residential flat building (DA/132/2023; Hayek v Randwick City Council [2024] NSWLEC 1631). Below is an extract of the consideration for building height in the LEC judgement:

75 Having considered the Amended Height Request, evidence of the experts and submissions of the parties, I am not satisfied that the Amended Height Request adequately addresses the matters required to be demonstrated by cl 4.6(3) for the following reasons.

76 Firstly, the applicant's Amended Height Request does not demonstrate that compliance with the Height Standard is unreasonable or unnecessary on the facts of this case because it has not demonstrated that the Amended Development Application is consistent with the objectives of the Height Standard.

77 The objective in cl 4.3(1)(c) is "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". A key element of this objective (and in fact all three objectives in the Height Standard) is the use of the term "ensure". This is more onerous than for example, to "minimise impacts".

78 To be consistent with cl 4.3(1)(c), the Amended Development Application must therefore not adversely impact the amenity of adjoining and neighbouring land in terms of visual bulk, loss or privacy, overshadowing and views. It is clear from the "Amended View Analysis Drawings" (Ex B, tab 2) and "Amended View Loss Assessment against Tenacity Planning Principles" (Ex C, tab 7) that there will be, at the very least, a not insignificant adverse impact on the views of Units 8 and 13 of 23 Baden Street, Coogee when compared with the existing development on the Subject Land (and also when compared with a development that complies with the Height Standard). The Amended Height Request acknowledges that there will be an impact, although it characterises that impact as "minor" and

further notes that "overshadowing is increased within a limited time frame at mid-winter on a single unit at No. 19 Baden" (at p 9).

79 I accept the respondent's submission that as there is an adverse impact on the views of adjoining and neighbouring land (which is ultimately acknowledged in the Amended Height Request, in addition to overshadowing impacts to one unit in no 19 Baden Street), the Amended Development is not consistent with the objective in cl 4.3(1)(c).

80 As I am of the view that that the Amended Height Request has not demonstrated that the Amended Development Application is consistent with the objective in cl 4.3(1)(c) of the Height Standard, the Court cannot form the requisite state of satisfaction required by cl 4.6(4) of the RLEP.

The proposal subject to this DA has amended that proposed under DA/132/2023 which was refused by the Court. Refer to the SEE for further details. As outlined above, the proposed development is consistent with objective cl 4.3(1)(c) of the building height standard in that it does not adversely impact on the amenity of adjoining and neighbouring properties in terms of visual bulk, loss of privacy, overshadowing and views.

- Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.
- Exceedance of the height control will not create additional unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.

The proposal will provide a suitable design and of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.

The aspect of the development that breaches the height control can be justified as the proposal provides a compatible scale with neighbouring development. This can be described as an environmental planning ground

because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome⁶.

3. Clause 4.6(5)

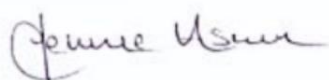
In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The proposal is consistent with the objects of Section 1.3 of the EP& A Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard under the RLEP, in which the development is proposed to be carried out.



Jennie Askin
Director
aSquare Planning Pty Ltd

Date: 27 May 2025

⁶ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 1097 at [42]

Appendix 3: Applicant's written request seeking to justify the contravention of the FSR development standard

D30/25



21 Baden Street, Coogee

REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF BUILDINGS DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF RANDWICK LEP 2012

This Clause 4.6 variation relates to a proposal for the demolition of the existing building and the construction of a 4-storey residential flat building containing 4 apartments, a basement carpark and related landscaping on the subject site.

The proposed residential flat building comprises the following:

Plant Room Level

- Services room
- Fire pump room
- Fire tank room
- Disabled toilet
- Lift and stairs leading to the level above

Basement Level

- Driveway at the western end of the site leading from Baden Street to the Basement Level
- 7 car parking spaces
- 1 motorcycle space
- 4 residential storage areas
- Bin room and bulky goods room
- Front landscaped garden
- Landscaping along the western side setback
- Lift and stairs leading to the levels above and below

Ground Floor

- Pedestrian path at the eastern end of the site leading from Baden Street to entry on the eastern side of the building
- Lobby with lift and stairs leading to the upper and lower levels
- Unit 1 - 3-bedrooms with a front and rear balcony
- Landscaping and water feature along the eastern side setback
- Landscaping along the western side setback

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- Landscaping and water feature at the rear of the site

Level 1

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 2 - 3-bedrooms with a front and rear balcony
- Green wall on the front part of the eastern boundary wall
- Planter landscaping along the front, rear and eastern parts of Level 1

Level 2

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 3 – 3-bedrooms with a front and rear balconies
- Planter landscaping along the front, rear and eastern parts of Level 2

Level 3

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 4 – 2-bedrooms with front roof terrace and rear balcony
- Planter landscaping along the rear and eastern parts of Level 3

The proposal results in a non-compliance with clause 4.4 of the Randwick Local Environmental Plan 2012 (**RLEP**) which relates to floor space ratio (**FSR**). As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the RLEP which applies to the subject site.

The request demonstrates that compliance with the development standard relating to FSR is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the RLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be consistent with the objectives of the FSR development standard.

The nature of the exceedance to the development standard relating to FSR is set out below, followed by consideration of the relevant matters in clause 4.6 of the RLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R3 – Medium Density Residential. The objectives of the R3 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.*

Clause 4.4 – Floor Space Ratio

The Standard

The site has an area of 581m².

Clause 4.4 of the RLEP and the associated map prescribe a maximum floor space ratio (FSR) of 0.9:1 (GFA: 522.9m²) for this site.

The proposal seeks to provide a maximum FSR of 1.285:1 (747m²), providing a non-compliance with this control. The percentage variation is 42.85% (GFA: 224.1m²).

The objectives of Clause 4.4

The objectives of Clause 4.4 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 – Exceptions to Development Standards

Clause 4.6 of the RLEP allows for exceptions of Development Standards. The objectives of this 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.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (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.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

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

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

Clause 4.6(4) requires that Council keep a record of its assessment carried out under Clause 4.6(3).

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

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

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴.

Objective (a)

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

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

Comment: The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west. In addition, the building presents with a three storey street wall to Baden Street.

The proposed FSR of 1.285:1 is less than the FSR of the existing building on the site (1.33:1), thereby further demonstrating that the proposed bulk and scale is consistent with the existing streetscape.

The external facades are articulated and indented and Level 4 is recessed to minimise the perceived bulk and scale of the building and the visual impact of the FSR non-compliance.

Despite the FSR non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street.

Objective (b)

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

Comment: The facades of the proposed building are indented to ensure that each unit within the building has adequate solar access and natural ventilation. The proposal includes privacy screen blades on the side openings to allow solar access whilst providing privacy.

Objective (c)

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

Comment: The existing building on the site is not identified as a Heritage Item. The site is not located within a Heritage Conservation Area. The adjoining property to the north (rear) is identified as a heritage item (I41 – “Ballamac”, Victorian villa) at No. 39 Arcadia Street, Coogee.

A Heritage Impact Statement prepared by Weir Phillips Heritage Planning is submitted with this application. The Heritage Impact Statement concludes the following:

"The site is not subject to any statutory heritage listings but lies in the immediate vicinity of a heritage item, Ballamac, at No. 39 Arcadia Street and within the wider setting of the Coogee Palace.

The proposed new building will not impact on the fabric of, or block significant view corridors to/from, the heritage item at No. 39 Arcadia Street or the more distant Coogee Pavilion. It will read within the setting of both items as a well-mannered contemporary residential flat building, one of many within their settings. No. 39 Arcadia Street is, as is the subject site, dominated by a 10 storey residential flat building on its boundary. A four storey residential flat building is currently under construction on the site of this heritage item. There is nothing in the form, detailing, materials or finishes of the proposed flat building that will give it undue prominence in the setting of these items.

The proposed works fulfil the requirements for new works in the vicinity of heritage items set out by the Randwick LEP 2013 and the Randwick DCP."

Objective (d)

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

Comment: Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:

- **Visual bulk:** The external facades are articulated and indented and Level 3 is recessed to minimise the perceived bulk and scale of the building and the visual impact of the FSR non-compliance.
- **Views:** The FSR non-compliance will not result in unreasonable view loss impacts to the adjoining properties.

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- **Overshadowing:** The FSR non-compliance will not result in unreasonable overshadowing to the adjoining properties.

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- to the adjoining residential flat building to the west at 9.30am.
- to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.
- to Dunningham Reserve to the south at 8am, 9am and 4pm.
- to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space and public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- **Privacy:** The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained. All of the apartments are oriented to the front to alleviate overlooking impacts to the neighbouring properties. Windows have been appropriately sited and designed to minimise any potential overlooking. The proposal includes privacy screen blades on the side openings to allow solar access whilst providing privacy. The balconies are orientated towards the front and rear of the site to reduce privacy impacts to adjoining neighbours. Unit 4 has a private front terrace on Level 3 which has been designed and limited in size to ensure amenity impacts, including noise and overlooking, are minimised. Within the development, the layout has been designed to ensure that mutual privacy is provided within the residential flat

building. The Ground Floor private courtyards of Unit 1 is screened by fencing and landscaping to ensure that the amenity of adjoining properties is maintained.

Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

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

The components proposed above the FSR control are:

- 224.1m² of GFA

In addition to the consistency of the proposal against the FSR objectives (see **Point 2 above**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

There are sufficient environmental planning grounds which demonstrate that the proposed FSR can be achieved without adverse impacts for the following reasons:

- The proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality. Refer to the extract of the South Elevation below demonstrating that the proposed building height provides a transition between the 9-storey residential flat building to the east at No. 23 Baden Street (with a height of 33.18m measured from the existing garage to the top of the lift overrun) and the 3-storey residential flat building to the west at No. 17-19 Baden Street and other and other lower form lower forms of buildings to the west. Despite the FSR non-compliance, the proposal enhances the streetscape and lifts the building design standard for the street.

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]



Figure 1. Extract of the South Elevation

- The proposed FSR of 1.285:1 is less than the FSR of the existing building on the site (1.33:1), thereby further demonstrating that the proposed bulk and scale is consistent with the existing streetscape, providing a 3 storey height to Baden Street.
- The external facades are articulated and indented and Level 3 is recessed to minimise the perceived bulk and scale of the building and the visual impact of the FSR non-compliance.
- The FSR non-compliance will be indiscernible from the streetscape and surrounding properties and will not generate any adverse streetscape, visual bulk or amenity impacts.
- Despite the FSR variation, the proposed building has been appropriately setback to respond to the site, streetscape and to ensuring that the amenity of the neighbouring properties in terms of privacy and overshadowing. The proposed building has a front setback 4.5m, which is consistent with the prevailing setback line along the street. The proposed building is setback 6.5m from the rear boundary, which is greater than that required by the DCP rear setback control (5.9m). The proposed building provides greater setbacks than the existing building on the site, thereby improving the existing building separations to the adjoining properties.
- Exceedance of the FSR control will not create additional building bulk that results in unreasonable environmental amenity impacts as follows:

- Views: The FSR non-compliance will not result in unreasonable view loss impacts to the adjoining properties.

As demonstrated in the View Analysis Diagrams submitted with this DA, the design of the proposal, i.e. setbacks and recessing Level 3 to the rear of the building, results in less view loss impacts compared to building on the site with a compliant building envelope.

No view corridors from the public domain are affected by the proposal. The proposal will not impact on existing water views or iconic views from the surrounding properties.

- Overshadowing: The FSR non-compliance will not result in unreasonable overshadowing to the adjoining properties.

As demonstrated in the Shadow Diagrams submitted with this DA, the proposal will not result in additional overshadowing to living room windows or landscaped areas of the neighbouring properties for more than 3 hours between 8am and 4pm on 21 June (mid-winter), thereby complying with the DCP solar access requirements.

The proposal will result in the following minimal additional overshadowing:

- to the adjoining residential flat building to the west at 9.30am.
- to the adjoining residential flat building to the east at 1pm, 2pm, 3pm and 4pm.
- to Dunningham Reserve to the south at 8am, 9am and 4pm.
- to Baden Street at 10am, 11am, 12pm, 1pm, 2pm and 3pm.

As shown in the Shadow Diagrams submitted with this DA, the additional overshadowing to living room windows, private open space and public open space is minor and there is little difference compared to overshadowing that would be cast from a compliant building envelope.

Regarding the overshadowing on Dunningham Reserve, other than the minimal additional overshadowing at 8am, the overshadowing at 9am and 4pm are consistent with the overshadowing that would be cast from a compliant building envelope.

- **Privacy:** The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained. All of the apartments are oriented to the front to alleviate overlooking impacts to the neighbouring properties. Windows have been appropriately sited and designed to minimise any potential overlooking. The proposal includes privacy screen blades on the side openings to allow solar access whilst providing privacy. The balconies are orientated towards the front and rear of the site to reduce privacy impacts to adjoining neighbours. Unit 4 has a private front terrace on Level 3 which has been designed and limited in size to ensure amenity impacts, including noise and overlooking, are minimised. Within the development, the layout has been designed to ensure that mutual privacy is provided within the residential flat building. The Ground Floor private courtyards of Unit 1 is screened by fencing and landscaping to ensure that the amenity of adjoining properties is maintained.
- On 9 October 2024, the Land and Environment Court (LEC) refused the previous DA on the site for the construction of a 4-storey residential flat building (DA/132/2023; Hayek v Randwick City Council [2024] NSWLEC 1631). Below is an extract of the consideration for building FSR in the LEC judgement:

93 The objective in cl 4.4(1)(c) is "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".

94 As with cl 4.3(1)(c) in relation to height, to be consistent with cl 4.4(1)(c) in relation to FSR, the Amended Development Application must not adversely impact the amenity of adjoining and neighbouring land in terms of visual bulk, loss or privacy, overshadowing and views. It is clear from the "Amended View Analysis Drawings" (Ex B, tab 2) and "Amended View Loss Assessment against Tenacity Planning Principles" (Ex C, tab 7) that there will be, at the very least, a not insignificant adverse impact on the views of Units 8 and 13 of 23 Baden Street, Coogee when compared with the existing development on the Subject Land. The FSR Request acknowledges that there will be an impact, although it characterises that impact as "minor" and further notes that "overshadowing is increased within a limited time frame at mid-winter on a single unit at No. 19 Baden" (at p 9).

95 I accept the respondent's submission that as there is an adverse impact on the views of adjoining and neighbouring land (which is ultimately acknowledged in the FSR Request, in addition to overshadowing impacts to one unit in no 19 Baden Street), the Amended Development is not consistent with the objective in cl 4.4(1)(c).

96 As I am of the view that the FSR Request has not demonstrated that the Amended Development Application is consistent with the objective in cl 4.4(1)(c) of the FSR Standard, the Court cannot form the requisite state of satisfaction required by cl 4.6(4) of the RLEP.

97 Secondly, the FSR Request does not demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR Standard for the following reasons:

(1) I accept the submission of the respondent that the FSR Request, like the Amended Height Request, promotes the benefits of the development as a whole, rather than focussing on the contravening element. There is little to no consideration of the specific aspects of the FSR breach and why it is necessary (see Initial Action at [24] and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31]).

(2) Any purported grounds regarding the deficiencies in the condition or the design of the existing building which the proposal seeks to replace in its entirety do not in and of themselves constitute an environmental planning ground justifying a breach of the FSR Standard. I accept Ms Warren's evidence that the FSR Request does not demonstrate (beyond mere assertion) that a breach of the FSR Standard is integral to site redevelopment and why site redevelopment cannot be achieved with a compliant built form.

The proposal subject to this DA has amended that proposed under DA/132/2023 which was refused by the Court. Refer to the SEE for further details. Notably, the proposal has reduced the FSR from 1.31:1 to 1.285:1. The proposal has reduced the building footprint of Level 3 and recessed Level 3 further from the front of the building. Refer to the extract of the Level 3 Plan below.



Figure 2. Extract of the Level 3 Plan – the pink line indicates the building footprint proposed as part of DA/132/2023

As outlined above, the proposed development is consistent with objective cl 4.4(1)(c) of the FSR standard in that it does not adversely impact on the amenity of adjoining and neighbouring properties in terms of visual bulk, loss of privacy, overshadowing and views.

Compliance with the development standard is unreasonable and unnecessary as the proposed building height and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

The proposal will provide a suitable design and be of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979). The building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.

The aspect of the development that breaches the FSR control can be justified as the proposal provides a consistent scale with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome⁶.

⁶ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 1097 at [42]

The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds⁷.

3. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The proposal is consistent with the objects of Section 1.3 of the EP&A Act, 1979, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development is consistent with the objectives of the FSR development standard under the RLEP, in which the development is proposed to be carried out.



aSquare Planning Pty Ltd

Date: 6 May 2025

⁷ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

Appendix 4: Applicant's written request seeking to justify the contravention of the ceiling height development standard**D30/25****21 Baden Street, Coogee****REQUEST FOR VARIATION TO CEILING HEIGHT DEVELOPMENT
STANDARD PURSUANT TO SECTION 148(2)(c) OF STATE
ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021**

This Clause 4.6 variation relates to a proposal for the demolition of the existing building and the construction of a 4-storey residential flat building containing 4 apartments, a basement carpark and related landscaping on the subject site.

The proposed residential flat building comprises the following:

Plant Room Level

- Services room
- Fire pump room
- Fire tank room
- Disabled toilet
- Lift and stairs leading to the level above

Basement Level

- Driveway at the western end of the site leading from Baden Street to the Basement Level
- 7 car parking spaces
- 1 motorcycle space
- 4 residential storage areas
- Bin room and bulky goods room
- Front landscaped garden
- Landscaping along the western side setback
- Lift and stairs leading to the levels above and below

Ground Floor

- Pedestrian path at the eastern end of the site leading from Baden Street to entry on the eastern side of the building
- Lobby with lift and stairs leading to the upper and lower levels
- Unit 1 - 3-bedrooms with a front and rear balcony
- Landscaping and water feature along the eastern side setback

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- Landscaping along the western side setback
- Landscaping and water feature at the rear of the site

Level 1

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 2 - 3-bedrooms with a front and rear balcony
- Green wall on the front part of the eastern boundary wall
- Planter landscaping along the front, rear and eastern parts of Level 1

Level 2

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 3 – 3-bedrooms with a front and rear balconies
- Planter landscaping along the front, rear and eastern parts of Level 2

Level 3

- Lobby with lift and stairs leading to the upper and lower levels
- Unit 4 – 2-bedrooms with front roof terrace and rear balcony
- Planter landscaping along the rear and eastern parts of Level 3

The proposal results in a non-compliance with Section 148(2)(c) of the State Environmental Planning Policy (Housing) 2021 (**Housing SEPP**) which relates to ceiling heights. As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the Randwick Local Environmental Plan 2012 (RLEP), which applies to the subject site.

The request demonstrates that compliance with the development standard relating to ceiling height is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard set out in the Housing SEPP, satisfying clause 4.6(3) of the RLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be consistent with the objectives of the ceiling height development standard.

The nature of the exceedance to the development standard relating to ceiling height is set out below, followed by consideration of the relevant matters in clause 4.6 of the RLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R3 – Medium Density Residential pursuant to RLEP 2013. The objectives of the R3 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.*

The Standard

Section 148(2)(c) of the Housing SEPP contains the following non-discretionary development standard for residential apartment development:

- (c) *the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

Part 4C of the Apartment Design Guide (ADG) requires the following minimum ceiling heights for apartments and mixed-use buildings:

- Habitable rooms: 2.7m
- Non-habitable: 2.4m

The southern portion of the living/dining area of Unit 4 has a ceiling height of 2.2m, which does not comply with the minimum 2.7m ceiling height requirement, representing a percentage variation of 18.5% (0.5m).

The non-compliance relates to part of the living room only and only occurs below the glass roof portion of this room.

Refer to the extract of the Section below.



Figure 1. Extract of Section showing the ceiling height non-compliance

The objectives of Section 148 of Housing SEPP

The objectives of the ceiling height non-discretionary development standard is stated at Objective 4C-1 of the ADG as follows:

Objective 4C- 1

Ceiling height achieves sufficient natural ventilation and daylight access.

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 of the RLEP allows for exceptions of Development Standards. The objectives of this 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.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (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.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

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

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

Clause 4.6(4) requires that Council keep a record of its assessment carried out under Clause 4.6(3).

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴.

Objective 4C- 1

Ceiling height achieves sufficient natural ventilation and daylight access.

Comment: The proposed development has ceiling heights of 2.7m for habitable rooms and 2.4m for non-habitable rooms, except for the southern part of the living/dining area of Unit 4 which has a ceiling height of 2.2m to 2.7m.

The southern part of the living/dining area of Unit 4, which does not comply with the ceiling height control, will receive abundant solar access due to the glass roof and walls of the southern part of Unit 4.

100% of the apartments (4 of 4) will receive a minimum of 2 hours of solar access to the living rooms and private open space between 9am and 3pm in mid-winter, thereby complying with the minimum ADG Objective 4A which only requires 70% of apartments to comply.

100% of the apartments (4 of 4) are naturally cross-ventilated, thereby complying with the minimum ADG Objective 4B which only requires 60% of apartments to comply.

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

The non-compliant ceiling height only relates to a small part of the living/dining area of Unit 4. The remainder of the living room and the development complies with the ceiling height control.

Compliance with the development standard is unreasonable and unnecessary as Unit 4 will receive natural ventilation and abundant solar access due to the glass roof and walls and thereby meets the objective of the development standard.

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

The components of the development that do not comply with the ceiling height control are:

- Southern part of the living/dining area of Unit 4 (refer to the extract of the Section below)

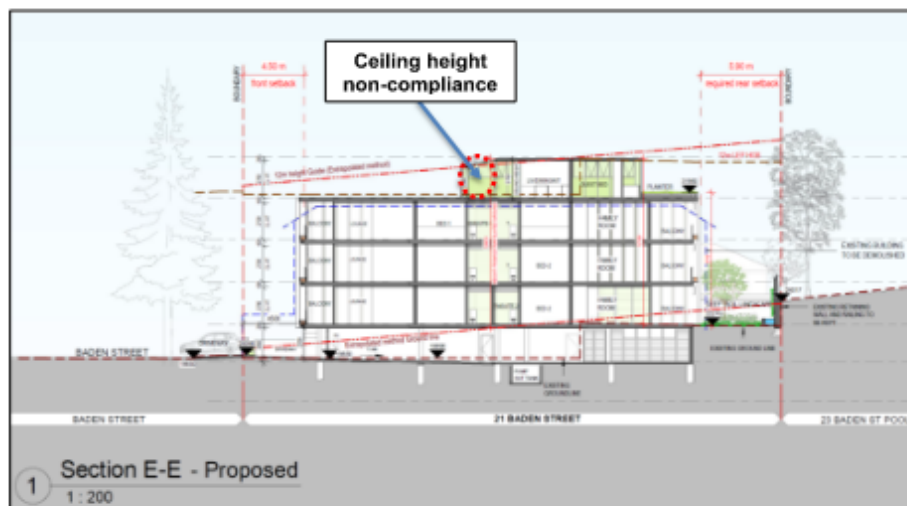


Figure 2. Extract of Section showing the ceiling height non-compliance

In addition to the consistency of the proposal against the ceiling height objective (see **Point 2 above**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard⁵.

⁵ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

There are sufficient environmental planning grounds which demonstrate that the proposed ceiling height can be achieved without adverse impacts for the following reasons:

- The ceiling height departure is limited to the southern part of the living/dining area of Unit 4 for that portion below the glass roof. The remainder of the development complies with the ceiling height standard. Refer to the extract of the Section above.
- The southern part of the living/dining area of Unit 4, which does not comply with the ceiling height control, will have a high standard of amenity in terms of natural ventilation, solar access, outlook, floor layout and room size. Despite the ceiling height non-compliance, the living/dining area of Unit 4 will receive abundant solar access due to the glass roof and walls.
- The development complies with ADG Objective 4A (solar and daylight access) and ADG Objective 4B (natural ventilation).
- The ceiling height of the southern part of Unit 4 reduces the visual impact of Level 3 when viewed from the adjoining residential flat building to the east, the streetscape and Dunningham Reserve.
- Compliance with the development standard is unreasonable and unnecessary as Unit 4 will receive natural ventilation and abundant solar access due to the glass roof and walls and thereby meet the objective of the development standard.

The proposal will provide a suitable design and suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.

The aspect of the development that breaches the ceiling height control can be justified as the proposal complies with ADG Objective 4A (solar and daylight access) and ADG Objective 4B (natural ventilation) and the non-compliance allows for an improved visual outcome for the locality.

3. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit

in maintaining the particular planning control in question, in the case of this specific development.

Conclusion

The proposal is consistent with the objects of Section 1.3 of the EP&A Act, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land to promote good design and amenity of the built environment and to protect the heritage of the built environment.

This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be in the public interest because it is consistent with the objectives of the ceiling height development standard under the ADG, in which the development is proposed to be carried out.



aSquare Planning Pty Ltd

Date: 1 May 2025

Appendix 5: DCP Compliance Table

Part B2: Heritage

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

Part B4: Landscaping and Biodiversity

Council is satisfied that the proposed development meets the landscape requirements in accordance with Part B4 of RDCP 2013. Refer to detailed assessment by Council's Landscape Officer at Appendix 1.

Part B6: Recycling and Waste Management

Council is satisfied that the proposed development meets the waste requirements in accordance with Part B6 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

Part B7: Transport, Traffic, Parking and Access

Council is satisfied that the proposed development meets the parking requirements in accordance with Part B7 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

Part B8: Water Management

Council is satisfied that the proposed development meets the water management requirements in accordance with Part B8 of RDCP 2013. Refer to detailed assessment by Council's Development Engineer at Appendix 1.

Part B10: Foreshore Scenic Protection Area

Council is satisfied that the proposed development meets the requirements for development in the foreshore scenic protection area in accordance with Part B10 of RDCP 2013.

The proposed development is generally consistent with the scale of surrounding development, which comprises RFBs ranging in height from three (3) to nine (9) storeys. As demonstrated in this report, the proposal will not compromise the scenic qualities of the foreshore location and has been designed to minimise adverse impacts to views from neighbouring properties.

Part C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance
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.	Proposed = 43.28% (251.50m ²)	On merit – refer Key Issues
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.	Proposed = 25.78% (149.8m ²)	Yes
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth	Complies	Yes

DCP Clause	Control	Proposal	Compliance
	of vegetation and large trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.		
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Complies	Yes
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	Complies	Yes
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Complies	Yes
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.	Complies	Yes
	For residential flat buildings: (vi) Each dwelling has access to an area of private open space in the form of a courtyard, balcony, deck or roof garden, accessible from within the dwelling. (vii) Private open space for apartments has a minimum area of 8m ² and a minimum dimension of 2m.	Complies	Yes
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	No communal open space is provided onsite. This is acceptable noting that each apartment is provided with generous private open space areas (in excess of the minimum ADG requirements). Additionally, the site is in close proximity to several public open space areas (including Dunningham Reserve and Coogee Beach), which provide suitable opportunities for communal activities and social interaction.	On merit
3.	Building Envelope		

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DCP Clause	Control	Proposal	Compliance
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal amenity such as via cross-over, double-height or corner dwellings / units.	Whilst it is noted that the building depth exceeds 14m, suitable natural ventilation and solar access will be afforded to the apartments to ensure good internal amenity.	On merit
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	Proposed = 4.5m	Yes
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> - 14m ≤ site frontage width < 16m: 2.5m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> - 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. 	Proposed = Nil to 3.2m	On merit – refer Key Issues
3.4.3	Rear setback		

DCP Clause	Control	Proposal	Compliance
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth (5.9m) or 5m, whichever is the greater.	Proposed = 6.5m	Yes
4. Building Design			
4.1	Building façade		
	<ul style="list-style-type: none"> (i) Buildings must be designed to address all street and laneway frontages. (ii) Buildings must be oriented so that the front wall alignments are parallel with the street property boundary or the street layout. (iii) Articulate facades to reflect the function of the building, present a human scale, and contribute to the proportions and visual character of the street. (iv) Avoid massive or continuous unrelieved blank walls. This may be achieved by dividing building elevations into sections, bays or modules of not more than 10m in length, and stagger the wall planes. (vi) Conceal building services and pipes within the balcony slabs. 	The proposed façade design is acceptable. Refer to comments by Council's Design Excellence Advisory Panel at Appendix 1.	Yes
4.2	Roof design		
	<ul style="list-style-type: none"> (i) Design the roof form, in terms of massing, pitch, profile and silhouette to relate to the three dimensional form (size and scale) and façade composition of the building. (ii) Design the roof form to respond to the orientation of the site, such as eaves and skillion roofs to respond to sun access. (iii) Use a similar roof pitch to adjacent buildings, particularly if there is consistency of roof forms across the streetscape. (iv) Articulate or divide the mass of the roof structures on larger buildings into distinctive sections to minimise the visual bulk and relate to any context of similar building forms. (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. (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>The roof form has been skilfully designed to maximise view sharing opportunities.</p> <p>The upper terrace to Unit 4 is not located on the uppermost roof level, and as such, is not considered to be a 'roof terrace'. Notwithstanding, the terrace has been designed with appropriate side setbacks to prevent significant adverse visual privacy impacts. The terrace does not include any stairway elements (or the like) that would create additional visual bulk and/or view loss impacts.</p>	Yes

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DCP Clause	Control	Proposal	Compliance
	<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 the habitable room windows and private and communal open space of the adjoining residences. - 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>		
4.3	Habitable roof space		
	<p>Habitable roof space may be considered, provided it meets the following:</p> <ul style="list-style-type: none"> - Optimises dwelling mix and layout, and assists to achieve dual aspect or cross over units with good natural ventilation. - Has a maximum floor space of 65% of the storey immediately below. - Wholly contain habitable areas within the roof space. - When viewed from the surrounding public and private domain, the roof form has the appearance of a roof. A continuous flat roof with habitable space within it will not satisfy this requirement. - Design windows to habitable roof space as an integrated element of the roof. - Submit computer generated perspectives or photomontages showing the front and rear elevations of the development. 	The proposal does not include habitable roof space.	N/A
4.4	External wall height and ceiling height		
	<p>(ii) Where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.</p>	Proposed = 14.78m	On merit – refer Key Issues
	<p>(iii) The minimum ceiling height is to be 2.7m for all habitable rooms.</p>	Generally complies, refer to clause 4.6 assessment at Section 8 of this report.	On merit – refer Section 8 of report
4.5	Pedestrian Entry		

DCP Clause	Control	Proposal	Compliance
	(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.	Complies	Yes
	(ii) Present new development to the street in the following manner: <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. Postal services and mailboxes <ul style="list-style-type: none"> (i) Mailboxes are provided in accordance with the delivery requirements of Australia Post. (ii) A mailbox must clearly mark the street number of the dwelling that it serves. (iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street. 	Complies	Yes
4.6	Internal circulation		
	(i) Enhance the amenity and safety of circulation spaces by: <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 	Complies	Yes
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian 	Multiple access cores are not considered	N/A

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DCP Clause	Control	Proposal	Compliance
	<p>entries along a street for sites with wide frontages or corner sites.</p> <ul style="list-style-type: none"> - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	necessary in this instance noting the number of apartments accommodated within the development.	
	(iii) Where apartments are arranged off a double-loaded corridor, limit the number of units accessible from a single core or to 8 units.	N/A	N/A
4.7	Apartment layout		
	<p>(i) Maximise opportunities for natural lighting and ventilation through the following measures:</p> <ul style="list-style-type: none"> - Providing corner, cross-over, cross-through and double-height maisonette / loft apartments. - Limiting the depth of single aspect apartments to a maximum of 6m. - Providing windows or skylights to kitchen, bathroom and laundry areas where possible. <p>Providing at least 1 openable window (excluding skylight) opening to outdoor areas for all habitable rooms and limiting the use of borrowed light and ventilation.</p>	Complies	Yes
	(ii) Design apartment layouts to accommodate flexible use of rooms and a variety of furniture arrangements.	Complies	Yes
	(iii) Provide private open space in the form of a balcony, terrace or courtyard for each and every apartment unit in a development.	Complies	Yes
	(iv) Avoid locating the kitchen within the main circulation space of an apartment, such as hallway or entry.	Complies	Yes
4.8	Balconies		
	(i) Provide a primary balcony and/or private courtyard for all apartments with a minimum area of 8m ² and a minimum dimension of 2m and consider secondary balconies or terraces in larger apartments.	Complies	Yes
	(ii) Provide a primary terrace for all ground floor apartments with a minimum depth of 4m and minimum area of 12m ² . All ground floor apartments are to have direct access to a terrace.	Complies	Yes
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 	The selected colours, materials, and finishes are acceptable.	Yes

DCP Clause	Control	Proposal	Compliance
	<ul style="list-style-type: none"> - 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 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>		
4.12	Earthworks Excavation and backfilling		
	<p>(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	Refer to discussion at Section 7.6 of this report relating to earthworks.	On merit – refer Section 7.6 of report
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.	Complies	Yes
	(ii) Living areas and private open spaces for at least 70% of dwellings within a residential flat building must provide direct sunlight for at least 3 hours between 8am and 4pm on 21 June.	Complies	Yes
	(iii) Limit the number of single-aspect apartments with a southerly aspect to a maximum of 10 percent of the total units within a residential flat building.	No single aspect apartments are proposed.	Yes
	(iv) Any variations from the minimum standard due to site constraints and orientation must demonstrate how solar	Complies	Yes

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DCP Clause	Control	Proposal	Compliance
	access and energy efficiency is maximised.		
	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.	Refer to discussion at Key Issues section of this report.	On merit – refer Key Issues
	(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.		
5.2	Natural ventilation and energy efficiency		
	(i) Provide daylight to internalised areas within each dwelling and any poorly lit habitable rooms via measures such as ventilated skylights, clerestory windows, fanlights above doorways and highlight windows in internal partition walls.	Complies	Yes
	(ii) Sun shading devices appropriate to the orientation should be provided for the windows and glazed doors of the building.	Complies	Yes
	(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.	Complies	Yes
	(iv) All new residential units must be designed to provide natural ventilation to all habitable rooms. Mechanical ventilation must not be the sole means of ventilation to habitable rooms.	Complies	Yes
	(v) A minimum of 90% of residential units should be naturally cross ventilated. In cases where residential units are not naturally cross ventilated, such as single aspect apartments, the installation of ceiling fans may be required.	Complies	Yes
	(vi) A minimum of 25% of kitchens within a development should have access to natural ventilation and be adjacent to openable windows.	Complies	Yes
	(vii) Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	Complies	Yes
5.3	Visual privacy		
	(i) Locate windows and balconies of habitable rooms to minimise overlooking of windows or glassed doors in adjoining dwellings.	Refer to discussion at Key Issues section of	On merit – refer Key Issues

DCP Clause	Control	Proposal	Compliance
	(ii) Orient balconies to front and rear boundaries or courtyards as much as possible. Avoid orienting balconies to any habitable room windows on the side elevations of the adjoining residences. (iii) Orient buildings on narrow sites to the front and rear of the lot, utilising the street width and rear garden depth to increase the separation distance. (iv) Locate and design areas of private open space to ensure a high level of user privacy. Landscaping, screen planting, fences, shading devices and screens are used to prevent overlooking and improve privacy. (v) Incorporate materials and design of privacy screens including: <ul style="list-style-type: none"> - 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 	this report. Supported subject to conditions.	
5.4	Acoustic privacy		
	(i) Design the building and layout to minimise transmission of noise between buildings and dwellings. (ii) Separate “quiet areas” such as bedrooms from common recreation areas, parking areas, vehicle access ways and other noise generating activities. (iii) Utilise appropriate measures to maximise acoustic privacy such as: <ul style="list-style-type: none"> - Double glazing - Operable screened balconies - Walls to courtyards - Sealing of entry doors 	The proposal, being for four (4) residential units, is unlikely to result in significant noise impacts.	Yes
5.5	View sharing		
	(i) The location and design of buildings must reasonably maintain existing view corridors and vistas to significant elements from the streets, public open spaces and neighbouring dwellings. (ii) In assessing potential view loss impacts on the neighbouring dwellings, retaining existing views from the living areas should be given a priority over those obtained from the bedrooms and non-habitable rooms. (iii) Where a design causes conflicts between retaining views for the public domain and private properties, priority must be given to view retention for the public domain.	Refer to discussion at Key Issues section of this report.	On merit – refer Key Issues

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DCP Clause	Control	Proposal	Compliance
	<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>		
5.6	Safety and security		
	(i) Design buildings and spaces for safe and secure access to and within the development.	Complies	Yes
	(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.	Complies	Yes
	(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to the interior space via balcony doors only, is deemed insufficient.	Complies	Yes
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	Complies	Yes
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Complies	Yes
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Complies	Yes
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Complies	Yes
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Complies	Yes
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Complies	Yes
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Complies	Yes
6.	Car parking and access		
6.1	Location		

DCP Clause	Control	Proposal	Compliance
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	The site can only be accessed via Baden Street.	Yes
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Complies	Yes
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Complies	Yes
	(iv) Entry to parking facilities off the rear lane must be setback a minimum of 1m from the lane boundary.	Complies	Yes
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage. (c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.	On-site car parking is provided at basement level.	Yes
6.2	Configuration		
	(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.	Complies	Yes
	(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.	Proposed = 4.2m	Yes
	(iv) Provide basement or semi-basement car parking consistent with the following requirements: (a) Provide natural ventilation. (b) Integrate ventilation grills into the façade composition and landscape design. (c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding. (d) Use landscaping to soften or screen any car park enclosing walls. (e) Provide safe and secure access for building users, including direct access to dwellings where possible.	Complies	Yes

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DCP Clause	Control	Proposal	Compliance
	(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as: <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those areas of the car park that are visible from the public domain. 		
7. Fencing and Ancillary Development			
7.1	Fencing		
	(i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials (iii) Expansive surfaces of blank rendered masonry to street frontages must be avoided.	The proposed fence construction (comprising stone and concrete panels) is considered suitable.	Yes
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	Complies	Yes
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	Proposed = up 1.44m height (for booster assembly). The fence height is acceptable noting that it has been designed to respond to the sloping topography of the site. The fence is suitably articulated with varying materials and landscaping (refer image below).	On merit

DCP Clause	Control	Proposal	Compliance
			
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>	The proposed fence height (1.8m to 6m) is acceptable noting that it has been designed to respond to the irregular topography of the subject and adjoining sites.	On merit
7.6	Storage		
	<p>(i) The design of development must provide for readily accessible and separately contained storage areas for each dwelling.</p> <p>(ii) Storage facilities may be provided in basement or sub floor areas, or attached to garages. Where basement storage is provided, it should not compromise any natural ventilation in the car park, reduce sight lines or obstruct pedestrian access to the parked vehicles.</p> <p>(iii) In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>(a) Studio apartments – 6m³</p> <p>(b) 1-bedroom apartments – 6m³</p> <p>(c) 2-bedroom apartments – 8m³</p> <p>(d) 3 plus bedroom apartments – 10m³</p>	Complies	Ye
7.7	Laundry facilities		
	<p>(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.</p>	Suitable area is available for clothes drying facilities.	Yes
	<p>(ii) Provide internal laundry for each dwelling unit.</p>	Each apartment is provided with an internal laundry.	Yes

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DCP Clause	Control	Proposal	Compliance
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Each apartment is provided with more than one (1) balcony. The secondary balconies are suitable for clothes drying.	Yes
7.8	Air conditioning units:		
	<ul style="list-style-type: none"> Avoid installing within window frames. If installed in balconies, screen by suitable balustrades. Air conditioning units must not be installed within window frames. 	Capable of complying – subject to conditions.	Subject to conditions.

Responsible officer: Julia Warren, Senior Environmental Planning Officer

File Reference: DA/331/2025

Draft Development Consent Conditions



D30/25

Folder /DA No:	DA/331/2025
Property:	21 Baden Street, COOGEE NSW 2034
Proposal:	Integrated development for demolition of the existing residential flat building and construction of a four storey residential flat building with 4 apartments, lift, two level basement with car parking and plant, rooftop terrace, ancillary landscaping and strata subdivision.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

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

<i>Plan</i>	<i>Drawn by</i>	<i>Dated</i>	<i>Received by Council</i>
Dwg. A200, Rev. FF – Plant Room	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A201, Rev. FF – Basement	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A202, Rev. FF – Ground Level	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A203, Rev. FF – Level 1	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A204, Rev. FF – Level 2	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A205, Rev. FF – Level 3	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A207, Rev. FF – Roof Plan	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A300, Rev. FF – Building Finishes Key	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A301, Rev. FF – North Elevation	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A302, Rev. FF – South Elevation	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A303, Rev. FF – East Elevation	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A304, Rev. FF – West Elevation	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A306, Rev. FF – Boundary Elevations	Legge & Legge Architects	23/05/25	23/05/25
Dwg. A307, Rev. FF – Boundary Elevations	Legge & Legge Architects	23/05/25	23/05/25

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Dwg. A308, Rev. FF – Boundary Elevations	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A401, Rev. FF – Section AA	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A402, Rev. FF – Section BB	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A403, Rev. FF – Section CC	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A404, Rev. FF – Section DD	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A405, Rev. FF – Section EE	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A406, Rev. FF – Section FF and GG	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A407, Rev. FF – Section HH	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A510, Rev. FF – Materials and Finishes 1	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A511, Rev. FF – Materials and Finishes 2	Legge & Legge Architects	23/05/25	23/05/25	
Dwg. A512, Rev. FF – Materials and Finishes 3	Legge & Legge Architects	23/05/25	23/05/25	
Sheet 1 – Draft Subdivision Plan	Paul Anthony Cechellero	18/03/25	10/04/25	
Sheet 2 – Draft Subdivision Plan	Paul Anthony Cechellero	18/03/25	10/04/25	
Sheet 3 – Draft Subdivision Plan	Paul Anthony Cechellero	18/03/25	10/04/25	
BASIX Certificate No.	Dated	Received by Council		
1357798M_04	12/03/25	10/04/25		

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

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

2. **Amendment of Plans & Documentation**

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

- a. The obscured glazing to the east-facing and west-facing windows shall be raised so that the obscured portion of the glazing measures to a minimum height of 1.6m above finished floor level.
- b. The balustrade to all balconies and terraces shall be constructed with obscured glazing.
- c. All privacy screens shown on the approved plans must be constructed with fixed vertical or horizontal louvres with the individual blades angled and spaced appropriately (30mm maximum spacing) to prevent overlooking into the private open space or windows of the adjacent properties.

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

3. **External Roller Blinds**

External roller blinds shall be provided as shown on the approved plans. The roller blinds must be constructed with durable and weather-resistant materials.

Condition	
	Condition Reason: To ensure colours, materials and finishes are appropriate.
4.	<p>Geotechnical Report</p> <p>The development shall be undertaken in accordance with the recommendations and requirements included within the Geotechnical Report prepared by Martens Consulting Engineers dated 06 March 2025.</p> <p>Condition Reason: To ensure consistency with relevant consultant documentation.</p>
5.	<p>Air Conditioning Units</p> <p>Air-conditioning units shall not be located on the roof or balconies of the proposed development. Air-conditioning units shall be located within the basement level or at ground level, where not visible from the public domain.</p> <p>Condition Reason: To ensure compliance with RDCP 2013.</p>
6.	<p>Ausgrid</p> <p>The design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.</p> <p>The "as constructed" minimum clearances to Ausgrid's infrastructure must not be encroached by the building development. It also remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.</p> <p>Ausgrid's Network Standards can be sourced from Ausgrid's website, www.ausgrid.com.au.</p> <p>Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances".</p> <p>Condition Reason: To ensure compliance with Ausgrid requirements.</p>
7.	<p>WaterNSW</p> <p><u>GT0115-00001</u> Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.</p> <p><u>GT0117-00001</u> A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.</p> <p><u>GT0118-00001</u> If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to -</p>

Condition
<p>PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.</p>
<p><u>GT0119-00001</u> All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.</p>
<p><u>GT0120-00001</u> The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.</p>
<p><u>GT0122-00001</u> Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)</p>
<p><u>GT0123-00001</u> (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering</p>
<p><u>GT0150-00001</u> The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the</p>

Condition
<p>extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual</p> <p><u>GT0151-00001</u> Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.</p> <p><u>GT0152-00001</u> This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.</p> <p><u>GT0155-00001</u> The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report</p> <p><u>GT0174-00001</u> Construction phase monitoring bore requirements GTA: a) Monitoring bores are required to be installed and collecting data prior for at least 3 months prior to submitting a water supply work approval b) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. c) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW and should be submitted prior to the application for a water supply work approval. d) The monitoring bores should be used to develop a water table map for the site and its near environs. e) The monitoring bores must be protected from construction damage. Advisory note: no approval under the Water Management Act 2000 is required for these monitoring bores provided that they extract less than 3ML/water year.</p> <p><u>GT0241-00001</u> A construction certificate can be issued for excavation work in accordance with a valid development consent, however dewatering cannot take place without an Approval being granted by Water NSW for any water supply works required by the development. If the excavation work will or is likely to require dewatering, the applicant must apply and obtain, an approval under the Water Management Act 2000 prior to any dewatering taking place and notify WaterNSW of the programme for the dewatering activity including the commencement and proposed completion dates of the dewatering activity. Advisory Note: An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. A water use approval may also be required, unless the use of the water is for a purpose for which a development</p>

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Condition

consent is in force.

Condition Reason: To ensure compliance with WaterNSW requirements.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

8. **Consent Requirements**

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

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

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

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

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

10. **Section 7.12 Development Contributions**

In accordance with the applicable Randwick City Council S7.12 Development Contributions Plan, based on the development cost of \$5,617,219.00 the following applicable monetary levy must be paid to Council: \$56,172.20.

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

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

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

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

Condition Reason: To ensure relevant contributions are paid.

11. **Long Service Levy Payments**

Before the issue of a Construction Certificate, the relevant long service levy payment must be paid to the Long Service Corporation of Council under the

	Condition
	<p>Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the Principal Certifier, in accordance with section</p> <p><i>At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$250,000 or more, at the rate of 0.25% of the cost of the works.</i></p> <p>Condition Reason: To ensure the long service levy is paid.</p>
12.	<p>Security Deposits</p> <p>The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>:</p> <ul style="list-style-type: none"> • \$6,000.00 - Damage / Civil Works Security Deposit <p>Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.</p> <p>The owner/builder is also requested to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.</p> <p>To obtain a refund of relevant deposits, a <i>Security Deposit Refund Form</i> is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.</p> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
13.	<p>Sydney Water</p> <p>All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.</p> <p>The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met.</p> <p>The Tap in™ service provides 24/7 access to a range of services, including:</p> <ul style="list-style-type: none"> • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. <p>Sydney Water's Tap in™ in online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-</p>

	Condition
	<p data-bbox="470 338 938 365">developing/building/sydney-water-tap-in/index.htm</p> <p data-bbox="470 387 1203 436">The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.</p> <p data-bbox="470 459 1123 508">Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
14.	<p data-bbox="470 526 611 553">Sydney Water</p> <p data-bbox="470 553 1249 674">The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in® to apply.</p> <p data-bbox="470 696 1249 745">Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.</p> <p data-bbox="470 768 1123 817">Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
15.	<p data-bbox="470 840 683 866">Survey Infrastructure</p> <p data-bbox="470 866 1249 938">Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to the appointed Certifying Authority and the Council that includes and addresses the following:</p> <ul style="list-style-type: none"> <li data-bbox="486 960 1249 1059">(a) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site. <li data-bbox="486 1081 1249 1153">(b) The above letter is required to confirm if any survey infrastructure will be affected or impacted upon by the proposal. If no impact is identified this must be detailed by the Registered Land Surveyor. <li data-bbox="486 1176 1249 1323">(c) In the event that survey infrastructure is identified as vulnerable or will be affected or impacted upon by the approved development, a copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report) is required. <p data-bbox="470 1346 1249 1417">The applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.</p> <p data-bbox="470 1440 1249 1512">Note: Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General.</p> <p data-bbox="470 1534 1249 1606">Condition Reason: To ensure the development satisfies requirements with regards to the Preservation of Survey Infrastructure (POSI) under Section 24 of the Surveying and Spatial Information Act 2002.</p>
16.	<p data-bbox="470 1624 735 1650">Building Code of Australia</p> <p data-bbox="470 1650 1249 1753">In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 69 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the National Construction Code</p>

Condition	
- Building Code of Australia (BCA).	
Details of compliance with the relevant provisions of the BCA and referenced Standards must be included in the Construction Certificate application.	
Condition Reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.	
17.	<p>Building Code of Australia</p> <p>Access and facilities for people with disabilities must be provided to new building work in accordance with the relevant requirements of the Building Code of Australia, Disability (Access to Premises – Buildings) Standards 2010 and relevant Australian Standards, to the satisfaction of the Registered Certifier for the development and details are to be included in the construction certificate for the development.</p> <p>Condition Reason: To ensure safe and easy access to the premises for people with a disability.</p>
18.	<p>BASIX Requirements</p> <p>In accordance with section 4.17(11) of the Environmental Planning and Assessment Act 1979 and section 75 of the Environmental Planning and Assessment Regulation 2021, the requirements and commitments contained in the relevant BASIX Certificate must be complied with.</p> <p>The required commitments listed and identified in the BASIX Certificate must be included on the construction certificate plans, specifications and associated documentation, to the satisfaction of the Certifier.</p> <p>The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.</p> <p>Condition Reason: Prescribed condition under 75 of the Environmental Planning and Assessment Regulation 2021.</p>
19.	<p>Site stability, Excavation and Construction work</p> <p>A report must be obtained from a suitably qualified and experienced professional engineer/s, which includes the following details, to the satisfaction of the appointed Certifier for the development:</p> <p>Geotechnical details which confirm the suitability and stability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the development and adjoining properties.</p> <p>Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings.</p> <p>Details to demonstrate that the proposed methods of excavation, support and construction are suitable for the site and should not result in any damage to the adjoining premises, buildings or any public place, as a result of the works and any associated vibration.</p> <p>Recommendations and requirements in the geotechnical engineers report shall be implemented accordingly and be monitored during the course of the subject site work.</p>

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	Condition
	<p>Written approval must be obtained from the owners of the adjoining land to install any ground or rock anchors underneath the adjoining premises (including any public roadway or public place) and details must be provided to the appointed Certifier for the development prior to issue of a relevant construction certificate.</p> <p>Condition Reason: To ensure the subject site/development and adjoining land is adequately supported and protected during any works.</p>
20.	<p>Traffic conditions</p> <p>Adequate provisions are to be made to provide pedestrian visibility and safety. All new walls (and/or landscaping) adjacent to vehicular crossings should not exceed a height of 600mm above the internal driveway level for a distance of 1.5m within the site or new walls (including landscaping) should splayed 1.5 metres by 1.5 metres. Details of compliance, to the satisfaction of the Principal Certifier, are to be included in the construction certificate documentation.</p> <p>The vehicular access driveways, internal circulation ramps and the carpark areas, (including, but not limited to, the ramp grades, carpark layout and height clearances) are to be in accordance with the requirements of AS2890.1:2004. The Construction Certificate plans must demonstrate compliance with these requirements.</p> <p>Condition Reason: To ensure adequate sightlines for pedestrians and drivers are provided.</p>
21.	<p>Design Alignment levels</p> <p>The design alignment level (the finished level of concrete, paving or the like) at the property boundary for driveways, access ramps and pathways or the like, shall match the back of the existing footpath along the full site frontage.</p> <p>The design alignment levels at the property boundary as issued by Council and their relationship to the kerb/footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.</p> <p>Any request to vary the design alignment level/s must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application.</p> <p>Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6888.</p> <p>Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.</p>
22.	<p>Design Alignment levels</p> <p>The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$921 calculated at \$63.00 per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.</p> <p>Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.</p>
23.	<p>Design Alignment levels</p> <p>The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.</p>

Condition	
	<p>The height of the building must not be increased to satisfy the required driveway gradients.</p> <p>Condition Reason: To ensure all driveway & footpath works are designed and constructed in accordance with Council requirements and Australian Standards.</p>
24.	<p>Stormwater Drainage</p> <p>The driveway and exterior paving within the development site shall be constructed with a permeable brick paving or other similar material (where practicable) that will allow stormwater to infiltrate to ground (eg. Rocla permeable paving).</p> <p>The building, including building footings, are to be designed to ensure that they will not be adversely affected by stormwater and/or the water table.</p> <p>Condition Reason: To protect the building and building footings from damage caused by stormwater and/or water table.</p>
25.	<p>Stormwater Drainage</p> <p><u>Stormwater drainage plans have not been approved as part of this development consent.</u> Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be prepared by a suitably qualified Hydraulic Engineer and submitted to and approved by the Principal Certifier prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issued, if the Council is not the Principal Certifier. The drawings and details shall include the following information:</p> <ul style="list-style-type: none"> (a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition. (b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system. (c) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories: <ul style="list-style-type: none"> i. Roof areas ii. Paved areas iii. Grassed areas iv. Garden areas (d) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof. (e) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels. (f) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc. <p>Condition Reason: To control and manage stormwater run-off so as not to</p>

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	adversely impact the development, neighbouring properties and Council's stormwater assets.
26.	<p>Stormwater Management</p> <p>Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line.</p>
	<p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact the development, neighbouring properties and Council's stormwater assets.</p>
27.	<p>Stormwater Management</p> <p>The written approval of Council is required to be obtained in relation to all drainage and infrastructure works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the <i>Roads Act 1993</i>. Detailed plans and specifications of the proposed works are to be submitted to and approved by the Director of City Services prior to commencing any works within the road reserve/public place.</p> <p>All works within the road reserve/public place must be carried out to the satisfaction of Council and certification from a professional engineer is to be provided to Council upon completion of the works.</p> <p>Relevant Council Assessment and Inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.</p> <p>Condition Reason: To ensure that Council's stormwater assets are constructed in accordance with Council's guidelines.</p>
28.	<p>Stormwater Management</p> <p>The site stormwater drainage system is to be provided in accordance with the following requirements:</p> <ol style="list-style-type: none"> a) The stormwater drainage system must be provided in accordance with the relevant requirements of Building Code of Australia and the conditions of this consent, to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. b) The stormwater must be discharged (by gravity) either: <ol style="list-style-type: none"> i. Directly to the kerb and gutter <u>in front</u> of the subject site in Baden Street; or ii. To a suitably designed infiltration system (subject to confirmation in a full geotechnical investigation that the ground conditions are suitable for the infiltration system),

NOTES:

- Infiltration will not be appropriate if the site is subject to rock and/or a water table within 2 metres of the base of the proposed infiltration area, or the ground conditions comprise low permeability soils such as clay.
- If the owner/applicant is able to demonstrate to Council that the ground conditions preclude the use of an infiltration system, a pump-out system may be permitted to drain the portion of the site that cannot be discharged by

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	<p>gravity to Council's street drainage system in front of the property.</p> <p>Pump-out systems must be designed by a suitably qualified and experienced hydraulic consultant/engineer in accordance with the conditions of this consent and Council's Private Stormwater Code.</p>
c)	<p>Should stormwater be discharged to Council's street drainage system the maximum discharge from the site must not exceed 25L/S for all storm events up to the 1 in 20 year storm event. All stormwater run-off from the site exceeding this amount is to be detained on the site (via an on-site detention system) for gradual release to the street drainage system, to the satisfaction of the Principal Certifier.</p> <p>An overland escape route or overflow system (to Council's street drainage system) must be provided for storms having an average recurrence interval of 100 years (1 in 100 year storm), or, alternatively the stormwater detention system is to be provided to accommodate the 1 in 100 year storm.</p>
d)	<p>Should stormwater be discharged to an infiltration system the following requirements must be met;</p> <ol style="list-style-type: none"> Infiltration systems/Absorption Trenches must be designed and constructed generally in accordance with Randwick City Council's Private Stormwater Code. The infiltration area shall be sized for all storm events up to the 5% AEP (1 in 20 year) storm event with provision for a formal overland flow path to Council's Street drainage system. <p>Should no formal overland escape route be provided for storms greater than the 5% AEP (1 in 20yr) design storm, the infiltration system shall be sized for the 1% AEP (1 in 100yr) storm event.</p> <ol style="list-style-type: none"> Infiltration areas must be a minimum of 3.0 metres from any structure (Note: this setback requirement may not be necessary if a structural engineer or other suitably qualified person certifies that the infiltration area will not adversely affect the structure) Infiltration areas must be a minimum of 2.1 metres from any site boundary unless the boundary is common to Council land (eg. road, laneway or reserve).
e)	<p>Determination of the required cumulative storage (in the on-site detention and/or infiltration system) must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.</p> <p>Where possible any detention tanks should have an open base to infiltrate stormwater into the ground. Infiltration should not be used if ground water and/or any rock stratum is within 2.0 metres of the base of the tank.</p>

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f)	<p>Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1% AEP (1 in 100 year), 2 hour storm assuming both pumps are not working.</p> <p>The pump system must also be designed and installed strictly in accordance with Randwick City Council's Private Stormwater Code.</p>
g)	<p>Should a charged system be required to drain any portion of the site, the charged system must be designed such that;</p> <ol style="list-style-type: none"> There are suitable clear-outs/inspection points at pipe bends and junctions. The maximum depth of the charged line does not exceed 1m below the gutter outlet.
h)	<p>Generally, all internal pipelines must be capable of discharging a 5% AEP (1 in 20 year) storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (i.e. above the 1 in 20 year storm) to the proposed drainage (detention/infiltration) system.</p>
i)	<p>A sediment/silt arrestor pit must be provided within the site near the street boundary prior to discharge of the stormwater to Council's drainage system and prior to discharging the stormwater to any absorption/infiltration system.</p> <p>Sediment/silt arrestor pits are to be constructed generally in accordance with the following requirements:</p> <ul style="list-style-type: none"> The base of the pit being located a minimum 300mm under the invert level of the outlet pipe. The pit being constructed from cast in-situ concrete, precast concrete or double brick. A minimum of 4 x 90 mm diameter weep holes (or equivalent) located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes. A galvanised heavy-duty screen being provided over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent). The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system. A child proof and corrosion resistant fastening system being provided for the access grate (e.g. spring loaded j-bolts or similar). Provision of a sign adjacent to the pit stating, "This sediment/silt arrestor pit shall be regularly inspected and cleaned". <p><i>Sketch details of a standard sediment/silt arrestor pit may be</i></p>

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	<i>obtained from Council's Drainage Engineer.</i>
j)	A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.
k)	A 'V' drain (or equally effective provisions) are to be provided to the perimeter of the property, where necessary, to direct all stormwater to the detention/infiltration area.
l)	Site discharge pipelines shall cross the verge at an angle no less than 45 degrees to the kerb line and must not encroach across a neighbouring property's frontage unless approved in writing by Council's Development Engineering Coordinator.

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

29. **Site Seepage & Dewatering**

The development must comply with the following requirements to ensure the adequate management of site seepage and sub-soil drainage:

- a) Seepage/ground water and subsoil drainage (from planter boxes etc) must not be collected & discharged directly or indirectly to Council's street gutter or underground drainage system
- b) Adequate provision is to be made for the ground water to drain around the basement carpark (to ensure the basement will not dam or slow the movement of the ground water through the development site).
- c) The walls of the basement level/s of the building are to be waterproofed/tanked to restrict the entry of any seepage water and subsoil drainage into the basement level/s of the building and the stormwater drainage system for the development.
- d) Sub-soil drainage systems may discharge via infiltration subject to the hydraulic consultant/engineer being satisfied that the site and soil conditions are suitable and the seepage is able to be fully managed within the site, without causing a nuisance to any premises and ensuring that it does not drain or discharge (directly or indirectly) to the street gutter.
- e) Details of the proposed stormwater drainage system including methods of tanking the basement levels and any sub-soil drainage systems (as applicable) must be prepared or approved by a suitably qualified and experienced Professional Engineer to the satisfaction of the Principal Certifier and details are to be included in the construction certificate. **A copy of the proposed method for tanking the basement levels must be forwarded to Council if Council is not the Principal Certifier.**

Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.

30. **Groundwater Investigation**

An amended geotechnical report must be obtained from a qualified, experienced Hydrogeological/geotechnical Engineer, which provides an assessment of the site

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	<p>and the presence of and groundwater/seepage flows by undertaking borehole investigation to the minimum depth of the basement excavation plus 1m. The report must also investigate the potential impact of groundwater and the water table upon the development, prior to issuing a Construction Certificate, to the satisfaction of the Principal Certifier.</p> <p>The report must confirm whether or not the site is or may be affected by <i>groundwater</i> or <i>fluctuating water table</i> and the report must include details of the measures to be implemented to effectively manage any groundwater.</p> <p>Condition Reason: To control and manage any seepage/groundwater so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
31.	<p>Waste Management</p> <p>A Waste Management Plan detailing the waste and recycling storage and removal strategy for all of the development, is required to be submitted to and approved by Council's Strategic Waste Management Team.</p> <p>The Waste Management plan is required to be prepared in accordance with Council's Waste Management Guidelines for Proposed Development and must include the following details (as applicable):</p> <ul style="list-style-type: none"> • The use of the premises and the number and size of occupancies. • The type and quantity of waste to be generated by the development. • Demolition and construction waste, including materials to be re-used or recycled. • Details of the proposed recycling and waste disposal contractors. • Waste storage facilities and equipment. • Access and traffic arrangements. • The procedures and arrangements for on-going waste management including collection, storage and removal of waste and recycling of materials. <p><i>Further details of Council's requirements and guidelines, including pro-forma Waste Management plan forms can be obtained from Council's website at:</i> https://www.randwick.nsw.gov.au/_data/assets/pdf_file/0007/22795/Waste-Management-Plan-Guidelines.pdf</p> <p>The residential waste room shall be sized to contain and supplied with the following:</p> <ul style="list-style-type: none"> • 2 x 240L rubbish bins • 2 x 240L recycling bins • 1 x 240L FOGO bin <p>Adequate access to all the bins must be provided.</p> <p>The waste storage areas are to be provided with a tap and hose and the floor is to be graded and drained to the sewer to the requirements of Sydney Water.</p> <p>Condition Reason: To ensure the development effectively manages its waste during construction and operational phases.</p>
32.	<p>Public Utilities</p> <p>A <i>Public Utility Impact Assessment</i> must be carried out to identify all public utility services located on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost</p>

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	for telecommunication companies, gas providers, Ausgrid, Sydney Water and other authorities to adjust, repair or relocate their services as required.
	Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.
33.	<p>Undergrounding of Site Power</p> <p>Power supply to the proposed development shall be provided via an underground (UGOH) connection from the nearest mains distribution pole in Baden Street. No Permanent Private Poles are to be installed with all relevant documentation submitted for the construction certificate to reflect these requirements to the satisfaction of the Principal Certifier. The applicant/owner is to liaise with an Ausgrid Accredited Service Provider to carry out the works to the requirements and satisfaction of Ausgrid and at no cost to Council.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.</p>
34.	<p>Detailed Site Contamination Investigation Report</p> <p>A <i>Detailed Site Contamination Investigation Report</i> must be submitted to Council's Director of City Planning prior to issuing a Construction Certificate for the development or commencing demolition work (whichever the sooner). The detailed investigation must be undertaken by a suitably qualified Contamination Land Consultant and provide information on land and ground water contamination and also migration in relation to past and current activities and uses that may have occurred on the site.</p> <p>The report is to be prepared in accordance with the relevant guidelines made or approved by the NSW Environment Protection Authority (EPA), including the Guidelines for Consultants Reporting on Contaminated Sites; the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 (as amended 2013); and the NSW Contaminated Land Planning Guidelines. The report is to assess the nature, extent and degree of contamination upon the land.</p> <ol style="list-style-type: none"> 1) Should the Detailed Site Investigation Report demonstrate that the land and groundwater is not contaminated, the conclusion to the report must clearly state that 'the land is suitable for its intended land use, posing no immediate or long-term risk to public health or the environment and is fit for occupation by persons, together with clear justification for the statement. The report must demonstrate that any site contamination satisfies the relevant criteria in the National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013) and it is not necessary to carry out any remediation work or further investigations. <p>The written concurrence of Council <u>must</u> be obtained before any Construction Certificate is issued for the development, which confirms that Council does not require further investigations or site remediation work to be undertaken or, require other matters to be satisfied.</p> <ol style="list-style-type: none"> 2) Should the Detailed Site Investigation Report identify that the land is contaminated and the land requires remedial works to meet the relevant criteria in the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 1999 (as amended 2013), the following requirements must be complied with: <ol style="list-style-type: none"> a) The site must be remediated in accordance with the requirements of the <i>Contaminated Land Management Act 1997</i>, environmental planning instruments applying to the

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	site, guidelines made by the NSW Environment Protection Authority (EPA) and the <i>Protection of the Environment Operations Act 1997</i> .
b)	A Remediation Action Plan (RAP) is required to be developed to the satisfaction of an Accredited Site Auditor and be submitted to Council, prior to the commencement of any excavation or site remediation works.
	<p>The RAP is to be prepared by a suitably qualified Contaminated Land Consultant, in accordance with the guidelines made or approved by the NSW Environment Protection Authority (EPA), including the Guidelines for Consultants Reporting on Contaminated Sites.</p>
	<p>The RAP shall include procedures for the following:</p>
	<ul style="list-style-type: none"> • Excavation, removal and disposal of contaminated soil, • Site management planning, • Validation sampling and analysis, • Prevention of cross contamination and migration or release of contaminants, • Groundwater remediation, dewatering, drainage, monitoring and validation, • Unexpected finds.
c)	A suitably qualified Land Contamination Consultant must be appointed to monitor and ensure compliance with the adopted remediation strategy and to validate the site remediation works.
d)	<p>A NSW Environment Protection Authority (EPA) Site Auditor (accredited under the <i>Contaminated Land Management Act 1997</i>), must be appointed to:</p> <ul style="list-style-type: none"> • review the site contamination and remediation strategies for the development; • assess the suitability of the site for its intended development and use; • monitor the site remediation works and issue any necessary Interim Audit Advice statements; and • issue a Site Audit Statement and Site Audit Report upon completion of the remediation of the site.
e)	<p>A site remediation <i>Audit Schedule</i> shall be developed by the appointed Site Auditor and be submitted to Council with the RAP and prior to commencement of any site works, which outlines the proposed remediation strategy and proposed timing for the issue of any <i>Interim Audit Advice</i> statements, having regard to the staging of the remediation strategy and construction works.</p>
	<p>An <i>Interim Audit Advice</i> must be obtained from the Site Auditor, which confirms the suitability and implementation of the remediation strategy throughout the site remediation and construction site works prior to commencement of any site works and at the stages specified in the <i>Audit Schedule</i>.</p>
	<p>A copy of the site remediation <i>Audit Schedule</i> and <i>Interim Audit Advice</i> statements must be submitted to the Council and the owner, building certifier and principal building contractor</p>

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	for the development, prior to commencement of works and at the stages specified in the <i>Audit Schedule</i> .
f)	A <i>Site Audit Statement</i> and <i>Summary Site Audit Report</i> is to be submitted to Council upon completion of the site remediation works, which verifies that the land has been remediated and the site is suitable for the intended development and satisfies the relevant criteria in the NEPM 1999 (as amended 2013). Any requirements contained within an Environmental Management Plan (EMP) which forms part of the Site Audit Statement and Site Audit Report, form part of this consent and must be implemented accordingly. Council is required to be consulted with prior to the development of the EMP and any comments made by Council are required to be taken into consideration prior to finalising the EMP.
g)	The site remediation must be carried out to the satisfaction of the Accredited Site Auditor and a final Site Audit Statement and Summary Site Audit Report must be submitted to Council prior to the issue of an <i>Occupation Certificate</i> for the development or as specified in the <i>Audit Schedule</i> (whichever the sooner).
h)	If the remediation strategy proposes 'capping' or 'containment' of any contaminated land, details are to be included in the Site Audit Statement (SAS) and Environmental Management Plan (EMP) to the satisfaction of the Site Auditor. Details of the SAS and EMP (including capping and containment of contaminated land) are also required to be included on the Certificate of Title for the subject land under the provisions of section 88 of the <i>Conveyancing Act 1919</i> .
i)	<p>A <i>Site Remediation Management Plan</i> must be prepared prior to the commencement of remediation works by a suitably qualified environmental consultant and be implemented throughout remediation works. The Site Remediation Management Plan shall include measures to address the following matters:</p> <ul style="list-style-type: none"> • general site management, site security, barriers, traffic management and signage • hazard identification and control • worker health & safety, work zones and decontamination procedures • prevention of cross contamination • site drainage and dewatering • air and water quality monitoring • generation and control of dust from the site • disposal of hazardous wastes • contingency plans and incident reporting • details of provisions for monitoring implementation of remediation works and persons/consultants responsible. <p>A copy of the Site Remediation Management Plan is to be forwarded to Council prior to commencing remediation works.</p>
j)	Fill material that is imported to the site must satisfy the requirements of the NSW <i>Protection of the Environment Operations (Waste) Regulation 2014</i> and the NSW

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	<p>Environment Protection Authority (EPA) Waste Classification Guidelines (2014). Fill material must meet the relevant requirements for Virgin Excavated Natural Material (VENM) or be the subject of a (general or specific) Resource Recovery Exemption from the EPA. Details of the importation of fill and compliance with these requirements must be provided to the satisfaction of the Environmental Consultant and Site Auditor.</p> <p>k) Any new information which is identified during remediation, demolition or construction works that has the potential to alter previous conclusions about site contamination or the remediation strategy shall be notified to the Site Auditor and Council immediately in writing.</p> <p>l) The written concurrence of the Site Auditor and Council must be obtained prior to implementing any changes to the remediation action plan, strategies or conditions of this development consent.</p> <p>m) The remediation work must not cause any environmental pollution, public nuisance or, result in an offence under the <i>Protection of the Environment Operations Act 1997</i> and associated Regulations.</p>

Condition Reason: To ensure suitable contamination investigation is undertaken.

35. **Noise Emissions**

Noise from the development must not cause an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

Residential dwellings are to be designed and constructed to satisfy the following acoustic criteria while concurrently complying with the State Environmental Planning Policy (Housing) 2021 and NSW Department of Planning & Environment Apartment Design Guide 2015 requirements:

- i) In naturally ventilated spaces – the repeatable maximum L_{eq} (1 hour) should not exceed:
 - 35 dB(A) between 10.00pm and 7.00am in sleeping areas when windows are closed,
 - 40 dB(A) in sleeping areas when windows are open (24 hours),
 - 45 dB(A) in living areas when windows are closed (24 hours),
 - 50 dB(A) in living areas when windows are open (24 hours).

Note: Where compliance cannot be achieved for this clause, the provisions of point (iii) shall prevail.
- ii) In mechanically ventilated spaces – the repeatable maximum L_{eq} (1 hour) should not exceed the following criteria (when the mechanical ventilation system is operating, and doors and windows are closed):
 - 38 dB(A) in sleeping areas between 10.00pm and 7.00am,
 - 45 dB(A) in sleeping areas between 7.00am and 10.00pm,
 - 46 dB(A) in living areas (24 hours).
- iii) Where natural ventilation is provided through other means (such as a plenum), with the ventilation system open:
 - 35 dB(A) between 10.00pm and 7.00am in sleeping areas,

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	<ul style="list-style-type: none"> • 40 dB(A) between 7.00am and 10.00pm in sleeping areas, • 45 dB(A) 24 hours in living areas.
	Condition Reason: To ensure suitable acoustic amenity.
36.	<p>Residential premises affected by Sydney airport flight paths – noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report prepared by a suitably qualified acoustic consultant confirming that the proposed development meets the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction; in particular the Certifying Authority must be satisfied that the development will meet the indoor design sound levels outlined in Table 3.3 for aircraft flyovers.</p> <p>The recommendations of the acoustic report are to be indicated on the architectural plans and / or specifications and be in accordance with the requirements of Randwick City Councils LEP 2012 Section 6.9.</p> <p>Condition Reason: To ensure suitable acoustic amenity.</p>
37.	<p>Noise – Additional Acoustic Reporting Required</p> <p>Prior to the issue of any construction certificate, a suitably qualified acoustic consultant* must be engaged by the proponent whom must undertake and report on the following scope of work to the satisfaction of the Manager of Development Assessments:</p> <ul style="list-style-type: none"> • The final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report prepared by Benjamin Cox of Acoustic works, dated 20 May 2025, ref: 1022125 Ro1f Revision R01F, titled Proposed Residential Development 21 Baden Street Coogee Acoustic Report, Council Ref: D05724607 with reference to relevant documentation. Except as may be modified by the conditions of this development consent. • Undertake a Mechanical Plant noise emission assessment, all residential plant must comply with the noise criteria in the <i>Protection of the Environment Operations (Noise Control) Regulations 2017</i>. • Undertake a compliance noise assessment to confirm the final design is capable of achieving the internal noise criteria as outlined the above conditions of this consent. <p>Note: *A <i>Suitably Qualified Acoustic Consultant</i> means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustical Society, Institution of Engineers Australia or the Association of Australian Acoustical Consultants at the grade of member firm.</p> <p>Condition Reason: To ensure suitable acoustic amenity.</p>
38.	<p>Hazardous Materials Survey Required</p> <p>A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (Australia Institute of Occupational Hygienists) and submitted to the satisfaction of the Principal Certifier prior to any demolition work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.</p> <p>Condition Reason: To protect against hazardous materials.</p>
39.	<p>Car Park Ventilation</p> <p>The car park must be ventilated in accordance with the <i>Building Code of Australia</i></p>

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	<p>and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.</p> <p>Condition Reason: To ensure suitable ventilation.</p>
40.	<p>Waste Storage Area</p> <p>To ensure the adequate storage and collection of waste, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with <i>the following requirements</i>:</p> <ul style="list-style-type: none"> (i) Provided with a hose tap connected to the water supply. (ii) Paved with impervious floor materials. (iii) Coved at the intersection of the floor and walls. (iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water). (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the <i>Protection of the Environment Operations Act 1997</i> or a nuisance. (vi) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling. (vii) Appropriately managed to Council's satisfaction so that it does not attract pests or create litter. <p>Note: Fitted with appropriate interventions to meet fire safety standards in accordance with the <i>Building Code of Australia</i>.</p> <p>Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of any Occupation Certificate.</p> <p>Condition Reason: To ensure suitable waste management.</p>
41.	<p>Street Tree Protection Measures</p> <p>To ensure retention of the mature <i>Araucaria heterophylla</i> (Norfolk Island Pine) located in the garden bed that extends out beyond the kerb, within the Baden Street roadway and in line with the eastern site boundary in good health, the following measures are to be undertaken:</p> <ul style="list-style-type: none"> a. All documentation submitted for the Construction Certificate application must note it for retention, with the position and diameter of its trunk, canopy, SRZ, TPZ and Tree Identification Number as taken from the Arboricultural Impact Assessment Report by Hugh the Arborist dated 12/03/25 (<i>'the Arborist Report'</i>) to be clearly and accurately shown on all plans in relation to the site and all new works. b. All Construction Certificate plans must show that the new layback, vehicle crossing and basement ramp will be maintained towards the western site boundary, consistent with the Architectural Plans by Legge and Legge Architects, rev FF dated 23/05/2025. c. Any excavations associated with the installation of new services, pipes, stormwater systems or similar over public property must also be located towards the western site boundary, consistent with what is shown on the Basement Level Stormwater Drainage Concept Plan by Rise Consulting Engineers Pty Ltd, dwg D.010, rev H, dated 17/03/25, with the Principal Certifier to ensure that all Services Plans are both prepared and then installed on-site to comply with this requirement.

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	<p>d. Prior to the commencement of any site works, its trunk (and any lower branches) are to be physically protected by wrapping layers of geo-textile, underfelt, carpet, hessian or similar, from ground level to a height of 2m, to which, 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed around its circumference, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk.</p> <p>e. This protection must remain in place until all works are completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION - DO NOT REMOVE".</p> <p>f. 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 within the garden bed where the tree is growing, with all Site Management Plans to comply with these requirements.</p> <p>g. The applicant is not authorised to perform any other works to this public tree and must contact Council's Landscape Development Officer on 9093-6613 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning or any Occupation Certificate.</p> <p>h. The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during works and prior to any Occupation Certificate.</p> <p>i. A refundable deposit in the form of cash, credit card or cheque for an amount of \$5,000.00 must be paid into Council's Customer Service Centre, prior to a Construction Certificate being issued for the development to ensure compliance with the conditions listed in this consent, and preservation of the tree.</p> <p>The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6613).</p> <p>Any contravention of Council's conditions relating to the tree at any time during works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979.</p>
	<p>Condition Reason: Protection of existing environment public infrastructure, community assets and significant trees.</p>
42.	<p>Protection of trees on private property</p> <p>To also ensure retention of the <i>Schefflera actinophylla</i> (Dwarf Umbrella, Tree 2), that is located in the rear setback, closest to the northeast site corner and right on the rear/common boundary with 37 Arcadia Street, as well as a larger <i>Eucalyptus botryoides</i> (Bangalay, T3) and an <i>Agonis flexuosa</i> (Willow Myrtle, T4) which are</p>

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	<p>both located on higher ground, wholly within the adjoining private property at 37 Arcadia Street, and to the north of the free-standing brick shed which occupies the northwest corner of the development site in good health, the following measures are to be undertaken:</p>
a.	<p>All documentation submitted for the Construction Certificate application must note them for retention, with the position and diameter of their trunks, canopies, SRZ's, TPZ's and Tree Identification Numbers as taken from 'the Arborist Report' to be clearly and accurately shown on all plans in relation to the site and new works.</p>
b.	<p>Prior to the commencement of any site works, the Principal Certifier must ensure that an AQF Level 5 Consulting Arborist (who is eligible for membership with a nationally recognized organization/association) has been engaged as <i>'the Project Arborist'</i> for the duration of works and will be responsible for both implementing and monitoring these conditions of development consent, as well as Section 9 – Recommendations, and Section 10 – Arboricultural Work Method Statement and Tree Protection Requirements of the Arborist Report, along with any other instructions issued on-site.</p>
c.	<p>The Project Arborist must be present on-site at the relevant stages of works and must keep a log of the dates of attendance and the works performed, which is to be presented as a <i>'Final Compliance Report'</i> for the approval of the Principal Certifier, prior to any Occupation Certificate.</p>
d.	<p>All Construction Certificate plans must show that the footprint of the development will be offset a minimum distance of 6500mm from the rear boundary, consistent with the Architectural Plans by Legge and Legge Architects, rev FF dated 23/05/2025, with the area between the northern wall of the Basement Level and rear site boundary to be retained purely as deep soil, and at existing ground levels, for the purpose of landscape treatment of the open space only.</p>
e.	<p>The existing brick retaining walls/fences across the width of the rear, northern site boundary must be retained in situ and incorporated into the landscape treatment that is provided to the future open space/courtyard, consistent with the notations and details on both the Architectural and Landscape Plans.</p>
f.	<p>The Project Arborist must be present on-site during demolition of the free-standing brick shed in the northwest site corner, adjacent T3-4, and must provide written approval/a Work Method Statement for any works associated with demolition of its northern wall, temporary shoring of the exposed soil profile, reconstruction of any new footing and wall or similar works in this area, within their TPZ's.</p>
j.	<p>Any new dividing fencing across the width of the rear boundary, within their TPZ's, can only be a system which is supported on localised pads, not continuous strip footings, with details confirming compliance to be shown on the Construction Certificate plans.</p>
k.	<p>The Principal Certifier and Project Arborist must ensure compliance with these requirements, both on the plans as well as on-site</p>

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	during works and prior to any Occupation Certificate.
	Condition Reason: Protection of existing environment public infrastructure, community assets and significant trees.
43.	<p>AMENDED Landscape Plans The Landscape Plans by Jose Afonso Landscape Architect, dwg's L01-08, rev 01 dated 14/03/2025, must be amended to now include the following additional requirements:</p>
	<ul style="list-style-type: none"> a. A Planting Plan & Plant Schedule which clearly nominates proposed species, botanic and common names, pot size at the time of planting, quantity/density, location, dimensions at maturity and any other details required to accurately describe the works. b. A predominance of species that are not reliant on high quantities of moisture and fertilizer for survival and can also withstand salt laden winds in this coastal location. c. All references and notations to the 'Car Wash Space' and 'permeable paving' within the area of deep soil in the front setback must be deleted, with this area to be provided purely as planting/landscape treatment only, and if needed, the Car Wash Space must be relocated to within the Basement Level, as per the Development Engineers requirements specified elsewhere in this report. d. 1 x 45 litre (pot size at the time of planting) feature canopy tree (not a palm) must be planted in the front setback, selecting a species which can attain a minimum height at maturity of 6 metres, to which, a high-quality selection and arrangement of decorative species must also be provided to assist with presentation of the development to the streetscape. e. 2 x 45 litre (pot size at the time of planting) evergreen canopy trees (not palms) must also be planted in the gardens shown for the rear setback, being one each towards both the northeast and northwest site corners, selecting NATIVE COASTAL SPECIES which will attain a minimum height at maturity of 6 metres, and must be positioned a minimum of 2.5m from any part of the building. f. Any perimeter planting must be strategically selected and located to assist with amenity, screening, privacy and preventing direct overlooking from/between adjoining properties, whilst also considering solar access requirements and water views. g. Details must be submitted to, and be approved by, the Certifying Authority, demonstrating how safe and compliant access will be provided to the external podium planters on the upper floor levels for the purpose of future/ongoing maintenance, replacement of failed stock and similar activities. h. Construction details for all podium planters must show the soil depths and soil volumes recommended in the ADG will be provided for plants, shrubs and trees. i. Full construction details, a plant and maintenance schedule, wall fixings and any other inclusions must be provided for the 'Green Walls' (indicated by the key 'M' and 'N') that are shown along the

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<p>eastern boundary of the Ground Floor Level, as well as at the northern end of this side access, adjacent the letter boxes. If attaching to a common/shared wall, written consent from the adjoining owner must firstly be obtained.</p> <p>A revised scheme complying with the requirements specified above must then be submitted to, and be approved by, the Principal Certifier, prior to any Construction Certificate.</p> <p>Condition Reason: To ensure residential amenity and that appropriate landscaping is provided.</p>

BEFORE BUILDING WORK COMMENCES

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<p>44. Building Certification & Associated Requirements The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work:</p> <ul style="list-style-type: none"> a) a <i>Construction Certificate</i> must be obtained from a Registered (Building) Certifier, in accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>. A copy of the construction certificate, the approved development consent plans and consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment. b) a Registered (Building) Certifier must be appointed as the <i>Principal Certifier</i> for the development to carry out the necessary building inspections and to issue an occupation certificate; and c) a principal contractor must be appointed for the building work, or in relation to residential building work, an owner-builder permit may be obtained in accordance with the requirements of the <i>Home Building Act 1989</i>, and the Principal Certifier and Council must be notified accordingly (in writing); and d) the principal contractor must be advised of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifier; and e) at least two days notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works. <p>Condition reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.</p>
<p>45. Dilapidation Reports A dilapidation report (incorporating photographs of relevant buildings and structures) must be obtained from a Professional Engineer, detailing the current condition and status of all of the buildings and structures located upon all of the properties adjoining the subject site, and any other property or public land which may be affected by the works, to the satisfaction of the <i>Principal Certifier</i> for the development.</p> <p>The dilapidation report must be submitted to the Principal Certifier, Council and the</p>

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<p>owners of the adjoining/nearby premises encompassed in the report, prior to commencing any site works (including any demolition work, excavation work or building work).</p> <p>Condition Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
<p>46. Construction Site Management Plan A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development:</p> <ul style="list-style-type: none"> • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles • tree protective measures • dust control measures • details of sediment and erosion control measures • site access location and construction • methods of disposal of demolition materials • location and size of waste containers/bulk bins • provisions for temporary stormwater drainage • construction noise and vibration management • construction traffic management details • provisions for temporary sanitary facilities • measures to be implemented to ensure public health and safety. <p>The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.</p> <p>A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.</p> <p>Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
<p>47. Construction Site Management Plan A <i>Sediment and Erosion Control Plan</i> must be developed and implemented throughout the course of demolition and construction work in accordance with the manual for Managing Urban Stormwater – Soils and Construction, published by Landcom. A copy of the plan must be maintained on site and a copy is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.</p>
<p>48. Construction Noise & Vibration Management Plan Noise and vibration from the works are to be minimised by implementing appropriate noise management and mitigation strategies.</p> <p>A <i>Construction Noise & Vibration Management Plan</i> must be developed and implemented throughout demolition and construction work.</p> <p>(a) The <i>Construction Noise & Vibration Management Plan</i> must be prepared by a suitably qualified acoustic consultant, in accordance with the</p>

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	Condition
	<p>Environment Protection Authority <i>Guidelines for Construction Noise and Assessing Vibration: A Technical Guideline</i> (or other relevant and recognised Vibration guidelines or standards) and the conditions of development consent, to the satisfaction of the Certifier.</p> <p>(b) Noise and vibration from any rock excavation machinery, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management and mitigation strategies.</p> <p>(c) Noise and vibration levels must be monitored during the works and a further report must be obtained from the acoustic/vibration consultant as soon as practicable after the commencement of the works, which reviews and confirms the implementation and suitability of the noise and vibration strategies in the <i>Construction Noise & Vibration Management Plan</i> and which demonstrates compliance with relevant criteria.</p> <p>(d) Any recommendations and requirements contained in the <i>Construction Noise & Vibration Management Plan</i> and associated reports are to be implemented accordingly and should noise and vibration emissions not comply with the terms and conditions of consent, work must cease forthwith and is not to recommence until details of compliance are submitted to the Principal Certifier and Council.</p> <p>A copy of the Construction Noise & Vibration Management Plan and associated acoustic/vibration report/s must be maintained on-site and a copy must be provided to the Principal Certifier and Council prior to commencement of any site works.</p> <p>(e) Noise and vibration levels must be monitored during the site work and be reviewed by the acoustic/vibration consultant periodically, to ensure that the relevant strategies and requirements are being satisfied and details are to be provided to the Principal Certifier and Council accordingly.</p> <p>Condition Reason: To protect the amenity of the neighbourhood during construction.</p>
49.	<p>Public Liability</p> <p>The owner/builder is required to hold Public Liability Insurance, with a minimum liability of \$20 million and a copy of the Insurance cover is to be provided to the Principal Certifier and Council.</p> <p>Condition Reason: To ensure the community is protected from the cost of any claim for damages arising from works or activities on public land.</p>
50.	<p>Construction Traffic Management</p> <p>An application for a 'Works Zone' and Construction Traffic Management Plan must be submitted to Councils Integrated Transport Department, and approved by the Randwick Traffic Committee, for a 'Works Zone' to be provided in Baden Street for the duration of the demolition & construction works.</p> <p>The 'Works Zone' must have a minimum length of 12m and extend for a minimum duration of three months. The suitability of the proposed length and duration is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Randwick Traffic Committee.</p> <p>The requirement for a Works Zone may be varied or waived only if it can be</p>

	Condition
	<p>demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council's Traffic Engineers) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained prior to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.</p>
51.	<p>Construction Traffic Management</p> <p>Any necessary approvals must be obtained from NSW Police, Roads & Maritime Services, Transport, and relevant Service Authorities, prior to commencing work upon or within the road, footway or nature strip.</p> <p>All conditions and requirements of the NSW Police, Roads & Maritime Services, State Transit Authority and Council must be complied with at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and that any requirements of relevant external agencies are met.</p>
52.	<p>Public Utilities</p> <p>Documentary evidence from the relevant public utility authorities confirming they have agreed to the proposed works and that their requirements have been or are able to be satisfied, must be submitted to the Principal Certifier prior to the commencement of any demolition, excavation or building works.</p> <p>The owner/builder must make the necessary arrangements and meet the full cost for telecommunication companies, gas providers, Ausgrid, Sydney Water and other service authorities to adjust, repair or relocate their services as required.</p> <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.</p>
53.	<p>Construction Traffic Management</p> <p>A detailed Construction Site Traffic Management Plan must be submitted to and approved by Council, prior to the commencement of any site work.</p> <p>The Construction Site Traffic Management Plan must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:</p> <ul style="list-style-type: none"> • A description of the demolition, excavation and construction works • A site plan/s showing the site, roads, footpaths, site access points and vehicular movements • Any proposed road and/or footpath closures • Proposed site access locations for personnel, deliveries and materials • Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site) • Provision for loading and unloading of goods and materials • Impacts of the work and vehicular movements on the road network, traffic and pedestrians • Proposed hours of construction related activities and vehicular movements to and from the site • Current/proposed approvals from other Agencies and Authorities (including NSW Roads & Maritime Services, Police and State Transit Authority) • Any activities proposed to be located or impact upon Council's road, footways or any public place

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Condition	
	<ul style="list-style-type: none"> Measures to maintain public safety and convenience <p><i>The approved Construction Site Traffic Management Plan must be complied with at all times, and any proposed amendments to the approved Construction Site Traffic Management Plan must be submitted to and be approved by Council in writing, prior to the implementation of any variations to the Plan.</i></p> <p>Condition Reason: To ensure construction traffic is appropriately managed and there is sufficient on-street space for construction and delivery vehicles as required.</p>
54.	<p>Remediation Details – Interim Site Audit Advice</p> <p>If applicable an Interim Audit Advice must be obtained from the Site Auditor, which confirms the suitability and implementation of the remediation strategy prior to commencement of 'above-ground' building works, and as specified in the Site Auditor's Audit Schedule. A copy of the site remediation Interim Audit Advice statements must be submitted to the Council and the owner, building certifier and principal building contractor for the development.</p> <p>Condition Reason: To ensure suitable site remediation is undertaken as required.</p>
55.	<p>Hazardous materials/Asbestos</p> <p>Hazardous materials arising from the demolition, excavation and remediation process being removed and disposed of in accordance with the requirements of SafeWork NSW and the Environment Protection Authority, and with the provisions of:</p> <ul style="list-style-type: none"> Work Health and Safety Act 2011; Work Health and Safety Regulation 2017; Protection of the Environment Operations Act 1997; Protection of the Environment Operations (Waste) Regulation 2014; NSW EPA Waste Classification Guidelines (2014); SafeWork NSW Code of Practice for the Safe Removal of Asbestos; Australian Standard 2601 (2001) – Demolition of Structures; Randwick City Council's Asbestos Policy. <p>Details of Compliance must be provided to the Principal Certifier for the development and Council, prior to commencement of site works.</p> <p>Condition Reason: To protect against hazardous materials.</p>

DURING BUILDING WORK

Condition	
56.	<p>Site Signage</p> <p>It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:</p> <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and stating that unauthorised entry to the work site is prohibited. <p>The sign must be—</p> <ol style="list-style-type: none"> maintained while the building work is being carried out, and removed when the work has been completed.

Condition

This section does not apply in relation to—

- a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

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

57.

Restriction on Working Hours

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

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

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

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

58.

Noise & Vibration

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

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

59.

Construction Site Management

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

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

	Condition
	<p>by Council in writing.</p> <p>Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land.</p> <p>All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> • <i>Temporary site fencing may not be necessary if there is an existing adequate fence in place having a minimum height of 1.5m.</i> • <i>A separate Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services before placing any fencing, hoarding or other article on the road, footpath or nature strip.</i> <p>Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.</p>
60.	<p>Overhead Hoardings</p> <p>An overhead ('B' class) type hoarding is required is be provided to protect the public (unless otherwise approved by Council) if:</p> <ul style="list-style-type: none"> • goods or materials are to be hoisted (i.e. via a crane or hoist) over a pedestrian footway • building or demolition works are to be carried out on buildings which are over 7.5m in height and located within 3.6m of the street alignment • it is necessary to prevent articles or materials from falling and causing a potential danger or hazard to the public or adjoining land • as may otherwise be required by SafeWork NSW, Council or the Principal Certifier. <p>Condition Reason: To ensure proper management of public land and ensure public safety during site works and construction.</p>
61.	<p>Public Safety & Site Management</p> <p>Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times:</p> <ol style="list-style-type: none"> a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately, to the satisfaction of Council.

Condition
<p>f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines.</p> <p>g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident.</p> <p>h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land.</p> <p>i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details.</p>

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

62. **Site Accessway**

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

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

Condition reason: To minimise and prevent damage to public infrastructure.

63. **Dust Control**

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

Dust control measures and practices may include:

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

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	Condition Reason: To require details of measures that will minimise impacts to the public, and the surrounding environment, during site works and construction.
64.	<p>Excavations and Support of Adjoining Land</p> <p>In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and section 74 of the <i>Environmental Planning and Assessment Regulation 2021</i>, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.</p> <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
65.	<p>Complaints Register</p> <p>A Complaints Management System must be implemented during the course of construction (including demolition, excavation and construction), to record resident complaints relating to noise, vibration and other construction site issues.</p> <p>Details of the complaints management process including contact personnel details shall be notified to nearby residents, the Principal Certifier and Council and all complaints shall be investigation, actioned and responded to and documented in a Complaints Register accordingly.</p> <p>Details and access to the Complaints Register are to be made available to the Principal Certifier and Council upon request.</p> <p>Condition reason: To ensure any complaints are documented and recorded, and to protect the amenity of the surrounding area and residents.</p>
66.	<p>Building Encroachments</p> <p>There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip or public place.</p> <p>Condition Reason: To ensure no encroachment onto public land and to protect Council land.</p>
67.	<p>Survey Report</p> <p>A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building:</p> <ul style="list-style-type: none"> • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. <p>The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council.</p> <p>Condition Reason: To ensure compliance with approved plans.</p>
68.	<p>Road/Asset Opening Permit</p> <p>Any openings within or upon the road, footpath, nature strip or in any public place (i.e. for proposed drainage works or installation of services), must be carried out in accordance with the following requirements, to the satisfaction of Council:</p> <p>a) A <i>Road / Asset Opening Permit</i> must be obtained from Council prior</p>

	Condition
	<p>to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the <i>Roads Act 1993</i> and all of the conditions and requirements contained in the <i>Road / Asset Opening Permit</i> must be complied with.</p> <p>b) Council's Road / Asset Opening Officer must be notified at least 48 hours in advance of commencing any excavation works and also immediately upon completing the works (on 9399 0691 or 0409 033 921 during business hours), to enable any necessary inspections or works to be carried out.</p> <p>c) Relevant <i>Road / Asset Opening Permit</i> fees, construction fees, inspection fees and security deposits, must be paid to Council prior to commencing any works within or upon the road, footpath, nature strip or other public place,</p> <p>d) The owner/developer must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a <i>final occupation certificate</i> or occupation of the development (whichever is sooner).</p> <p>e) Excavations and trenches must be back-filled and compacted in accordance with AUSPEC standards 306U.</p> <p>f) Excavations or trenches located upon a road or footpath are required to be provided with 50mm depth of cold-mix bitumen finish, level with the existing road/ground surface, to enable Council to readily complete the finishing works at a future date.</p> <p>g) Excavations or trenches located upon turfed areas are required to be back-filled, compacted, top-soiled and re-turfed with Kikuyu turf.</p> <p>h) The work and area must be maintained in a clean, safe and tidy condition at all times and the area must be thoroughly cleaned at the end of each days activities and upon completion.</p> <p>i) The work can only be carried out in accordance with approved hours of building work as specified in the development consent, unless the express written approval of Council has been obtained beforehand.</p> <p>j) Sediment control measures must be implemented in accordance with the conditions of development consent and soil, sand or any other material must not be allowed to enter the stormwater drainage system or cause a pollution incident.</p> <p>k) The owner/developer must have a Public Liability Insurance Policy in force, with a minimum cover of \$10 million and a copy of the insurance policy must be provided to Council prior to carrying out any works within or upon the road, footpath, nature strip or in any public place.</p>

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

69.

Traffic Management

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

	Condition
	<p>accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.</p> <p>All work, including the provision of barricades, fencing, lighting, signage and traffic control, must be carried out in accordance with the NSW Roads and Traffic Authority publication - 'Traffic Control at Work Sites' and Australian Standard AS 1742.3 – Traffic Control Devices for Works on Roads, at all times.</p> <p>Condition Reason: To ensure construction traffic is appropriately managed and any requirements of relevant external agencies are met.</p>
70.	<p>Stormwater Drainage</p> <p>Adequate provisions must be made to collect and discharge stormwater drainage during construction of the building to the satisfaction of the Principal Certifier.</p> <p>The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.</p> <p>Condition Reason: To control and manage stormwater run-off during excavation/construction so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
71.	<p>Contaminated Land / Remediation</p> <p>Any Remediation of the site must be carried out in accordance with the requirements of the <i>Contaminated Land Management Act 1997</i>, environmental planning instruments applying to the site, guidelines made by the NSW Environment Protection Authority (EPA) and the <i>Protection of the Environment Operations Act</i> and the conditions of this consent.</p> <p>The remediation works must be monitored and validated by a suitable qualified environmental consultant, as detailed in the adopted Remediation Action Plan and conditions of consent.</p> <p>Council's and the Principal Certifier must be notified of any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination.</p> <p>Condition Reason: To ensure suitable remediation is undertaken as required.</p>
72.	<p>Classification Of Waste</p> <p>Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the <i>Protection of the Environment Operations Act 1997</i> and the <i>NSW EPA Waste Classification Guidelines, Part1: Classifying Waste (2014)</i>. The classification of the material is essential to determine where the waste may be legally taken. The <i>Protection of the Environment Operations Act 1997</i> provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.</p> <p>Condition Reason: To ensure suitable classification of waste.</p>
73.	<p>Pruning of neighbours trees</p> <p>Permission is granted for the minimal and selective pruning of only those lower growing, lower order branches from the southern aspects of the mature <i>Eucalyptus botryoides</i> (Bangalay, Tree 3) and <i>Agonis flexuosa</i> (Willow Myrtle, Tree 4), which are both located on higher ground, wholly within the adjoining private property at 37 Arcadia Street, and to the north of the free-standing brick shed which occupies the</p>

Condition	
	northwest corner of the subject site, only where they overhang into this development site and need to be pruned to avoid damage to the trees; or; interference with the approved works.
	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 these trees, the applicant must negotiate with the neighbour/tree owner for access to perform this work.
	All pruning can only be undertaken by at minimum, 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).
	Condition Reason: To ensure the protection and longevity of existing significant trees.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

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

	Condition
	<p>A single and complete <i>Fire Safety Certificate</i>, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the Occupation Certificate, in accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p> <p>A copy of the <i>Fire Safety Certificate</i> must be displayed in the building entrance/foyer at all times and a copy of the <i>Fire Safety Certificate</i> and <i>Fire Safety Schedule</i> must also be forwarded to Fire and Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
77.	<p>Structural Certification</p> <p>A Certificate must be obtained from a professional engineer, which certifies that the building works satisfy the relevant structural requirements of the Building Code of Australia and approved design documentation, to the satisfaction of the <i>Principal Certifier</i>. A copy of which is to be provided to Council.</p> <p>Condition Reason: To ensure the structural adequacy of the building and works.</p>
78.	<p>Sydney Water Certification</p> <p>A <i>section 73 Compliance Certificate</i>, under the <i>Sydney Water Act 1994</i> must be obtained from Sydney Water Corporation. An Application for a Section 73 Certificate must be made through an authorised Water Servicing Coordinator. For details, please refer to the Sydney Water web site www.sydneypwater.com.au > <i>Building and developing</i> > <i>Developing your Land</i> > <i>Water Servicing Coordinator</i> or telephone 13 20 92.</p> <p>Please make early contact with the Water Servicing Coordinator, as building of water/sewer extensions may take some time and may impact on other services and building, driveway or landscape design.</p> <p>The Section 73 Certificate must be submitted to the Principal Certifier and the Council prior to issuing an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements.</p>
79.	<p>BASIX Requirements</p> <p>In accordance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, a Certifier must not issue an Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.</p> <p>Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing an Occupation Certificate.</p> <p>Condition Reason: Statutory requirement. To ensure that the BASIX requirements have been fulfilled.</p>
80.	<p>Street and/or Sub-Address Numbering</p> <p>Street numbering must be provided to the front of the premises in a prominent position, in accordance with the Australia Post guidelines and AS/NZS 4819 (2003) to the satisfaction of Council.</p>

	Condition
	<p>If this application results in an additional lot, dwelling or unit, an application must be submitted to and approved by Council's Director of City Planning, together with the required fee, for the allocation of appropriate street and/or unit numbers for the development. The street and/or unit numbers must be allocated prior to the issue of an occupation certificate.</p> <p><i>Please note: any Street or Sub-Address Numbering provided by an applicant on plans, which have been stamped as approved by Council are not to be interpreted as endorsed, approved by, or to the satisfaction of Council.</i></p> <p>Condition Reason: To ensure properties are identifiable and that numbering is in accordance with the relevant standards and guidelines.</p>
81.	<p>Council's Infrastructure, Vehicular Crossings & Road Openings</p> <p>The owner/developer must meet the full cost for a Council approved contractor to:</p> <ol style="list-style-type: none"> Reconstruct a 3.30m wide "heavy duty residential" concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, to Council's specifications and requirements. Reconstruct kerb and gutter for the full site frontage except opposite the vehicular entrance and exit points, to Council's specifications and requirements. Remove existing 3.70m wide concrete footpath. Construct 1.96m wide concrete footpath along the full site frontage to Council's specifications and requirements. The footpath is to be constructed in alignment with the existing footpath in the frontage of 19 Baden Street. <u>The remaining width in Council's nature strip must be turfed and landscaped to Council's specification.</u> <p>Prior to issuing a final occupation certificate or occupation of the development (whichever is sooner), the owner/developer must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.</p> <p>All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:</p> <ol style="list-style-type: none"> Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development,

Condition	
	or as otherwise approved by Council in writing.
	The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.
	Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
82.	<p>Sydney Water</p> <p>A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. Make an early application for the certificate, as there may be assets to be built, and this can take some time. A Section 73 Compliance Certificate must be obtained by the Principal Certifier/Applicant prior to the issuing of an Occupation Certificate or Subdivision Certificate, whichever the sooner.</p> <p>Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.</p> <p>Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</p> <p>Condition Reason: To ensure the development satisfies Sydney Water requirements with regards to any upgrade/adjustment of Sydney Water's assets.</p>
83.	<p>Traffic signal system</p> <p>A traffic signaling system shall be installed for this development within and at the entrance to the basement carpark at a suitable location to the satisfaction of the Principal Certifier.</p> <p>The traffic signaling system must comply with the following minimum requirements:</p> <ul style="list-style-type: none"> • The traffic signaling system shall be set default to green for vehicles entering the carpark • The traffic system must display when the carpark is full to avoid vehicles entering the carpark and then reversing up the driveway (since no turning bay is provided). • The traffic signaling system must be installed and operational prior to occupation of the development. <p>Condition Reason: To minimise the potential for queuing extending onto the street and ensure the completed carpark is fit for purpose and ready for occupation.</p>
84.	<p>Carparking</p> <p>The proposed carpark shall be finished in a manner fit for its intended use. The car spaces shall be formalised with line-marking and numbering/labelling with such works completed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To ensure the completed carpark is fit for purpose and ready for occupation.</p>
85.	<p>Undergrounding of Power</p> <p>The Principal Certifier shall ensure that power supply to the completed development has been provided as an underground (UGOH) connection from the nearest mains distribution pole in Baden Street. All work is to be to the requirements and satisfaction of Ausgrid and at no cost to Council.</p>

Condition	
	<p>NOTE: Any private poles must be removed prior to the issuing of an occupation certificate.</p> <p>Condition Reason: To minimise the use of private poles in accordance with Council's resolution and protect street amenity.</p>
86.	<p>Stormwater Drainage</p> <p>A "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention/infiltration system is maintained and that no works which could affect the design function of the detention/infiltration system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.</p> <p>Notes:</p> <ol style="list-style-type: none"> The "restriction on the use of land" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council. Evidence of registration of the Positive Covenant and Restriction (by receipt and/or title search) on the title of the subject property must be provided to the satisfaction of the Principal Certifier. <p>Condition Reason: To ensure stormwater run-off is effectively managed for the life of the development.</p>
87.	<p>Stormwater Drainage</p> <p>A works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced hydraulic consultant/engineer must be forwarded to the Principal Certifier and the Council. The works-as-executed plan must include the following details (as applicable):</p> <ul style="list-style-type: none"> Finished site contours at 0.2 metre intervals; The location of any detention basins/tanks with finished surface/invert levels; Confirmation that orifice plate/s have been installed and orifice size/s (if applicable); Volume of storage available in any detention areas; The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes; Details of any infiltration/absorption systems; and Details of any pumping systems installed (including wet well volumes). <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
88.	<p>Stormwater Drainage</p> <p>The applicant shall submit to the Principal Certifier and Council, certification from a suitably qualified and experienced Hydraulic Engineer, which confirms that the design and construction of the stormwater drainage system complies with the Building Code of Australia, Australian Standard AS3500.3:2003 (Plumbing & Drainage- Stormwater Drainage) and conditions of this development consent.</p>

	Condition
	<p>The certification must be provided following inspection/s of the site stormwater drainage system by the Hydraulic Engineers to the satisfaction of the Principal Certifier.</p> <p>The applicant shall submit to the Principal Certifier and Council certification from a suitably qualified and experienced professional engineer, confirming that the walls of the basement have been fully tanked and waterproofed to prevent the entry of all groundwater in the basement levels and that any required sub-soil drainage systems have been provided in accordance with the conditions of this consent. There must be no dry weather seepage/groundwater flows discharging to Council's street gutter.</p> <p>Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.</p>
89.	<p>Waste Management</p> <p>Prior to the occupation of the development, the owner or applicant is required to contact Council's City Services department, to make the necessary arrangements for the provision of waste services for the premises.</p> <p>The waste storage areas shall be clearly signposted.</p> <p>Condition Reason: To ensure adequate waste management for the life of the development.</p>
90.	<p>Acoustic validation report</p> <p>An acoustic report or statement prepared by a suitably qualified and experienced consultant must be provided to the Principal Certifier and Council, which demonstrates that the noise from all plant and equipment satisfies the relevant provisions of the <i>Protection of the Environment Operations Act 1997</i> and associated Regulations, relevant Environment Protection Authority Guidelines, and the applicable conditions of this development consent.</p> <p>Condition Reason: To ensure acoustic amenity.</p>
91.	<p>Asbestos/Hazardous materials</p> <p>A report or statement must be provided to Council which confirms that any hazardous materials (including materials containing asbestos) on the site have been managed, removed and disposed of in accordance with relevant requirements of SafeWork NSW and conditions of development consent.</p> <p>Condition reason: To protect against hazardous materials.</p>
92.	<p>Site Audit Statement</p> <p>If applicable upon completion of the site remediation work and prior to this issue of an Occupation Certificate, a final Site Audit Statement and Summary Site Audit Report must be submitted to Council, the owner and Principal Certifier for the development, in accordance with the conditions of this consent.</p> <p>Condition Reason: To ensure suitable remediation is undertaken as required.</p>
93.	<p>Landscape Certification</p> <p>Prior to any Occupation Certificate, certification from a qualified professional in the Landscape industry must be submitted to, and be approved by, the Principal Certifier, confirming the date that the completed landscaping was inspected, and that it has been installed substantially in accordance with the Landscape Plans by Jose Afonso Landscape Architect, dwg L01-08, rev 01 dated 14/03/2025, and any relevant conditions of consent.</p>

Condition	
	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.
	Condition Reason: To ensure landscaping is implemented in accordance with the consent and maintained for the life of the development.
94.	<p>Project Arborist Certification</p> <p>Prior to any Occupation Certificate, the Project Arborist must submit to, and have approved by, the Principal Certifier, a written, Final Compliance Report, which confirms compliance with the conditions of consent and Arborists Report Recommendations; the dates of attendance and works performed/supervised relating to retention of T2-4.</p> <p>Condition Reason: To ensure significant trees have been suitably protected and retained in accordance with Arborist Recommendations and relevant conditions of consent.</p>

STRATA SUBDIVISION PRIOR TO ISSUE OF SUBDIVISION/STRATA CERTIFICATE

Condition	
95.	<p>Strata Certificate</p> <p>A formal application for a strata certificate is required to be submitted to and approved by Council or a registered certifier and all relevant conditions of this development consent are required to be satisfied.</p> <p>Condition Reason: To ensure the building is fit for occupation and strata subdivision.</p>
96.	<p>Strata Plans</p> <p>All floors, external walls and ceilings depicted in the proposed strata plan must be constructed.</p> <p>All floors, external walls and ceilings depicted in the proposed strata plan must correspond to those depicted in this development consent and construction certificate for the building.</p> <p>Condition Reason: To ensure the proposed strata plan corresponds with the works as executed.</p>
97.	<p>Plan of Survey</p> <p>The applicant shall provide Council with a copy of the base plan of survey (e.g. Plan of Redefinition) for the property prior to issuing of a strata certificate.</p> <p>Condition Reason: To ensure the proposed strata plan corresponds with the survey of the constructed development.</p>
98.	<p>Critical Stage Inspections</p> <p>Details of critical stage inspections carried out by the Principal Certifier, together with any other certification relied upon, must be provided to Council or the Certifier.</p> <p>Condition Reason: To ensure the building is fit for occupation and strata subdivision.</p>
99.	<p>Restriction and Positive Covenant</p> <p>A "restriction on the use of land" and "positive covenant" (under section 88B of the <i>Conveyancing Act 1919</i>) shall be placed on the title of the subject property (in</p>

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Condition	
	<p>conjunction with registration of the plan of subdivision) to ensure that the onsite detention system and/or infiltration/pump-out system is maintained and that no works which could affect the design function of the infiltration/detention/pump-out system are undertaken without the prior consent (in writing) from Council. The restriction and positive covenant shall not be released, varied or modified without the consent of the Council.</p> <p>The "restriction on the use of land" and "positive covenant" are to be prepared and specified to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's City Services Department.</p> <p>The applicant shall create suitable right of carriageway and easements as required, however generally all services lines (including stormwater) over any strata lot serving another strata lot are to be common property.</p> <p>Condition reason: To ensure the creation and registration of relevant restrictions and positive covenants in relation to stormwater management and on site detention.</p>
100.	<p>Development Consent Conditions</p> <p>The conditions of development consent must be satisfied, and all public roads and reserves must be satisfactorily restored prior to endorsement of the strata subdivision plans.</p> <p>Condition Reason: To ensure the development is constructed in accordance with this consent and is fit for occupation.</p>

OCCUPATION AND ONGOING USE

Condition	
101.	<p>Car Parking</p> <p>The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building.</p> <p>All prospective owners and tenants of the building must be notified that Council will not issue any residential parking permits to occupants/tenants of this development.</p> <p>A notice shall be placed in the foyer/common areas of the building advising tenants/occupiers that they are in a building which does not qualify for on-street resident parking permits.</p> <p>Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.</p>
102.	<p>Management of Strata parking on-site</p> <p>A <i>Strata Parking Management Plan</i> must be developed and implemented for the development, which includes strategies and measures to 'self-manage' resident and visitor parking within the development.</p> <p>Strategies and measures may include:</p> <ul style="list-style-type: none"> • Adoption of parking by-laws; • Installation of suitable barriers, bollards, low-height fencing and gates; • Installation of signage and notices; • Intercom or key card systems;

Condition	
	<ul style="list-style-type: none"> Security systems and security personnel; Enforcement processes and provisions to be implemented by the Owners Corporation/Strata Management <p>Condition Reason: To ensure that on-site parking is managed appropriately, and is for the use of occupants or visitors of the development only.</p>
103.	<p>Fire Safety Statement</p> <p>A single and complete <i>Fire Safety Statement</i> (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i> at least on an annual basis each year following the issue of the <i>Fire Safety Certificate</i>, and in accordance with the <i>Fire Safety Schedule</i> for the building.</p> <p>The <i>Fire Safety Statement</i> is required to confirm that all the fire safety measures have been assessed by a registered fire safety practitioner and are operating in accordance with the standards of performance specified in the <i>Fire Safety Schedule</i>.</p> <p>A copy of the <i>Fire Safety Statement</i> must be displayed within the building entrance or foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.</p> <p>Condition Reason: Statutory requirement. To ensure compliance with the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>, and that adequate provision is made for fire safety in the premises for building occupant safety.</p>
104.	<p>External Lighting</p> <p>External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.</p> <p>Condition reason: To protect the amenity of the surrounding area and residents.</p>
105.	<p>Stormwater Detention/Infiltration System</p> <p>The detention area/infiltration system must be regularly cleaned and maintained.</p> <p>Condition Reason: To ensure the detention/infiltration system functions in accordance with its original design.</p>
106.	<p>Noise</p> <p>The operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>.</p> <p>The air conditioning plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:</p> <ul style="list-style-type: none"> before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or before 7.00am or after 10.00pm on any other day. <p>Condition reason: To ensure suitable acoustic amenity.</p>

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DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

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

DURING DEMOLITION WORK

Condition	
108.	<p>Demolition Work</p> <p>Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of</p>

Condition

compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council.

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

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

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

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

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

Development Application Report No. D31/25

Subject: 56-58 Bream Street, Coogee(DA/19/2025)

Executive Summary

Proposal:	Site amalgamation of two (2) existing lots, demolition of existing dwellings/structures, tree removal and construction of part-3, part-4 storey residential flat building containing seven residential units (including an Affordable Housing unit), a basement level comprising 12 car spaces, a communal open space (at ground level), ancillary and landscaping works.
Ward:	East Ward
Applicant:	Attena Group Pty Ltd
Owner:	58 Bream Street Pty Ltd; Attena Holdings Pty Ltd
Cost of works:	\$4,131,575
Reason for referral:	The development contravenes the development standards for floor space ratio and affordable housing component by more than 10%; the development is subject to Chapter 4 of the Housing SEPP 2021 as the building is 3 or more storeys and contains at least 4 dwellings; and 15 unique submissions by way of objection were received.

Recommendation

That the RLPP refuses consent under Section 4.16 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/19/2025 *for site amalgamation of two (2) existing lots, demolition of existing dwellings/structures, tree removal and construction of part-3, part-4 storey residential flat building containing seven residential units (including an Affordable Housing unit), a basement level comprising 12 car spaces, a communal open space (at ground level), ancillary and landscaping works*, at Nos. 56-58 Bream Street, Coogee, for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with the following objectives and standards of Randwick Local Environmental Plan (RLEP) 2012 as follows:
 - a) Pursuant to Clause 2.3 of RLEP 2012, the proposal is inconsistent with the zone objectives of R3 Medium Density Residential Zone as it is not compatible with the desired future character of the locality and significantly exceeds the level of built form anticipated for the subject site. The proposed development fails to recognise or reflect the desirable elements of the existing streetscape and built form. The proposal also fails to protect the amenity of residents with regard to visual bulk, overshadowing and privacy.
 - b) Pursuant to Clause 4.4 of RLEP 2012, the proposal does not comply with the Floor Space Ratio development standard and objectives of the clause. The non-compliance results in a proposal that is of an excessive bulk and scale that is incompatible with surrounding development and the streetscape.
 - c) Pursuant to Clause 6.2 of RLEP 2012, the proposed excavation will have a detrimental impact on neighbouring uses.
 - d) Pursuant to Clause 6.7 of RLEP 2012, the proposal fails to contribute to the scenic quality of the coastal foreshore.
2. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with the following objectives and standards of State Environmental Planning Policy (Housing) 2021, as follows:

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- a) Pursuant to section 16(1) of the Housing SEPP, the proposed development fails to comply with the floor space ratio development standard for in-fill affordable housing.
 - b) Pursuant to section 16(2) of the Housing SEPP, the proposed development fails to comply with the affordable housing component development standard for in-fill affordable housing.
- 2. Pursuant to Section 4.15(1)(a)(iv) of *Environmental Planning and Assessment Act 1979*, the applicant has failed to specify the name of the registered community housing provider who will manage the affordable housing component in accordance with Section 26 of *Environmental Planning and Assessment Regulation 2021*.
- 3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the design quality of the proposal was not supported by the Randwick Design Excellence Advisory Panel as referred to pursuant to Clause 145 of the Housing SEPP. The proposal fails to meet aim of Chapter 4 of the SEPP to achieve better built form and aesthetics of buildings, streetscapes and public spaces.
- 4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal does not comply with State Environmental Planning Policy (Housing) 2021, Chapter 4 Design of residential apartment development. The proposal does not comply with the following sections of the Apartment Design Guide:
 - a) Pursuant to Part 3D-1 of the ADG and Part C2, Section 2.3 of RDCP 2013, the proposal fails to provide sufficient communal open space by area and with a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June.
 - b) Pursuant to Part 4A of the ADG and Part C2, Section 5.1 of RDCP 2013, the proposal fails to provide sufficient solar access to proposed dwellings.
 - c) Pursuant to Part 4C of the ADG, kitchen to Units 1-6 and bedroom to Unit 7 does not meet the minimum 2.7m ceiling height.
 - d) Pursuant to Part 4D of the ADG, bedroom 3 of Unit 7 does not meet the minimum area requirement and bedroom 1 of Units 3, 5 and 7 fail to meet minimum 3m width.
 - e) Pursuant to Part 4E of the ADG, the primary balconies to Unit 3 and Unit 5 fail to comply with the minimum 2.4m depth requirement.
 - f) Pursuant to Part 4G of the ADG, no Units comply with 10m³ storage requirement.
- 5. Pursuant to Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the following controls of Randwick Development Control Plan (RDCP) 2013:
 - a) Pursuant to Part B6, Section 4 of RDCP 2013, the proposal fails to comply with ongoing waste management requirements.
 - b) Pursuant to Part C2, Section 2.1 of RDCP 2013, the proposed layout is not based on a detailed site analysis.
 - c) Pursuant to Part C2, Section 2.2.1 of RDCP 2013, the proposal fails to comply with the minimum landscaped open space area.
 - d) Pursuant to Part C2, Section 3.3 of RDCP 2013, the proposal fails to comply with the maximum building depth of 14m.
 - e) Pursuant to Part C2, Section 3.4 of RDCP 2013, the proposal fails to comply with the minimum side setback requirements.
 - f) Pursuant to Part C2, Section 4.1 of RDCP 2013, the proposal fails to achieve sufficient facade articulation.
 - g) Pursuant to Part C2, Section 4.2 of RDCP 2013, the proposal fails to comply with roof design objectives.
 - h) Pursuant to Part C2, Section 4.4 of RDCP 2013, the proposal fails to comply with the maximum 10.5m external wall height requirement.
 - i) Pursuant to Part C2, Section 4.9 of RDCP 2013, the proposed colours, materials and finishes do not satisfy the objectives.
 - j) Pursuant to Part C2, Section 4.12 of RDCP 2013, the proposed earthworks exceed excavation controls and minimum setback of retaining walls.
 - k) Pursuant to Part C2, Section 5.4 of RDCP 2013, the proposal has not demonstrated acoustic privacy impacts meet objectives.


- l) Pursuant to Part C2, Section 5.6 of RDCP 2013, the proposal has not been designed spaces for safe and secure access to and within the development.
 - m) Pursuant to Part C2, Section 5.6 of RDCP 2013, the proposal has not been designed spaces for safe and secure access to and within the development.
6. A full and robust assessment of the proposal cannot be completed as the applicant has failed to provide sufficient information, including:
- a) Clause 4.6 Statement regarding the non-compliance with the FSR development standard.
 - b) An Arborist Report;
 - c) A Preliminary Acid Sulfate Soil Investigation;
 - d) A Building Code of Australia Report;
 - e) An Acoustic Report from a suitably qualified acoustic consultant is required for the acoustic impacts to be understood;
 - f) Evidence that fire sprinklers (and other required building services) can be provided within the proposed floor and ceiling heights;
 - g) A Design Context Analysis;
 - h) Visitor parking allocation; and
 - i) Details of large service voids.
7. Pursuant to section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the suitability of the site for the proposed development as not been adequately demonstrated.
8. Pursuant to section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not in the public interest having regard to the significant and numerous non-compliances with relevant planning controls, and the objections raised in the public submissions.

Attachment/s:

Nil

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D31/25



N.b. a total of fifteen (15) submissions were received during the public exhibition period.

Subject Site

Submissions received

North

Locality Plan

1. Executive Summary

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

- The development contravenes the development standards for floor space ratio and affordable housing component by more than 10%;
- The development is subject to Chapter 4 of the Housing SEPP 2021 as the building is 3 or more storeys and contains at least 4 dwellings; and
- 15 x unique submissions by way of objection were received.

The proposal seeks development consent for site amalgamation of two (2) existing lots, demolition of existing dwellings/structures, tree removal and construction of part-3, part-4 storey residential flat building containing seven residential units (including an Affordable Housing unit), a basement level comprising 12 car spaces, a communal open space (at ground level), ancillary and landscaping works at 56-58 Bream Street, Coogee.

The key issues associated with the proposal relate to zone objectives, local area compatibility and desired future character, floor space ratio (FSR), apartment design, side setbacks, landscaped open space, rooftop terrace, earthworks, solar access and overshadowing, wall height, waste management and the public interest.

It is noted that the application is currently subject to a Class 1 appeal against the deemed refusal of the application with the Land and Environment Court (refer No. 2025/83376).

The suitability of the site for the proposed development has not been adequately demonstrated and the proposed development is not in the public interest. In this regard, the proposal is recommended for refusal.

2. Site Description and Locality

The subject sites are known as No.56 & 58 Bream Street, Coogee and are legally described as Lot 1 in DP 220244 (No.56) & Lot 2 in DP 220244 (No.58).

The site is generally rectangular in shape and has an area of 612.6m². It has a combined 20.085m frontage to Bream St (to the north) and a 30.71m frontage to Brook St (to the west). The site is within the R3 Medium Density Residential zone under the provisions of Randwick Local Environmental Plan 2012 (RLEP). There is a fall of approximately 3m from the front (north) to the rear (south). A pair of one (1) and two (2) storey semi-detached dwellings currently occupies the site (refer Figure 1).



Figure 1: Photograph of existing development at No. 56 (right) & No.58 (left)
(Source: Council Assessment Officer)

The site is located on the south-eastern corner of Bream Street and Brook Street. Surrounding development is characterised by a mix of residential flat buildings, dwellings, and semi-detached dwellings.

- To the north of the site, at 63 Bream Street, is a three (3) to four (4) storey residential flat building.
- To the south of the site, at Nos. 71 and 75-77 Dolphin Street, is four (4) storey residential flat buildings.
- To the east of the site, at 60-62 Bream Street, is a two (2) storey residential flat building.
- To the west of the site, on the opposite side of Brook Street, is the Coogee Beach Tennis Courts.

3. Relevant History

Both 56 & 58 Bream Street have had Development Applications recently approved through the Land & Environment Court for 4-storey apartment buildings with basement parking (refer Figure 2).



3D View of the Approval at No. 56 Bream Street



3D View of the Approval at No. 58 Bream Street

Figure 2: Approved Development 3Ds (Source: SEE - GSA Planning)

Development Application No. DA/161/2022 was approved by the Land and Environment Court on 25 October 2022 for the following development at No. 56 Bream Street:

“Demolition of existing structures, construction of four storey residential flat building (“RFB”) comprising three (3) units (1 x 3 bedrooms, 1 x 2 bedrooms and a studio), basement parking for four (4) vehicles, three (3) bicycle spaces and associated landscape works.”

Development Application No. DA/150/2022 was approved by the Land and Environment Court on 25 October 2022 for the following development at No. 58 Bream Street:

“Demolition of existing structures, construction of four storey residential flat building (“RFB”) comprising three (3) units (1 x 3 bedrooms, 1 x 2 bedrooms and 1 x 1 bedroom), basement parking for four (4) vehicles, three (2) bicycle spaces and associated landscape works.”

The consent was subsequently modified by DA/150/2022/A, which was approved by the Land and Environment Court on 04 April 2024 for modification to the approved development for a rear extension, floorplan reconfiguration, conversion of planter areas to balconies, and an additional bedroom to ground floor Unit 1.

4. Proposal

The proposal seeks development consent for site amalgamation of two (2) existing lots, demolition of existing dwellings/structures, tree removal and construction of part-3, part-4 storey residential flat building containing seven residential units (including an Affordable Housing unit), a basement level comprising 12 car spaces, a communal open space (at ground level), ancillary and landscaping works at 56-58 Bream Street, Coogee.

Specifically, the proposed development includes (refer Figures 3-5):

- a) Demolition of the existing structures and trees at the site.
- b) Site amalgamation of Nos. 56 and 58 Bream Street.
- c) Construction of a four (4) storey residential flat building comprising:
 - i. 7 x three (3) bedroom units, including one (1) affordable housing unit.
 - ii. Basement car park to accommodate 12 x car parking spaces.
- d) Associated site works and landscaping, including communal open space (at ground level).

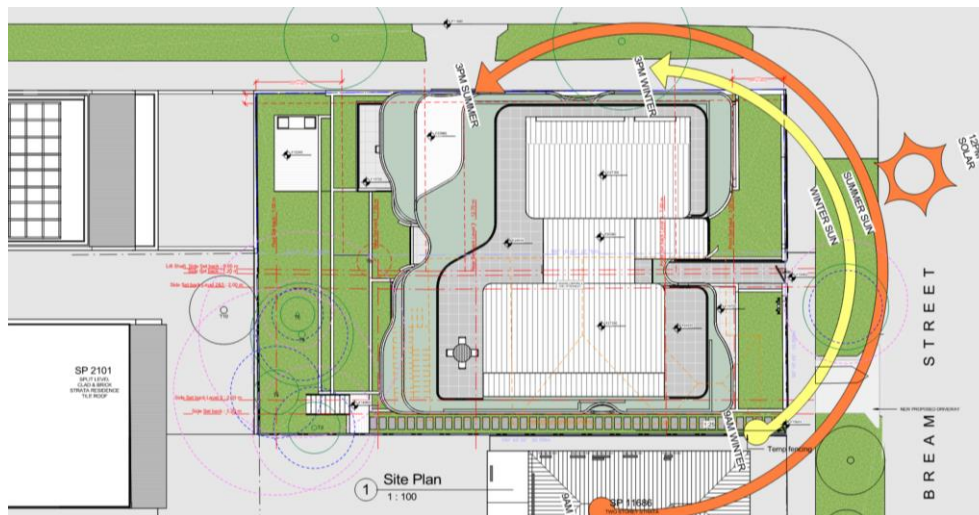


Figure 3: Proposed site plan (Source: BY SOMA)



Figure 4: Proposed section plan (Source: BY SOMA)



Figure 5: Proposed photomontage (Source: BY SOMA)

The Applicant has asserted that the proposal for DA/19/2025 follows the same building envelope as the Court approved proposals, with the exception of the area filled in between the dwellings. The Applicant has asserted that it therefore does not pose any additional impacts (refer Figure 6-8).

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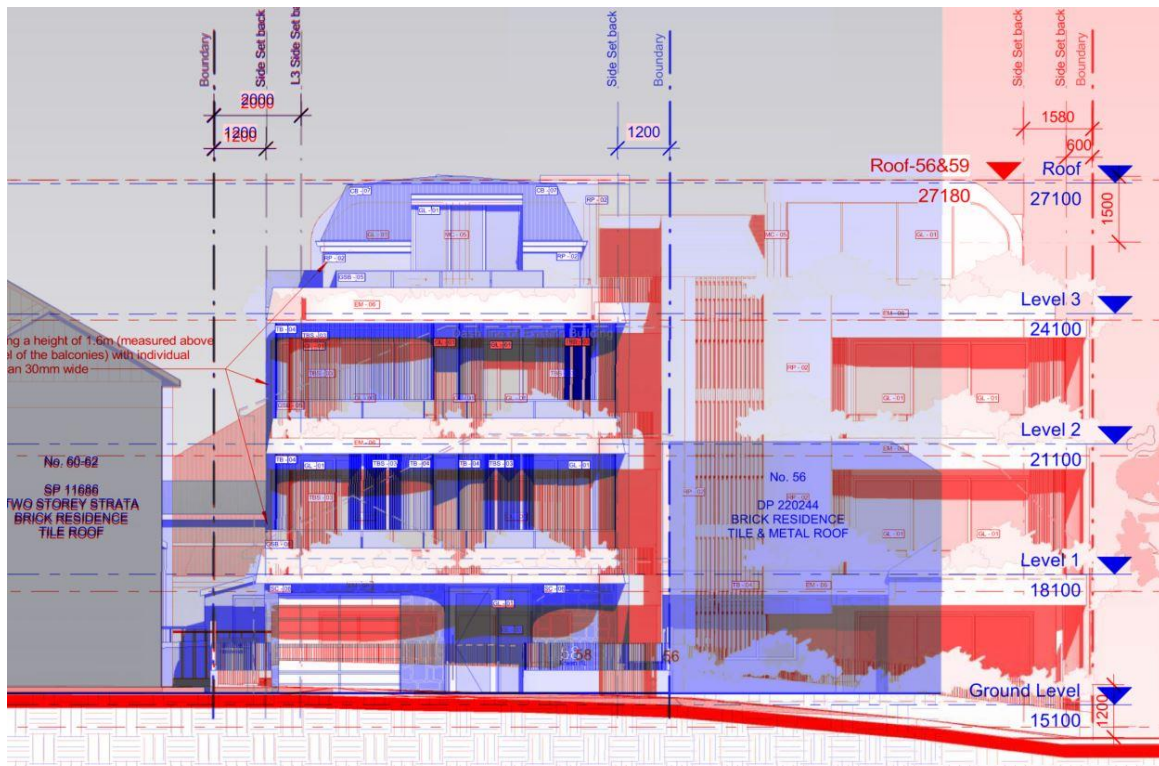


Figure 6: North elevation overlay DA/161/2022 (blue); DA/19/2025 (red)
(Source: Attena Group) Overlay by Council Assessment Officer

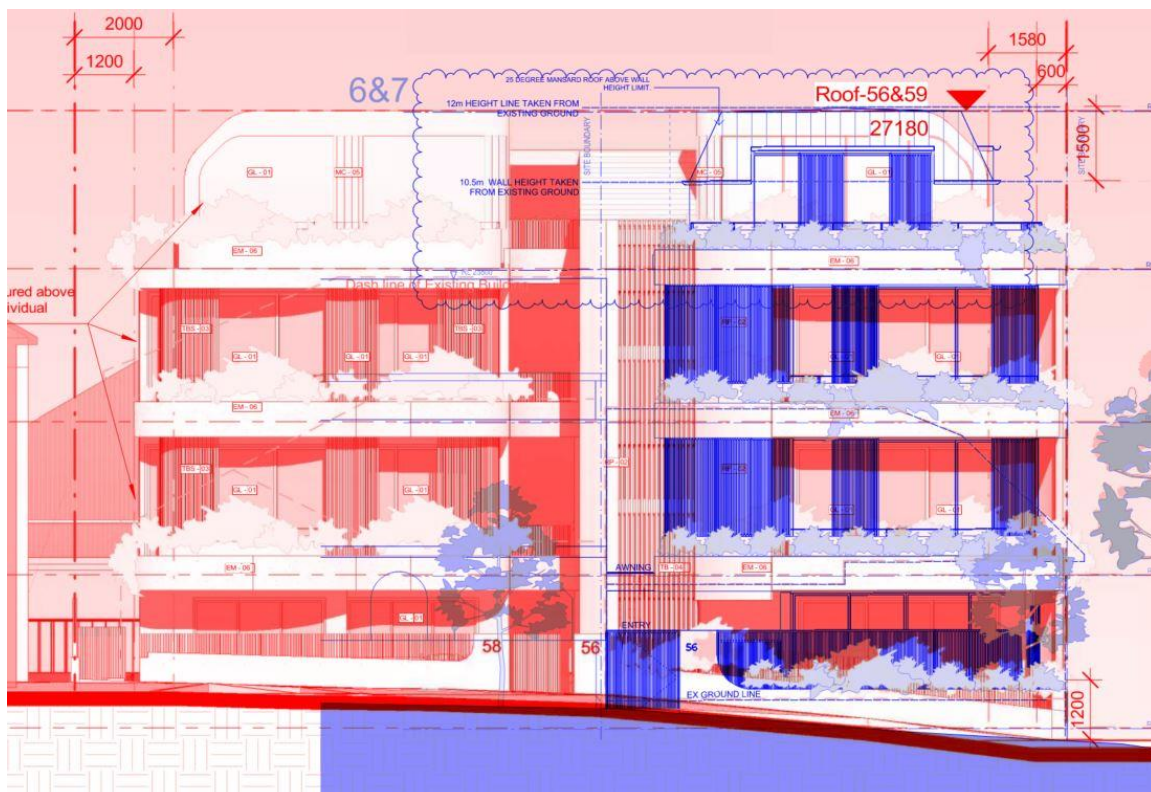


Figure 7: North elevation overlay DA/150/2022/A (blue); DA/19/2025 (red)
(Source: Attena Group) Overlay by Council Assessment Officer

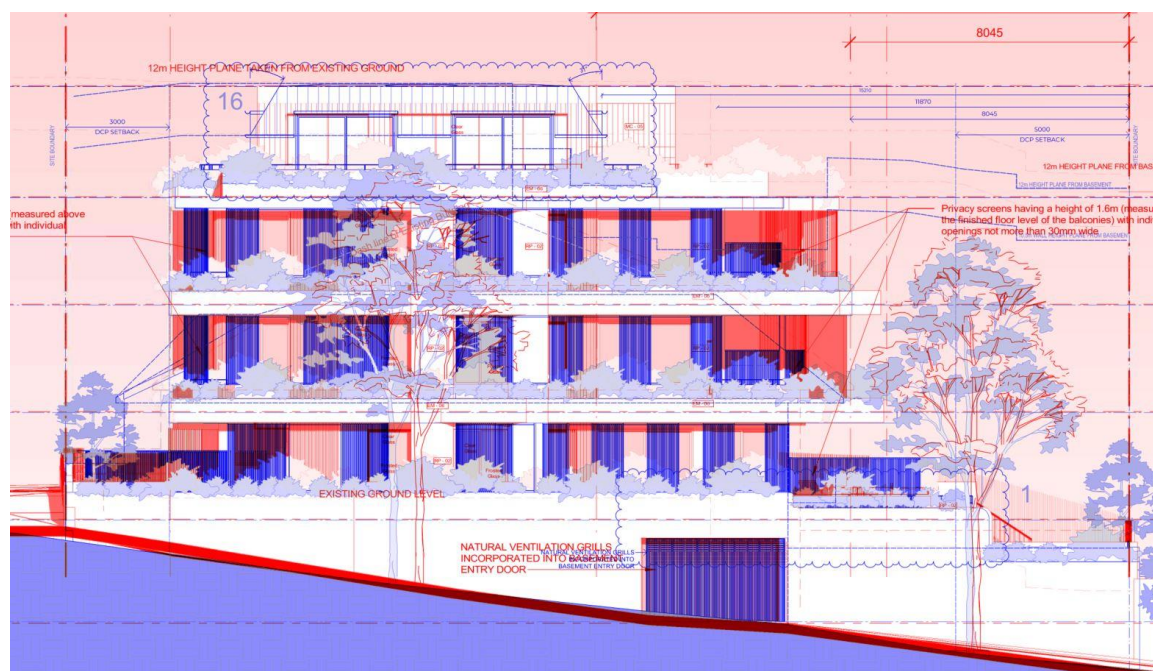


Figure 8: West elevation overlay DA/150/2022/A (blue); DA/19/2025 (red)
(Source: Attena Group) Overlay by Council Assessment Officer

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. A total of fifteen (15) submissions were received during the public exhibition period, as listed below:

- Unit 1 & 3, 60 Bream Street
- Unit 2, 61B Bream Street (2x separate submissions)
- Unit 5, 64 Bream Street
- Unit 9, 65 Bream Street
- Unit 1, 68 Bream Street
- Unit 2, 71-73 Dolphin Street
- 71-73 Dolphin Street
- Unit 3, 75-77 Dolphin Street
- Unit 4, 75-77 Dolphin Street
- Strata Committee of 75-77 Dolphin Street, Coogee
- Unit 1, 77 Dolphin Street
- Unit 2, 79-81 Dolphin Street
- Unit 4, 81 Dolphin Street
- Address Unknown

The submissions have been paraphrased and summarised as below:

- Unit 2, 71-73 Dolphin Street

Solar Access

The existing dwelling is a 1—2 story building with a substantial setback from the rear fence (~25m), ensuring that my solar access remains unaffected. However, the DA application does not include any attached plans or documents. Given the proposed 7-unit, 3-4 storey development, it is reasonable to assume that the new structure will extend further into the block, significantly impacting the solar access to my kitchen and lounge windows, as well as the sunlight available to the common garden area.

Assessing officer's comment: See 'Discussion of key issues' section for solar access assessment. Difference of solar access to neighbouring properties compared with approvals under DA/161/2022 & DA/150/2022/A is negligible. The proposed amalgamated site provides greater opportunity to minimise solar access impacts. The significant breach in FSR indicates the proposal is of excessive bulk & scale, reducing the bulk & scale to comply would increase solar access to neighbouring properties.

Landscaping & Open Space

The current properties at 56-58 Bream Street occupy approximately 50% of the block, leaving ample backyard space with well-maintained gardens. The DA application lacks details, but I anticipate that this open space will be significantly reduced, affecting both the character of the area and the overall greenery available to neighboring residents.

Assessing officer's comment: See 'Discussion of key issues' section. Pursuant to Control i) in Part C2, Section 2.2.1 of RDCP, 50% (306.3m²) of the site area is to be landscaped open space. The proposed development provides 206m² of landscaped open space, which equates to 34% of the site area.

Visual Privacy

The existing dwellings do not impede any privacy. However, they do impact the privacy of Unit 4, 71-73 Dolphin Street, as its bedroom window faces the rear of 56 Bream Street. The current situation allows for occasional glimpses between the two properties at a distance of ~40 metres, which both tenants have noted can be inconvenient but somewhat humorous.

A new multi-story development would likely decrease this distance and increase the number of overlooking windows, raising privacy concerns for both Unit 4 and myself. Additionally, it would affect the privacy of those using the common garden area, including the outdoor shower.

Assessing officer's comment: Visual privacy impacts are not greater than approvals under DA/161/2022 & DA/150/2022/A. If an approval was recommended, suitable conditions relating to privacy screens would be imposed. Refer to 'Discussion of key issues' section for further detail.

Local Character

The houses at 56-55 Bream Street are unique in that they are standalone dwellings in an otherwise high-density area. They contribute to the neighborhood's character, with 56 Bream Street recently undergoing tasteful renovations while preserving its original 1950s frontage. These homes are now approximately 70 years old and, in my opinion, are worth preserving as part of the area's architectural heritage.

Assessing officer's comment: Existing dwellings do not have heritage value and is not meeting the development potential of the site. The proposal is not in keeping with the local character in design, bulk & scale as indicated by the significant FSR non-compliance and lack of detailed contextual analysis.

- Unit 4, 81 Dolphin Street

Earthworks

The geotechnical report does not address the integrity of and potential impacts to the retaining wall adjoining the rear of the site down to Dolphin Street. The portion of the wall at the rear of our unit has had to be repaired twice in the past 10 years and with recent rains we are more concerned than ever about structural integrity. The idea of earthworks so close by shifting the soil composition and causing vibrations is of serious concern. The geotechnical report notes loose and very loose sand for excavation requiring particular care. We have known structural vulnerabilities at the back of our block that will be the subject of their own DA application in the near future.

Assessing officer's comment: Agreed, see 'Key issues for discussion' section of the report. Should the DA have been recommended for approval, appropriate dilapidation reporting requirements would have been imposed.

Solar Access

The shadow projections on document A120 show impacts to the backyard of 4/81 Dolphin Street in the afternoons. All units rely on light to the rear of our building. As a ground floor unit holder this has the potential to impact enjoyment and particularly the ability to grow plants in our yard.

Assessing officer's comment: See 'Discussion of key issues' section for solar access assessment.

Communal Areas

The proposed communal area will be very close to the Dolphin Street properties and at eye/ear level to some of the units —again impacting private enjoyment of family life, especially during the summer months.

Assessing officer's comment: Proximity of communal open space to Dolphin Street could be mitigated through appropriate conditions relating to privacy screens and landscaping. The proposed communal area is poorly located as it has poor solar access.

- Unit 1 & 3, 60 Bream Street

Building Height & Solar Access

I would like to object to this development on height. Numbers 60-62 and 64-66 Bream Street are on the same block as the proposed development and are 2 story residences (as in ground level and 1st floor) and the proposed development will be significantly taller than the buildings in the block east along Bream Street.

The stratas for Numbers 60-62 and 64-66 Bream Street share an open backyard area where there are clothes lines set up for the residents. The proposed development will cast significant overshadowing not only of Numbers 60-62 and 64-66 Bream Street but also of other buildings south and east, as well as an obvious reduction in privacy for the buildings in the vicinity.

Assessing officer's comment: See 'Discussion of key issues' section for solar access assessment. Building height is compliant with development standards due to affordable housing bonuses provided under the Housing SEPP. Proposal does not meet maximum wall height control of 10.5m. A proposal that complied with the FSR development standard, with a top level integrated into a roof form in line with DCP controls would improve solar access to neighbouring dwellings.

- Unit 4, 75-77 Dolphin Street

Solar Access

My apartment is a ground-floor apartment with courtyard on the western side of SP 2101. My apartment runs along a roughly north-to-south axis and has a narrow frontage on the north-side. The common wall with my neighbour runs along the eastern side of my apartment, meaning there is no light from this direction. To the western side of my apartment is the unit block at 71 Dolphin Street which is set close to my building and markedly limits light entering my apartment from the western side.

I currently get a good degree of light entering the courtyard and apartment from the north, particularly during the middle of the day. The solar plan indicates that the proposed development will potentially block the sun for most of the day; particularly in winter. This will impact liveability as I will need to use more artificial lighting during the day to light my home. Less light in the courtyard will also likely impact liveability; affecting plantings and the time-window for drying laundry etc. This will also likely result in increased electricity costs due to needing more lighting hours, increased heating in winter, and laundry-dryer usage etc.

Assessing officer's comment: See 'Discussion of key issues' section for solar access assessment.

Visual Privacy

Impact to the privacy and quiet use of my courtyard and apartment: The existing structures at 56 and 58 Bream Street are not readily visible from my courtyard. In addition to the potential blockage of the sun, the proposed development will see a tall and imposing apartment block along my north-boundary with 7 apartments and a communal living area. Although the plans have included a line-of-sight diagram, it is not evident from this how much the development will impact on my courtyard and apartment. Especially since they have not detailed line-of-sight from their communal living area and they appear to have based their diagrams on our apartment block being 2-stories when it is in fact 3-stories high.

Assessing officer's comment: As per previous submission. Visual privacy impacts are not greater than approvals under DA/161/2022 & DA/150/2022/A. If an approval was recommended, suitable conditions relating to privacy screens would be imposed.

Earthworks

I am unsure about how the development will manage the stone retaining wall that forms the property boundary between my courtyard and 58 Bream Street. Although the plan indicates that it will be retained, the plan also seems to indicate that they will place a timber fence on my side of the retaining wall. I would like clarification on their proposal for this as I do not want the retaining wall altered or obscured.

Assessing officer's comment: Appropriate engineering and dilapidation reporting requirements would be imposed if approval were recommended. Existing retaining wall is not proposed to be demolished.

Construction Impacts

I am also unsure how long the proposed construction window is, which will likely have a significant impact on the quiet enjoyment of my property.

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

- Unit 5, 64 Bream Street

Visual Privacy

Privacy concerns of surrounding properties with the proposed new building looking in on bedrooms, bathrooms and living areas.

Assessing officer's comment: As per previous submissions.

Solar Access

The lack of shadow diagrams showing the significant solar shadow it will cast on surrounding buildings, including backyards and gardens as well as existing solar panel systems.

Assessing officer's comment: As per previous submissions.

Habitat Loss

The removal of trees and vegetation at the rear of the property which provide habitat for many birds and marsupials.

Assessing officer's comment: Tree protection conditions would be imposed if approval was recommended. See Appendix 1 for Landscape Development Officer comments.

Construction Impacts

Significant disturbance to many elderly residents that live in surrounding apartments.

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

Local Character

The proposed DA is completely out of step with the current street scape. Mainly in size but certainly in style.

Assessing officer's comment: As per previous submissions.

- Unit 1, 68 Bream Street

Scale & Density

The size of the development — seven apartments and 12 car parking spaces — is completely out of step with the neighbouring area. The dense number of apartments and huge number of cars will add considerably to congestion and general space constraints in an already high-density area.

Assessing officer's comment: See 'Discussion of key issues' for assessment of FSR. The significant FSR non-compliance, even with affordable housing bonuses, indicates that the proposal is of excessive scale.

Visual Privacy

Privacy concerns of surrounding properties with the proposed new building looking in on bedrooms, bathrooms and living areas.

Assessing officer's comment: As per previous submissions.

Solar Access

The lack of shadow diagrams showing the significant solar shadow it will cast on surrounding buildings, including backyards and gardens as well as existing solar panel systems.

Assessing officer's comment: As per previous submissions.

Habitat Loss

The removal of trees and vegetation at the rear of the property which provide habitat for many birds and marsupials.

Assessing officer's comment: As per previous submission.

Construction Impacts

Significant disturbance to many elderly residents that live in surrounding apartments.

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

Local Character

The proposed DA is completely out of step with the current streetscape. Mainly in size but certainly in style.

Assessing officer's comment: As per previous submissions.

- 2x submissions from Unit 2, 61B Bream Street

Traffic & Construction Impacts

I run a plumbing business from my unit and garage (beneath) and am frequenting the use of it most days. Any blockages or impeding access will directly affect my business. The current development next door to me at 88 Brook St has made it extremely difficult with trucks coming and going and gaining access to my garage and property. This new proposed development will not only exacerbate the access to the Brook/Bream St roundabout and corner, but will push the pedestrian access onto the southern side of Brook St on which I reside, whereby the buses that come around the corner, coupled with the intermittent blockage of cars for development, will directly affect the build-up of traffic in this spot, causing an excessive build-up in a very suburban area (especially in the warmer months being so close to the beach).

The roundabout crossing here has seen numerous serious accidents (even within the past year) and this will only seem to antagonise this problem. My initial response to this hastily sent notice of a proposed new development is one of disgust, as there are many neighbours whom are not aware of this development, and are opposed to it.

There are two bus stops within 50m of this DA and there is no inclusion on how these can or will be affected or given any type of consideration, just to pump a DA through without any foreseeable responsibilities to the neighbours or general public. This is a highly trafficable area, and we can't see any due diligence to implement any such measures.

The traffic and parking concerns during construction were echoed by another resident living at the same address. Construction noise was also raised as an issue.

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

- Unit 1, 77 Dolphin Street

Building Height & Solar Access

I am concerned about: The height of the building blocking sunlight to all units at 75-77 Dolphin St. The rear courtyard of my unit appears to be completely blocked of the western sunlight in all months except the peak of summer when the sun is directly overhead. This blocking of light will fundamentally impact the amenity of the residents to enjoy their lot, dry their clothes and keep existing vegetation alive.

Assessing officer's comment: As per previous submissions.

Earthworks

I am concerned about: The structural feasibility of an underground carpark and units being developed below ground level in this position, especially with regard to the integrity of the existing 10m+ sandstone retaining wall adjoining the properties on Dolphin St.

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Loss of Trees

I am concerned about: The removal of the majority of the existing trees, especially at the rear of the building.

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Visual Privacy

I am concerned about: The lack of privacy for existing residents of apartments on Dolphin St as the rear units of this development have balconies that face and look down on them. I notice there are privacy screens proposed for the neighbours to the East but not South?

Assessing officer's comment: As per previous submissions.

Acoustic Privacy

I am concerned about: The expected additional noise from having so many more households compared to the current housing.

Assessing officer's comment: Acoustic impacts are unclear. Proposal would not have much greater impact than previously approved DA/161/2022 & DA/150/2022/A. Extensive and DCP non-compliant roof terrace to Unit 7 as well as side setbacks have the potential to impact acoustic privacy.

Drainage

I am concerned about: Adequate drainage away from the rear of the property - to avoid additional water runoff towards the retaining wall at Dolphin St.

Assessing officer's comment: Appropriate conditions would be imposed by Council's Development Engineering team if approval was recommended.

- Unit 9, 65 Bream Street

Floor Space Ratio (FSR) & Landscape Area

This new DA to increase the Gross Floor Area by a further 142.6m² and to reduce the landscape area by 86 sqm is not in keeping with the surrounding buildings and environment.

Assessing officer's comment: See 'Discussion of key issues' section.

Building Height

It does not meet the LEP standard of 12m.

Assessing officer's comment: Building height of 13.67m is compliant once Division 1 In-fill affordable housing bonuses within the Housing SEPP are applied.

- Address Unknown

Floor Space Ratio (FSR)

This third Development Application albeit for the amalgamated site - is proposing a 25% increase in FSR from the approved 0.94:1 to 1.17:1.

Assessing officer's comment: As per previous submissions.

Building Height, View Sharing & Visual Privacy

A 4-storey development is inappropriate for the southern side of Bream Street, as it will be taller in relation to the nearby existing 2-storey buildings and, thus, creates an unwanted and undesirable precedent. In addition, my pleasant, open and airy views down to the valley and tennis courts will, instead, be replaced by views into multiple bedrooms.

Assessing officer's comment: As per previous submissions.

Affordable Housing

It is noted there is an "affordable" apartment in the development, presumably to elicit a favourable decision. Will it be "affordable" to buy or "affordable" to rent? In any case, it is difficult to comprehend how a 3-bedroom, 2-bathroom, 2-parking apartment in Coogee will be either.

Assessing officer's comment: Appropriate conditions to ensure the nominated affordable housing unit is provided and managed by a registered community housing provider as affordable housing for a period of at least 15 years commencing on the day an occupation certificate is issued for the development would be imposed if approval was recommended.

- Strata Committee of 75-77 Dolphin Street, Coogee

Excessive Height & Scale

The proposed development is much higher than existing apartments and houses in the area. This excessive increase in scale is inconsistent with the current built environment and will significantly alter the character of the neighbourhood. The development will extend much higher than other buildings in the vicinity, creating an imposing and incongruous streetscape.

Assessing officer's comment: As per previous submissions.

Solar Access

The proposed development will cause significant shadowing to our property, in circumstances where apartments in our complex currently experience significant northerly sun exposure, the proposal would drastically reduce daylight due to the excessive height of the proposal. The result would be a major diminishment of sun exposure to apartments in our property.

Assessing officer's comment: As per previous submissions.

Loss of Greenery

The development, in its current form, proposes the removal of all existing greenery along the neighbouring fence line. These established trees and plants provide important environmental and aesthetic benefits, including shade, privacy, and biodiversity. Their removal will negatively impact the overall liveability of surrounding properties.

Assessing officer's comment: Proposal does not achieve sufficient landscaped open space. Tree protection conditions would be imposed if approval were recommended (refer to Appendix 1 for Council Landscape Development Officer comments).

Amenity & Property Value

The proposed structure will overshadow neighbouring properties, reducing natural light and privacy.

These factors will directly diminish the enjoyment of existing residences and could lead to a decline in property values. The scale and design of the development are likely to create a sense of enclosure and significantly alter the amenity of the surrounding area.

Assessing officer's comment: Amenity impacts relating to a significant non-compliance with the FSR development standard - including impacts on visual amenity and visual bulk, overshadowing, and privacy - have not been demonstrated as acceptable. A Clause 4.6 variation request has not been submitted; Council can therefore not determine the application. The impact on surrounding property value is not a planning consideration.

Visual Privacy

The proposed development will result in a significant diminishment of privacy for residents in our building. The proposal would see the wholesale removal of existing privacy measures and mitigation, such as existing thick foliage between our properties which serves as an established privacy barrier. Current plans would permit occupants in the proposed structure to have an unobstructed line of sight into apartments in our property, including sensitive areas such as bathrooms, living rooms and bedrooms.

Assessing officer's comment: As per previous submissions.

- Unit 3, 75-77 Dolphin Street

Height & Scale

The proposed development is much higher than existing apartments and houses in the area. This excessive increase in scale is inconsistent with the current built environment and will significantly alter the character of the neighbourhood. The development will extend much higher than other buildings in the vicinity, creating an imposing and incongruous streetscape.

Assessing officer's comment: As per previous submissions.

Loss of Greenery

The development, in its current form, proposes the removal of all existing greenery along the neighbouring fence line. These established trees and plants provide important environmental and aesthetic benefits, including shade, privacy, and biodiversity. Their removal will negatively impact the overall livability of surrounding properties.

Assessing officer's comment: As per previous submissions.

Loss of Amenity & Property Value:

The proposed structure will overshadow neighbouring properties, reducing natural light and privacy. These factors will directly diminish the enjoyment of existing residences and could lead to a decline in property values. The scale and design of the development are likely to create a sense of enclosure and significantly alter the amenity of the surrounding area.

Assessing officer's comment: As per previous submissions.

- 71-73 Dolphin Street

Design Excellence

Notwithstanding that detailed documentation has been prepared for the proposal, it is questionable as to whether the site's proposed residential apartment building will exhibit design excellence, given the deleterious impacts of the proposed built form.

It is acknowledged that design excellence is a subjective interpretation, however, the resultant impact (benefit or yield to the applicant at the permanent expense of neighbours) is additional built form beyond that permitted by the relevant planning controls. Given this ambiguity, an undesirable outcome based on subjectivity is likely.

Assessing officer's comment: The proposal is not well designed, as highlighted by the Randwick Design Excellence Advisory Panel. Refer to Appendix 1 comments.

Excessive Building Envelope

The proposal departs from both of the key built form standards in LEP 2012, being height (12m standard v 13.25m proposed) and FSR (0.9:1 standard v 1.17:1 proposed). However, as an affordable housing unit is proposed, the proposal nonetheless technically complies with the maximum FSR and building height permitted by the Housing SEPP 2021...

Despite technical compliance with the height and FSR standards within the Housing SEPP 2021 which prevails to the extent of any inconsistency, it is arguable that Clause 4.6 Exception to Development Standards written requests are required (as they have been in the past for similar proposals) for the proposal's technical departure to the LEP 2012 standards. In this regard, Council or any consent authority may not be legally able to approve the DA in the absence of such.

Notwithstanding the above, the combination of excessive building height and envelope and overall density (yield) results in a new residential flat building that is of a size and scale that is incompatible with the locality's desired future character, including that expressed by the local planning controls. Further it results in unreasonable environmental and amenity related impacts to the neighbouring owners. A rigorous merit assessment must result in a satisfactory environmental outcome irrespective of compliance or otherwise with the controls...

The built form is inconsistent with the following height standard's objectives at Clause 4.3(1) of LEP 2012:

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- (c) 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 built form is inconsistent with the following FSR standard's objectives at Clause 4.4(1) of LEP 2012:

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

Part C2, Section 2.2.1 of DCP 2013 requires a minimum of 50% of the site area to landscaped open space. Only 205m² (33.5% site area) landscaped open space is proposed. Considering the site is greenfield following demolition, there is no justifiable nexus as to why compliance with the control cannot be achieved, other than for the proposed excessive built form / yield. Currently the proposal is clearly inconsistent with the following objective:

to provide landscaped open space of sufficient size to enable the space to be used for recreational activities, or be capable of growing substantial vegetation.

The submission continues to outline non-compliance with setback controls under Part C2, Section 3.4.2 of DCP 2013 as well as failure to meet the objectives.

Maximum wall height under Part C2, Section 4.4 of DCP 2013 is highlighted. This allows a maximum 10.5m external wall height and the submission claims a maximum 10.6m external wall height is proposed. It is stated that the proposal fails to meet the objectives of this section of the DCP.

Failure to comply with the earthwork controls under Part C2, Section 4.12 of DCP 2013 is raised within the submission.

Failure of the proposal to comply with Clause 148(2)(c) (Non-discretionary development standards for residential apartment development) within the Housing SEPP 2021 is indicated. This requires minimum ceiling heights of 2.7m for habitable rooms as specified in part 4C of the ADG.

The submission states that the site's corner location and general high visibility increases the perception of the proposal's excessive height, bulk and scale and incompatibility with the neighbouring and nearby built form.

The following impacts of the bulk and scale of the proposal are listed:

- *increase in the height, bulk and scale of the urban fabric when viewed from all parts of the neighbouring owner's property. The overbearing built form unreasonably impacts the neighbouring owners in relation to a sense of enclosure, loss of northern outlook, curtilage reduction and visual built form dominance; and*
- *loss of solar access to north facing principal areas of private open space and primary living rooms (see later);*
- *unreasonable visual privacy impacts (see later) to principal areas of private open space and primary living rooms;*

Assessing officer's comment: As per previous submissions. The proposed building envelope is considered excessive as evidenced by the significant FSR non-compliance as well as non-compliances with side setback controls as per Section 2.3 of Part C2 of the DCP.

Traffic & Parking

It is acknowledged the provision of off street car parking spaces complies with the relevant requirements of the Housing SEPP 2021 (10 required v 12 provided). However, the additional 2 car parking spaces above that required may constitute GFA as defined in the LEP 2012 Dictionary.

Section B7 (Transport, Traffic, Parking and Access), Part 3.2 (Vehicle Parking Rates) of DCP 2013 requires 1 visitor spaces per 4 apartments (i.e. 1 for the development). A visitor parking space is not proposed.

Additionally relative to traffic and parking:

- *the surrounding street network already struggles with the availability of parking and its varied design and siting*
- *the design of the basement car park is predicated on the zero alignment to each side boundary. Assuming Council will require compliance with the excavation setback controls, the basement level will require modification;*
- *visitor or accessible parking spaces are not proposed. In addition, visitor spaces typically double up as a loading space;*
- *access to the dedicated storage cages may be compromised by the adjacent motorcycle space;*
- *access to the service room may be compromised by the nearby bicycle spaces;*
- *bollards or an alternative safety measure should be provided adjacent the lift lobby;*
- *sight lines for vehicles leaving the car parking spaces allocated to unit 2 and its close proximity to the entry / exit point;*
- *potential traffic and pedestrian safety concerns given the relative proximity of the basement entry to the roundabout intersection of Brook Street and Bream Street and the overall limited sight distances;*
- *in addition to normal motor vehicle use, the surrounding road network is extensively used by buses, service vehicles (loading and unloading) and Council garbage trucks and emergency vehicles (as/when required). This mixed use has the potential for conflict;*
- *the use of on street parking along Bream Street and Brook Street (or others) for loading and unloading is likely to place additional demand on existing parking spaces; and*
- *as significant future demand will be placed on the locality, not only by any future built form but also by the future redevelopment of other neighbouring properties it is recommended that Council exclude any future residents from participating in Council's resident parking scheme by way of a condition of development consent (assuming a favourable determination of the DA). This may alleviate the potential for additional demand for long term on street parking by future residents.*

Assessing officer's comment: Appropriate conditions would be imposed under the advice of Council's Development Engineering team if approval was recommended.

Additional comments from Council's Development Engineer are as follows:

- Council's DCP controls request the provision of off-street parking. The driveway location/size will not affect the on-street parking amount because it does not differ from the existing arrangement.
- Section D3.5 "Accessible carparking" of the NCC does not require Class 2 buildings to have accessible parking spaces.
- Conditions can be imposed for re-configuration of basement to provide greater accessibility within the floor level.
- The space between the "Unit 2" car space and the "access to communal space" will be made open and clear, most likely in the form of a handrail. This will allow extra sight lines between the vehicle exiting the space and the vehicle entering the basement. Additionally, the vehicle exiting the car space will clearly be aware of a vehicle entering the basement because of the visible basement door opening at a slow speed
- The proposed basement entry is located in a similar location to 56 Bream Street's driveway. The roundabout is located higher than the vehicle entrance and, therefore, cars coming from the roundabout are very visible to the driver exiting the basement.
- The development is not mixed use. There are multiple existing residential flat buildings located on the block that are already serviced with Council's waste management team and buses have no issue traversing the street.
- Development Engineering usually condition the exclusion of parking permits for residents of new residential flat buildings.

Acoustics

It is requested that should Council be of a mind to favourably determine the DA, the following issues be considered and adequately addressed:

- a review of mechanical plant (air conditioning and lift etc) has not been undertaken. Therefore, the true acoustic impacts of the proposal are unknown; and
- a condition of consent be imposed which requires all construction works and the future internal/external performance of the building including air conditioning and associated plant and equipment to comply with the 'highest' noise performance/acoustic criteria in the BCA and the relevant Australian Standard(s).

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Visual Privacy

Building proximity creates privacy impacts. The nature of such an urban environment is that all future development will seek to maximise levels of residential amenity and density through design (including landscaping). The topographical changes between properties (land falls significantly from north to south) and the relatively dense built form environment generates a pattern of relatively closely spaced housing with limited buffers provided between properties. Mutual overlooking of private and communal open space areas of adjacent properties occurs. The following issues require further consideration in respect of maintaining (at the very least) existing levels of visual privacy between the site and the neighbouring owners:

- although the site is higher up the ridge than the neighbouring owners, as a result of the site's significantly altered landform, the proposed FFL's of each floor level having regard to those established at the neighbouring owners property (see Section 1) will enable unrestricted overlooking of the rear private open space (backyard, balcony and terrace) and rear rooms of the neighbouring owners. This is clearly shown in the Architectural sectional drawing;
- limited (reduced) separation between the site and the neighbouring owners;
- large and numerous southern elevation openings to primary living areas are proposed on a built form which sits higher, and which already sits above the neighbouring owners. Privacy

screening (louvres, shutters etc) or increased width of balcony planters at all levels should be provided; and

- the provision of additional perimeter planting along the boundary to assist in retaining visual privacy between the site and the neighbouring owners.

The resultant visual privacy impacts do not provide for an equitable planning outcome. The utility and useability of existing primary internal and external spaces for the neighbouring owners are compromised by the proposal. The proposal is inconsistent with the objectives of the visual privacy controls at Section C2, Part 5.3 of DCP 2013...

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Overshadowing

Detailed view from the sun and plan and elevational shadow diagrams have been provided. However, elevational shadow diagrams demonstrating a comparison between the existing and proposed built form to the north facing elevation of the neighbouring owners nor the neighbour to the south east at 75-77 Dolphin Street have not been provided. Rather they have been provided for the eastern neighbour at 60 Bream Street. This issue is critical considering the neighbouring owners are to the site's south and therefore in conjunction with the neighbours to the south east are likely to be the most impacted properties relative to overshadowing and solar access.

Additionally, certification of the shadow diagrams is requested as it is difficult to ascertain the impact of the newer and much higher and larger built form is only as currently depicted.

Notwithstanding the above, in terms of the impact of the shadows cast by the proposed development, the NSW LEC planning principle relating to solar access [The Benevolent Society v Waverley Council (2010) NSWLEC 1082] should be considered. In terms of the consolidated principles relating to solar access, the following is noted:

- *the applicant's current overshadowing analysis demonstrates that additional overshadowing of the neighbouring owners north facing windows and principal areas of private open space will occur throughout each period of the day. Additionally overshadowing of windows at each level of the eastern neighbour and the south eastern neighbour occurs as a result of the reduced curtilage and higher and larger built form;*
- *the overshadowing impact is from a built form that is not anticipated by the relevant planning controls;*
- *the site is not suitable to accommodate the density and built form proposed; and*
- *the inappropriate distribution of bulk and scale reduces residential amenity for the neighbouring owners. A more appropriate design that achieves appropriate levels of amenity for both the site and its adjoining neighbours is required.*

Assessing officer's comment: As per previous submissions.

Loss of Tree Canopy Cover

The removal of seven trees is proposed to accommodate the new larger residential flat building. Considering the extensive tree removal proposed and notwithstanding new plantings, there is a locality level loss of established tree canopy cover, thus potentially increasing the urban heat island effect.

The proposal may have an adverse impact on vegetation, natural landforms and natural drainage patterns as it involves:

- *demolition works, excavation and recontouring works in proximity to existing vegetation and neighbouring built form;*
- *use of earthmoving equipment and larger vehicle access to and from the site;*
- *stockpiles of excavated material and demolition waste;*

- *stockpiles and storage of building materials;*
- *re-grading, cutting and filling of the surface levels;*
- *trenching for services;*
- *parking for site personnel and deliveries; and*
- *paving, landscaping, retaining walls and planting. Further points to consider include:*
- *ensure that all proposed landscaping adequately compensates that proposed to be removed;*
- *Council has a responsibility to regulate tree removal, and to ensure it assesses the potential impacts in accordance with legislation; and*
- *in relation to the protection of existing vegetation, Council imposes appropriate (as outlined by the relevant legislation) bonds as conditions of development consent in the event of their damage, death or demise.*

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Excavation

Excavation to an approximate depth of 3.5m is proposed across the site and in proximity to boundaries to accommodate the basement for the new built form and its surrounds. Considering the extent of excavation, the following is noted:

- *Cumulatively with the excessive building envelope, the extent of excavation required to accommodate the built form leads to the proposal being an overdevelopment of the site.*
- *The locality generally comprises loose sand giving it a 'P' classification. It is unknown whether during vertical excavations, filling and natural sands will be self-supporting. Substantial excavation is proposed across the site to accommodate the built form. They are likely to require temporary and permanent support by retaining walls. Regardless of the likely shoring system and any stabilisation methods used, some wall movement is inevitable and may cause damage to buildings (i.e. 71-73 Dolphin Street) close to the excavation. It is unclear as to whether the site (and not the neighbouring properties) and its underground conditions are suitable to accommodate the amount of excavation proposed.*
- *The neighbouring owners and their built form should not be subjected to the likely detrimental consequences of movement, caused by the proposed construction works. The expected excessive vibrations and any machinery noises which will be required to excavate and then reinforce the underground conditions will disturb and create a nuisance to the residents and may potentially impact the integrity of the built form. Carefully crafted conditions of consent designed to address these matters are required as well as implementing construction methodology recommendations and post demolition inspections from the Geotechnical Investigation.*
- *Given the above extensive excavation works, it is strongly recommended that the preparation and submission of a dilapidation report and photographic survey of the neighbouring owners building (and others) prior (prior to the release of a CC) and post construction (prior to issue of an OC) be required. It is requested that the applicant be required to provide these reports to the neighbouring owner for their records. This will ensure that if the construction works have an adverse impact on the neighbouring owner's building's structural integrity, they have an appropriate course of action (safety net).*
- *Stringent vibration criteria relative to the impact on the neighbouring owners building is recommended and should be imposed as a condition of consent.*

- *The site's existing fill and sands are not recommended to be reused as engineered fill. If there is a requirement for fill to be brought to the site it is to be certified as clean fill with a VENM/ENM certificate.*
- *There is the potential for adverse public safety impacts to arise from the amount of excavation and the associated impacts to neighbouring properties.*

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Stormwater management / flooding

It is recommended that Council review and consider whether the site's underground conditions are suitable. It is our understanding the locality has numerous historical stormwater drainage and overland flow issues into neighbouring properties and the surrounding public domain. The site's altered landform and elevated rear FFL's and RL's may influence existing natural watercourses or worse continue unabated into the neighbouring properties lower down the ridge, being the neighbouring owners. This is likely to occur during a standard rain event, much less a more intensive rain event.

It is noted that a charged pump out system (3.78m" of OSD and a 5.06m" RWT for water storage and reuse) to Brook Street is proposed within the fully tanked basement level. However, and notwithstanding, Council should be satisfied that the overall stormwater arrangements are satisfactory.

Detailed construction methodology recommendations should be made and to assist in the adequate maintenance of runoff and water flows on/to adjoining properties and the surrounding public domain.

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Infrastructure

It is unknown whether the utility/infrastructure services available to the site including electricity, telecommunications, sewer, gas and stormwater require augmentation resulting from the significant intensification of land use.

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

Management Plans

Given the locality's street network characteristics, limited buffers between properties and the extensive construction works proposed, it is recommended that the requirement for a Construction and Traffic Management Plan (CMP) be imposed as a condition of consent. This may alleviate unacceptable impacts to all neighbouring owners and the surrounding public domain the construction process. Any CMP should address the following issues:

- *the subdivision pattern (corner allotment) and existing built form generates a pattern of closely spaced development with limited buffers and a congested street network;*
- *presence of vegetation, including mature vegetation within the public domain;*
- *restricted on street parking for residents and the community in general;*
- *the requirement for significant heavy vehicle movements;*
- *maintaining clearances to existing driveway crossings and car parking areas;*
- *the identification of traffic management techniques and work zones;*
- *identification of site access, sheds, materials and handling areas etc;*
- *parking requirements/locations for relevant tradesman; and*
- *the local street network (including existing on street car parking) will unquestionably restrict the size of trucks able to access and egress the site during construction works. Recommendations in relation to the size of trucks used during the construction works are required to preserve amenity.*

A Construction Noise and Vibration Management Plan (CNVMP) is also recommended. It should be prepared by the demolition / construction contractor(s) outlining vibration monitoring locations (at the most sensitive locations) and schedules and which would be imposed as a condition of consent.

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

Asbestos & Demolition

Comprehensive demolition works are proposed. If asbestos is found to be present on the site, the following advising/condition is recommended:

'Specialised controlled demolition of the current buildings is to be carried out only by contractors licensed in asbestos removal to arrest and encapsulate airborne dust particles and dispose of such debris in a licensed hazardous waste pit in accordance with the relevant Australian Standard(s).'

The above works would be included within an Asbestos Management Plan in accordance with the Code of Practice: How to Manage and Control Asbestos in the Workplace [Safe Work Australia, 2011]. Given that demolition works are required to facilitate the proposal, it is requested that Council impose a condition of consent requiring all demolition works (and soil and sediment erosion works) to comply with the relevant Australian Standard(s).

Assessing officer's comment: Appropriate conditions would be imposed if approval was recommended.

Public Interest

As the proposal fails to adequately demonstrate that the new residential flat building and its surrounds does not result in material environmental / amenity impacts to the neighbouring owners, the current proposal is clearly not in the public interest and design amendments are recommended.

Assessing officer's comment: The proposal is not in the public interest as outlined in this report.

Affordable Housing

Should Council be of a mind to determine the DA favourably, conditions of development consent which demonstrate compliance with Clause 21 of the Housing SEPP 2021 will be required, to ensure:

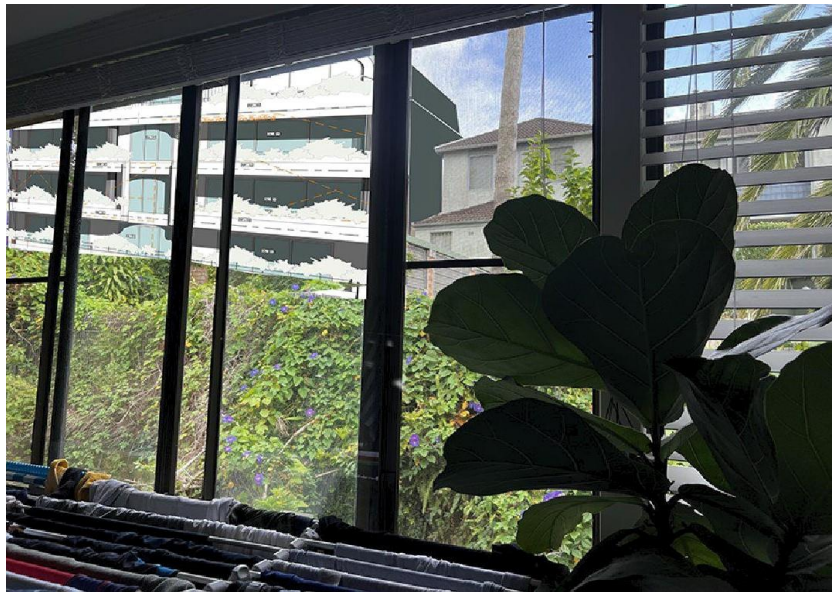
- *unit 2 is maintained as an affordable housing unit for 15 years from the date of the occupation certificate;*
- *the two car parking spaces within the basement level car park remain allocated to unit 2; and*
- *unit 2 will be managed by a registered community housing provider.*

Assessing officer's comment: As per previous submissions. Appropriate conditions would be imposed if approval was recommended.

- Unit 2, 79-81 Dolphin Street

Bulk & Scale

Objection is made to the overbearing bulk and scale of the development. Combination of scale of development and the location on a hill. Photomontage was provided:



Assessing officer's comment: As per previous submissions.

Solar Access

Submission expresses concern over loss of solar access.

Assessing officer's comment: As per previous submissions.

Visual Privacy

Submission expresses concern over loss of privacy.

Assessing officer's comment: As per previous submissions.

Local Character

Submission asserted that the proposal is not in keeping with the local character.

Assessing officer's comment: As per previous submissions.

6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity and Conservation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of NSW.

Refer to comments by Council's Landscape Officer at Appendix 1 of this report.

6.2. SEPP (Housing) 2021

Chapter 2 – Affordable housing

Chapter 2, Division 1 of the Housing SEPP relates to development for the purpose of in-fill affordable housing. An assessment of the proposal against the relevant standards is provided in the table included in Appendix 4.

Chapter 4 – Design of residential apartment development

The provisions of the now-repealed SEPP 65, relating to the design of residential apartment development, have been transferred to Chapter 4 of the Housing SEPP.

Section 147 of the Housing SEPP states:

- (1) *Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*
 - (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
 - (b) *the Apartment Design Guide,*
 - (c) *any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Assessing officer's comment: The development was referred to Council's Design Excellence Advisory Panel (DEAP). The DEAP did not support the proposal in its current form. Comments from the DEAP are included within Appendix 1. The summary is as follows:

"Summary

The Panel does not support this proposal. It appears this proposal is an overdevelopment, evidenced by the fact the proposal is over FSR, over the height controls and not compliant with side setbacks. Further there are ADG non-compliances with respect to solar access, amenity of apartments and poor outcomes for neighbouring properties, in terms of overshadowing and overlooking. The Panel believes there is a great opportunity in the amalgamation of these two sites to create a property that adds value to the street and neighbourhood while offering high level residential amenity. However, this potential has not been realised, with the proposal not evidencing site specific and contextually responsive design."

The comments provided by the DEAP demonstrate that the proposal does not achieve the design principles for residential apartment development set out in Schedule 9 of the SEPP (refer to DEAP comments at Appendix 1).

The proposal fails to meet many of the Design Criteria of the Apartment Design Guide (ADG) As detailed within the Discussion of key issues section of this report and within the ADG compliance table included as Appendix 2.

Section 148 of the Housing SEPP provides standards that cannot be used as grounds to refuse development consent, which include:

- (a) *the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide*

Assessing officer's comment: One parking space would be required to be visitor parking.

- (b) *the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide*

Assessing officer's comment: Complies.

- (c) *the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide*

Assessing officer's comment: Does not comply. See 'Discussion of key issues' section of this report.

6.3. SEPP (Resilience and Hazards) 2021

Chapter 4 of the Resilience and Hazards SEPP applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Clause 4.6 of the SEPP requires the consent authority to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Noting that the site has historically been used for residential purposes, the possibility of contamination is considered unlikely, and the site is considered suitable pursuant to Chapter 4 of the Resilience and Hazards SEPP.

6.4. SEPP (Sustainable Buildings) 2022

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

6.5. SEPP (Transport and Infrastructure) 2021

Pursuant to Clause 2.48 'Determination of development applications—other development', Council referred the application to Ausgrid for comment, as the proposal is likely to affect an electricity transmission or distribution network. See Appendix 1 for Ausgrid comments, who are supportive of the application, subject to conditions.

6.6. Randwick Local Environmental Plan 2012 (RLEP)

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

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

The development is inconsistent with the relevant objectives of the R3 Medium Density Residential zone under RLEP. Clause 2.3(2) of RLEP states:

- "(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone."*

The proposal fails to meet the following objectives:

- *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.*

The proposed development exceeds the level of built form anticipated for the site. The bulk and scale of the proposed development as a result of the non-compliance with the FSR development standard and various planning controls including side setbacks, and wall height. This is detailed

further below. The built form is therefore considered excessive and results in a building that is not compatible with the desired future character of the area.

The proposed development results in adverse amenity impacts to neighbouring residential properties in terms of visual bulk and overshadowing - detailed further within the 'Discussion of key issues' section of this report. The proposed development also results in poor internal amenity for future residents and does not meet multiple ADG objectives and controls.

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

Clause	Development Standard	Proposal	Compliance
CI 4.3: Building height (max)	12m (as per RLEP 2012) 15.12m (+26% bonus under Housing SEPP)	13.67m	Yes
CI 4.4: Floor space ratio (max)	0.9:1 (as per RLEP 2012) 1.17:1 (+30% as per Housing SEPP with 15% of GFA as AH) Site area = 612.6m ² (as per survey) Max GFA = 716.74m ²	Applicant = 1.17:1 Council = 1.39:1 (or 848.48m ²)	No, see section 7 below regarding Clause 4.6 assessment

6.6.1. Clause 4.6 - Exceptions to development standards

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

6.6.2. Clause 6.2 – Earthworks

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

See Key Issues for a detailed assessment of earthworks, which concludes that the extent of earthworks is not supported.

6.6.3. Clause 6.4 – Stormwater management

Clause 6.4 requires the consent authority to be satisfied that the development in residential and employment zones is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water; includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water;; avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact; and incorporates, if practicable, water sensitive design principles.

Should the DA have been supported, Council would have been satisfied that the proposed development will adequately address stormwater management, subject to conditions.

6.6.4. Clause 6.7 - Foreshore scenic protection area

The proposal is identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map. Clause 6.7 of the LEP therefore applies:

- 1) *The objectives of this clause are as follows-*
 - a) *to recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,*
 - b) *to protect and improve visually prominent areas adjoining the coastal foreshore,*
 - c) *to protect significant public views to and from the coast,*
 - d) *to ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.*
- 2) *This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.*
- 3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development—*
 - a) *is located and designed to minimise its visual impact on public areas of the coastline, including views to and from the coast, foreshore reserves, open space and public areas, and*
 - b) *contributes to the scenic quality of the coastal foreshore.*

Assessing officer’s comment:

The proposal will not remove significant public views to and from the coast, however, it fails to enhance the natural and visual qualities of the scenic areas of the coastline and is not appropriate for the location. This is demonstrated by the significant non-compliance with the FSR development standard as well as numerous controls within Randwick Development Control Plan 2013 and the Apartment Design Guide as outlined in this report and summarised within compliance tables at Appendix 2 & 3.

As previously summarised, the Randwick Design Excellence Advisory Panel was not supportive of the proposal which did not show evidence of a site specific and contextually responsive design. The Panel also noted that the choice of materials did not consider the coastal setting stating that ‘*It would be worth drawing from the coastal setting, unpainted masonry and sandstone should be considered.*’ Refer to Appendix 1 for the Panel comments in full.

It has not been demonstrated that the proposal contributes to the scenic quality of the coastal foreshore. Development consent should therefore not be granted

6.6.5. Clause 6.10 – Essential services

Clause 6.10 requires the consent authority to be satisfied that essential services are available or that adequate arrangements have been made to make them available. These services include water and electricity supply, sewage disposal and management, stormwater drainage or on-site conservation, and suitable vehicular access.

Should the DA have been supported, Council would have been satisfied that the proposed development would be satisfied that essential services are available or that adequate arrangements have been made to make them available, subject to conditions.

7. Clause 4.6 Exception to a Development Standard

The proposal seeks to vary the following development standards contained within the RLEP 2012 and the SEPP (Housing) 2021:

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
RLEP 2012: Clause 4.4 - Floor Space Ratio (Maximum) & Housing SEPP: Section 16(1) -	0.9:1 (as per RLEP 2012) 1.17:1 (+30% as per Housing	Applicant = 1.17:1	0.22 (or 131.74m ²)	18.8%

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Additional Floor Space Ratio	SEPP with 15% of GFA as AH) Site area = 612.6m ² (as per survey) Max GFA = 716.74m ²	Council = 1.39:1 (or 848.48m ²)		
Housing SEPP: Section 16(2) - Affordable Housing Component	AHC = additional FSR as a percentage / 2	Min AHC = 26.95% (being 53.9% (848.48m ² being proposed GFA/ 551.34sqm being max GFA of 0.9:1 FSR DS) / 2) Proposed = 13.5% (based on the affordable housing component being 114.5m ² and the GFA being 848.48m ²).	13.45%	50%

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.1. Floor Space Ratio

The Applicant has failed to provide a written request to vary the Floor Space Ratio development standard applying to the site under clause 4.4 of RLEP and section 16(1) of Housing SEPP.

The Applicant has failed to adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and has failed to demonstrate that there are sufficient environmental planning grounds to justify the contravention of the development standard.

On this basis, the requirements of clause 4.6(3) have **not** been satisfied and development consent **should not** be granted for development that contravenes the maximum Floor Space Ratio development standard.

7.2. Affordable Housing Component

The Applicant has failed to provide a written request to vary the Affordable Housing Component development standard applying to the site under section 16(2) of SEPP (Housing).

The Applicant has failed to adequately demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and has failed to demonstrate that there are sufficient environmental planning grounds to justify the contravention of the development standard.

On this basis, the requirements of clause 4.6(3) have **not** been satisfied and development consent **should not** be granted for development that contravenes the minimum Affordable Housing Component 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.

Note: Clause 149 of Housing SEPP 2021 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 2/3) rather than those in the DCP.

Overall, the development application fails to comply with several of the DCP controls. See Appendix 3 and key issues section of the report below for a detailed assessment. As such, the application is recommended for refusal.

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 does not satisfy the objectives and controls of the Randwick Comprehensive DCP 2013. See table in Appendix 3 and the discussion in key issues below.
Section 4.15(1)(a)(iia) – Provisions of any Planning Agreement or draft Planning Agreement	Not applicable.
Section 4.15(1)(a)(iv) – Provisions of the regulations	<p>The relevant clauses of the Regulations have not been satisfied, as per below:</p> <p><u>Section 26 of the EP&A Regulation 2021</u> Requires that a development application for development that the 'In-fill affordable housing' provisions apply, that the application must specify the name of the registered community housing provider who will manage the affordable housing component. The Applicant has failed to specify who will be managing the one affordable housing component. As such, Council cannot support the application and is recommended for refusal.</p> <p><u>Section 35B(2) of the EP&A Regulation 2021</u> Requires that a development application for development that proposes to contravene a development standard must be accompanied by a document (also known as a written request) that sets out the grounds on which the applicant seeks to demonstrate the matters of clause 4.6(3). The Applicant has failed to provide a written request to vary the Floor Space Ratio development standard, pursuant to Clause 4.4 of RLEP and Section 16 of Housing SEPP 2021. As such, Council cannot support the application and is recommended for refusal.</p>
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 inconsistent with the dominant residential character in the locality as detailed in this report.</p> <p>The proposal will result in detrimental social or economic impacts on the locality.</p>
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. 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	The issues raised in the submissions have been addressed in this report.

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

9.1. Discussion of Key Issues

Floor Space Ratio (FSR) and Affordable Housing Contribution

The development application is recommended for refusal because the gross floor area (GFA) of the proposed development is excessive and does not comply with the FSR development standard in Clause 4.4 of RLEP and Section 16 of the Housing SEPP. The Applicant has failed to provide a written request to vary the FSR development standard pursuant to Clause 4.6 of RLEP. The proposed FSR also fails to meet the aims of the Apartment Design Guide.

Clause 4.4(1) of RLEP provides the following objectives:

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

Pursuant to the FSR map referred to in clause 4.4(2) of RLEP, the site is subject to a maximum FSR of 0.9:1, which equates to a maximum GFA of 551.3m².

Clause 16 of the Housing SEPP allows developments to exceed the maximum floor space ratio permitted under another environmental planning instrument (Clause 4.4 of the LEP in this case) by up to 30%. The extent of additional FSR is based on a calculation under the SEPP, which requires a minimum Affordable Housing component. The calculation is stated in Clause 16(2):

“(2) *The minimum affordable housing component, which must be at least 10%, is calculated as follows—*

Affordable housing component = additional floor space ratio (as a percentage) ÷ 2

The proposed development has a floor space ratio of 1.39:1 (848.48m²), which exceeds the development standard by 0.22:1 (18.8% variation), where the additional FSR bonus is 30%. See comments below regarding the non-compliance with the affordable housing component calculations.

The GFA plans and calculations provided by the Applicant are incorrect. The following areas have been incorrectly excluded from the calculating of GFA:

- I. Internal corridors (i.e. horizontal circulation) at all floor levels.
- II. Wall cavity between units not used for building services.
- III. Car parking in excess of requirements of the consent authority under Housing SEPP 2021 and Part B7 of RDCP.

The internal corridors contribute to the overall building bulk and do not have an open appearance. As such, the corridors could not be classified as open breezeways in accordance with relevant caselaw. Council GFA inclusions are shown in Figures 9-13.

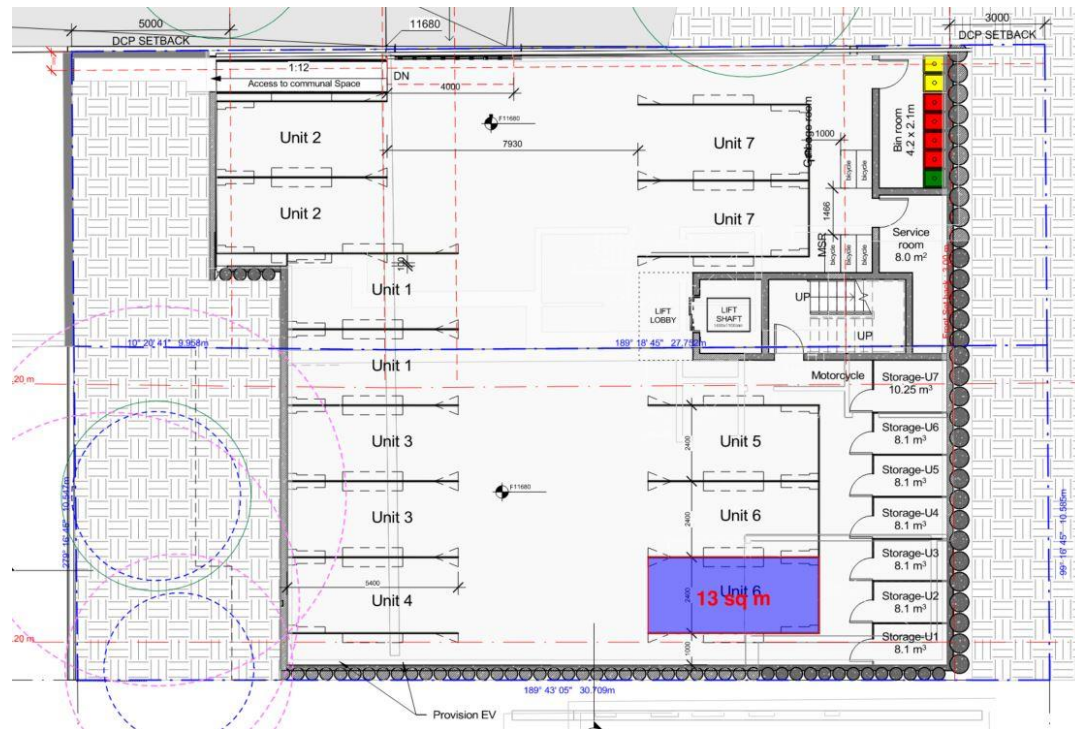


Figure 9: Basement plan (Source: SOMA)
GFA measurement by Council Assessment Officer

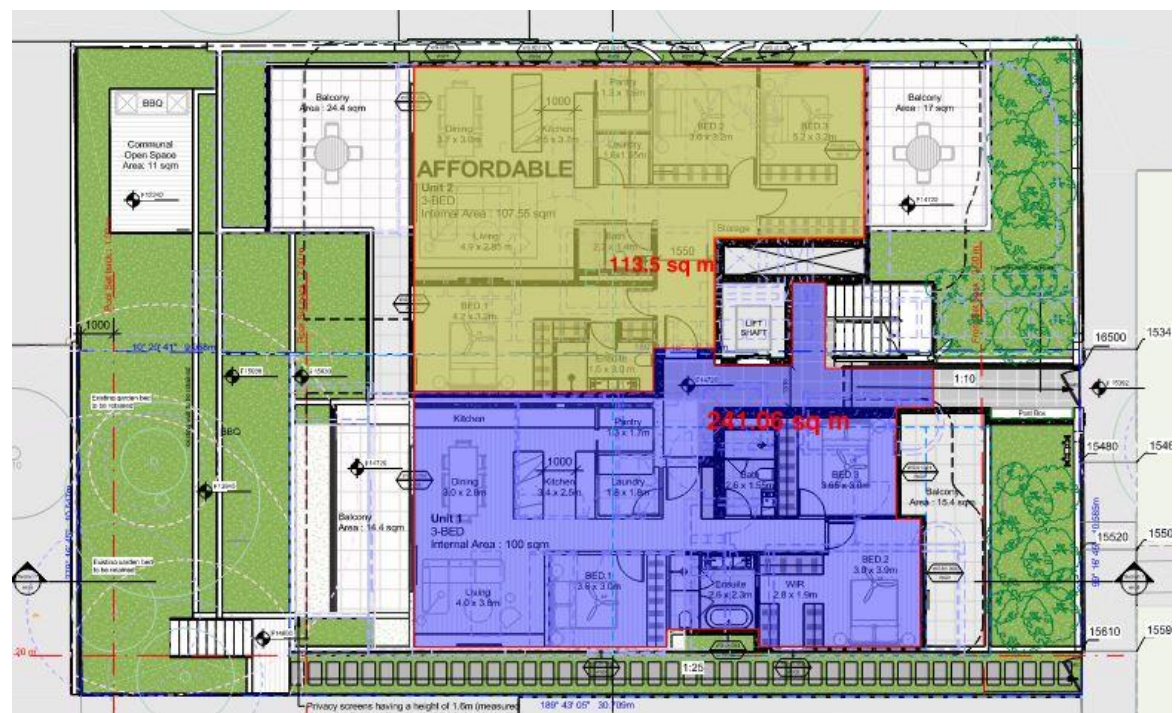
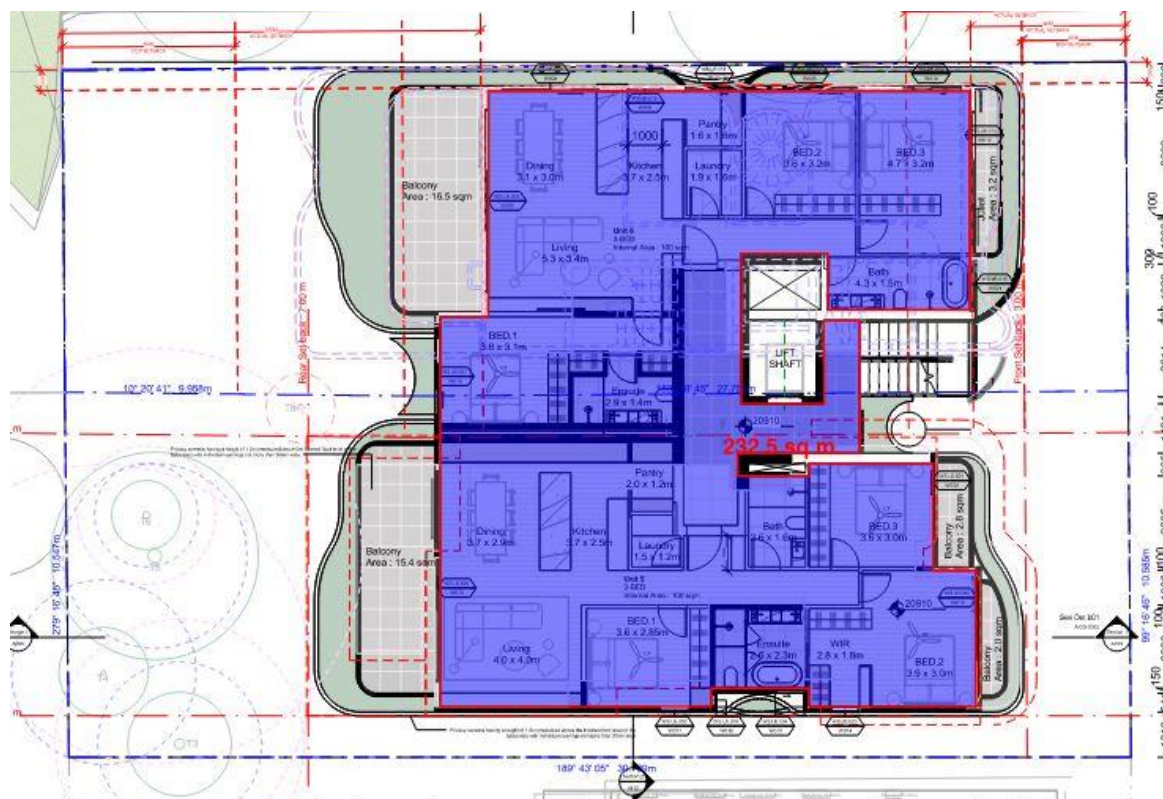
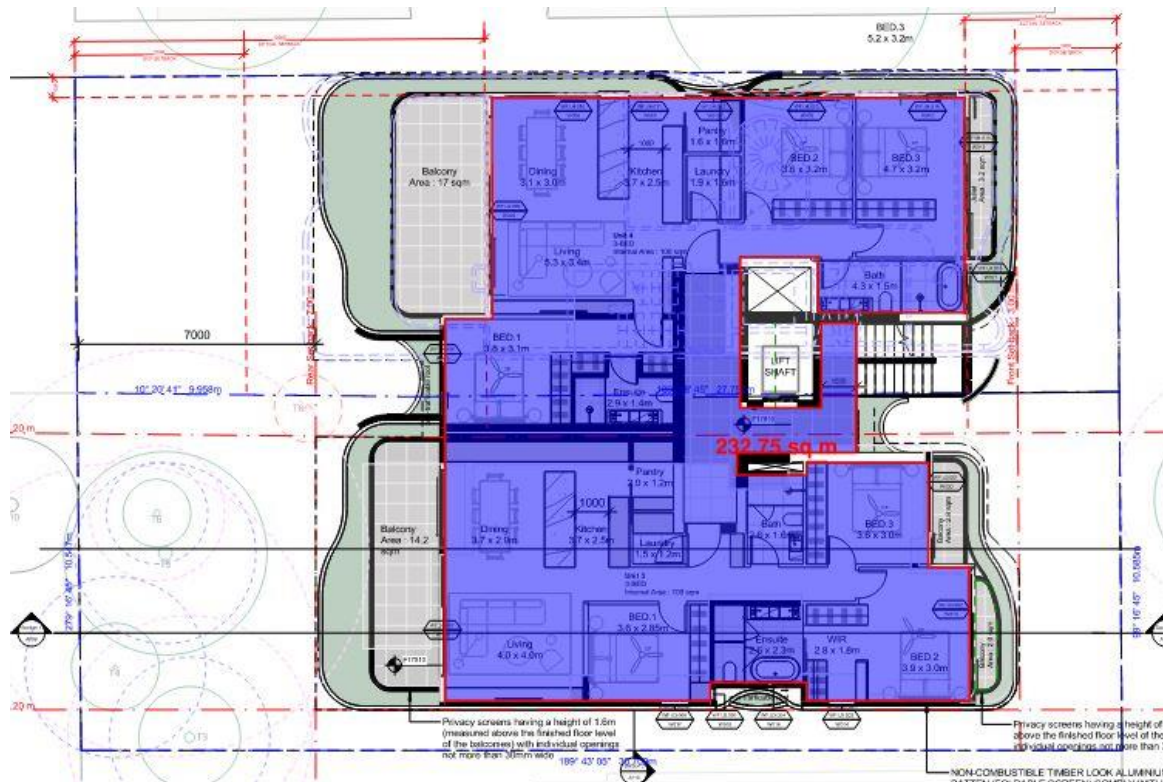


Figure 10: Ground floor plan (Source: SOMA)
GFA measurements by Council Assessment Officer - Affordable Housing GFA in yellow

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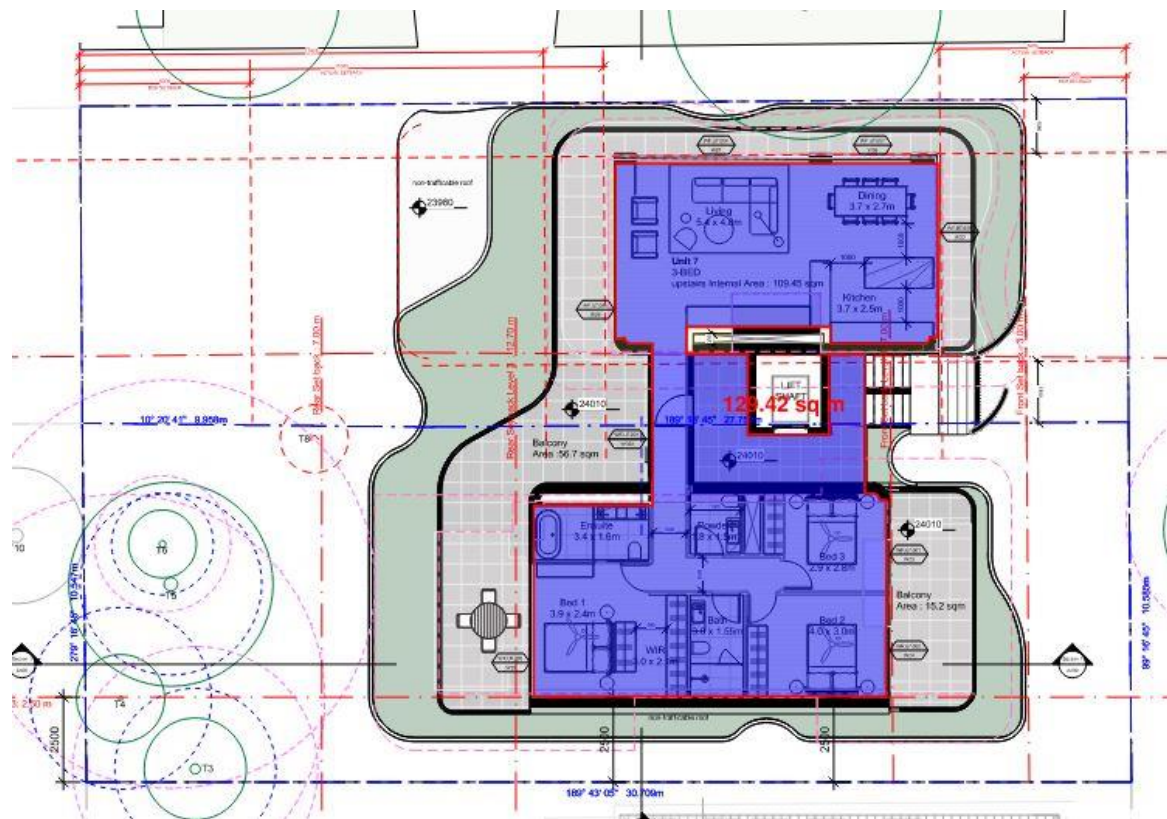


Figure 13: 3rd floor plan (Source: SOMA)
GFA measurement by Council Assessment Officer

The extent of non-compliance with the FSR development standard confirms that the proposed development is an overdevelopment of the site and results in a development of excessive bulk and scale.

It is noted that there are large service voids within the proposal that have not been included in GFA calculations but contribute to the bulk & scale of the development. Further information is required to confirm the spatial requirements of building services.

As detailed in this report, the proposed development does not respond to the desirable elements of the existing streetscape and built form and is inconsistent with the desired future character of the locality.

The proposal is inconsistent with the objectives of Clause 4.4 of the RLEP 2012 having regard to the following:

- Objective (a) as it will result in a building form that is not consistent with the desired future character of the locality.
- Objective (b) as it is not sufficiently articulated.
- Objective (d) as it will adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, overshadowing and loss of privacy.

The Applicant has not provided a written request under Clause 4.6 of RLEP 2012 to address the following matters required to be demonstrated:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- That there are sufficient environmental planning grounds to justify the contravention of the development standard in clause 4.4 of RLEP and section 16(1) of the Housing SEPP 2021.

Section 2D of the Apartment Design Guide details the aims of FSR controls. This includes:

- *provide opportunities for building articulation and creativity within a building envelope by carefully setting the allowable floor space.*

The proposal does not provide sufficient articulation to the building with insufficient recessed elements. There are no recessed elements to the western façade, while the eastern façade has a minimal recessed area. This adds to the overall bulk and scale of the proposal.

Council also notes that the proposed affordable housing component has a floor area of 113.5m². Based on a proposed FSR of 1.39:1, this equates to an additional FSR of 53.9%. In accordance with the affordable housing component calculation in section 16(2) of Housing SEPP, the applicant is required to provide a minimum of 26.95% of GFA for affordable housing. The proposed development only provides 13.5%, which is variation of 50% of the development standard.

The Applicant has not provided a written request under Clause 4.6 of RLEP 2012 to address the following matters required to be demonstrated:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
- That there are sufficient environmental planning grounds to justify the contravention of the development standard in section 16(2) of the Housing SEPP 2021.

On this basis, the application cannot be supported and is recommended for refusal.

Apartment Design

The development application is recommended for refusal because it fails to meet multiple planning and design standards of the Apartment Design Guide.

Section 3B provides guidance on design orientation to maximise solar access to living areas, private open space and communal open space. This guidance has not been followed, resulting in these living areas not receiving sufficient solar and daylight access.

Section 3D provides design standards for communal open space. The communal open space is to equal a minimum of 25% of the site area. The communal open space has been measured at 136m², which equates to 22% of site area. Developments are to achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June. This has not been demonstrated and the failure to comply is a consequence of the location at the southern and lower side of the site.

Section 3F-1 includes minimum building separation design standards to provide reasonable levels of visual privacy. For a building up to 12m this is 6m for habitable rooms and balconies and 3m for non-habitable rooms. From the plans provided in the application, the separation between the eastern façade and the neighbouring No.60-62 Bream Street is 2.28m. Habitable rooms are located on both the eastern façade of the proposal and the western façade of No.60-62. The proposal therefore fails to meet this control. The proposal has nominated frosted glass and privacy screens as a mitigation measures. If approval were recommended, suitable conditions would be imposed to ensure the frosted glass is to a height of 1.6m and privacy screens are to Council's satisfaction.

Section 4A includes design standards for solar and daylight access. Living rooms and private open spaces of at least 70% of apartments in a building must receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at midwinter. Solar diagrams provided with the application do not show compliance with units 1, 3 and 5 all failing to meet this requirement. This is a result of a poor layout where the living and private open spaces are located at the southeast corner.

Section 4C includes minimum ceiling height design standards for apartment buildings. These are 2.7m for habitable rooms and 2.4m for non-habitable rooms. The proposal fails to meet these controls as Section 1 shows kitchen to units 1, 3 and 5 with 2.4m ceiling heights and bedroom to unit 7 with a 2.6m ceiling height. Section 2 shows the kitchen to units 2, 4 and 6 with 2.4m ceiling height. Clause 148(2)(c) of the Housing SEPP stipulates that Section 4C is a non-discretionary development standard. A Clause 4.6 variation request has not been provided; therefore, the application is unable to be determined.

Section 4D includes design standards for apartment size and layout. Master bedrooms are to have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedroom 3 of unit

7 fails to meet this minimum area requirement at 8.12m². Bedrooms are also to have a minimum dimension of 3m (excluding wardrobe space). Bedroom 1 of unit 3, 5 & 7 all fail to comply.

Section 4E includes design standards for private open space and balconies. Three (3) bedroom apartments are to have a minimum of 12m² of balcony area with a minimum depth of 2.4m. The balconies of units 3 & 5 fail to meet this requirement. For apartments on ground level, a private open space of 15m² is required with a minimum depth of 3m. The private open space of unit 1 fails to meet this requirement.

Section 4G includes storage space design standards. Three (3) bedroom apartments are to have a minimum of 10m³ of storage in addition to storage in kitchens, bathrooms and bedrooms. At least 50% of the storage within the apartment. The proposed apartments have at least 8.1m³ in the basement carparking level. Each apartment is therefore required to have 5m³ of storage indicated within the apartments. This has not been demonstrated.

An ADG compliance table has been provided in Appendix 2.

Side Setbacks

The development application is recommended for refusal because the proposed development is inconsistent with Part C2, Section 3.4.2 of RDCP and does not provide adequate separation between buildings for landscaping, privacy and natural lighting and ventilation for both the new development and the adjoining properties.

Pursuant to Part C2 the minimum side setback for a site with a 20m frontage and above is 4.0m.

A substantial departure from the controls is proposed with a minimum west side setback of 0.6m to Brook Street is proposed, a minimum east side setback of 1.31m.

Proposal fails to meet Control (ii) to incorporate additional side setbacks to the building over and above the above minimum standards, in order to:

- *Create articulation 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.*

The side setback non-compliance results in a proposal that is of excessive visual bulk without sufficient façade articulation or building separation. This detracts from the visual amenity of the street and adjoining residences. Side setback non-compliance contributes to the lack of landscaped open space, detailed further below.

External Wall Height

The development application is recommended for refusal because the proposed development exceeds the maximum external wall height, failing to comply with Clause 4.4 in Part C2 of RDCP.

Pursuant to clause 4.4 in Part C2 of RDCP, where the site is subject to a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.

The proposed development seeks external wall heights of 13.26m (refer Figure 14).

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Figure 14: Cross section (Source: SOMA)

Marked-up and external wall height measured by Council Assessment Officer

The non-compliant built form fails to meet the RDCP objectives:

- To ensure that the building form provides for interesting roof forms and is compatible with the streetscape.
- To control the bulk and scale of development and minimise the impacts on the neighbouring properties in terms of overshadowing, privacy and visual amenity.

The proposed development fails to provide an interesting roof form and a building envelope bulk and scale that is suitable to the streetscape and minimises impacts on neighbouring properties.

Solar Access and Overshadowing

The development application is recommended for refusal because the proposed development does not provide sufficient solar access to the living areas and private open space as per Part C2, Section 5.1 of the RDCP.

The proposal fails to demonstrate compliance with Control (i) to provide 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.

The proposal fails to demonstrate Control (ii) for living areas and private open spaces for at least 70% of dwellings within a residential flat building to be provided direct sunlight for at least three hours between 8am and 4pm on 21 June.

As the building envelope matches existing approvals on the site under DA/150/2022/A and DA/161/2022, the only additional solar impact on neighbouring properties is a result of the infilled area. This has a negligible impact on overshadowing as demonstrated by axonometric views from the sun (refer Figure 15).



Figure 15: Views from the sun (Source: SOMA)

The amalgamated site is twice the size of the sites on which the previous approvals were granted. The less constrained site provides greater opportunity to minimise overshadowing impacts on adjoining properties. This has not been realised by the proposal. The excessive built form evidenced by the significant non-compliance with FSR has solar access implications on neighbouring dwellings to the east and south. A built form with a compliant building envelope, complying with FSR, external wall heights and side setbacks would provide greater solar access amenity to neighbouring properties. One of the FSR objectives under the LEP is:

- *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.*

It has not been demonstrated that the non-compliance does not adversely impact neighbouring land. The shadow diagrams show that there will be an impact, and this concern was raised in public submission. A Clause 4.6 variation statement has not been provided to justify the departure from the development standard.

Landscaped Open Space

The development application is recommended for refusal because the proposed development provides insufficient landscaped open space having regard to Part C2, Section 2.2.1 of RDCP and will adversely impacts the visual presentation of the site.

Pursuant to Control i) in Part C2, Section 2.2.1 of RDCP, 50% (306.3m²) of the site area is to be landscaped open space.

The proposed development provides 206m² of landscaped open space, which equates to 34% of the site area.

The proposed development is inconsistent with the objectives of Part C2, Section 2.2.1 of RDCP as the proposed landscape scheme has not been designed to:

- Enable space to be used for recreational activities, or be capable of growing substantial vegetation;*
- Reduce impermeable surface cover;*
- Improve stormwater quality and reduce quantity; or*
- Improve the amenity of open space with landscaped design.*

The lack of landscaped open space at ground level adversely impacts the visual presentation of the site as viewed from surrounding development and the public domain.

Rooftop Terrace

The development application is recommended for refusal because it is inconsistent with Part C2, Section 4.2 of RDCP in that the rooftop terrace will result in adverse acoustic privacy impacts and excessive visual bulk.

Pursuant to Control vii) in Part C2, Section 4.2 of RDCP, trafficable outdoor spaces on the roof may be considered only if:

- *There are no direct sightlines to the habitable room windows and private and communal open space of the adjoining residences;*
- *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; and*
- *Any shading devices, privacy screens and planters do not adversely increase the visual bulk of the building.*

The proposed rooftop terrace is not acceptable as the excessive size and of the terrace may result in unreasonable noise impacts on neighbouring properties.

Earthworks

The development application is recommended for refusal because the proposed development results in excessive and unnecessary excavation and is inconsistent with Clause 6.2 of the RLEP and Part C2, Section 4.12 of the RDCP.

The proposed development fails to comply with Control i) in Part C2, Section 4.12 of the RDCP, which requires that:

- *“Any excavation and backfilling within the building footprint must be limited to 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification.”*

The proposed construction of a basement garage requires excavation of up to 3.74m in height, which exceeds the RDCP control, as well as other site earthworks outside of the basement.

The proposed development fails to comply with the minimum 0.9m setback requirement for excavation under Control iv) in Part C2, Section 4.12 of the RDCP as it proposes a nil basement setback to the eastern side boundary.

The topographic constraints of the site do not warrant such significant excavation works and it is considered that the proposed development does not reflect the natural topography of the site.

The proposed development is unacceptable with regard to the considerations in Clause 6.2 of the RLEP as it results in excessive and unnecessary excavation and will likely have a detrimental impact neighbouring uses.-The non-compliant excavation on the shared boundary risks potential damage to property at No.60-62 Bream Street. A Geotechnical Report has been provided which includes recommendations to reduce the risk of adverse ground movements on the sandy soils found on the site.

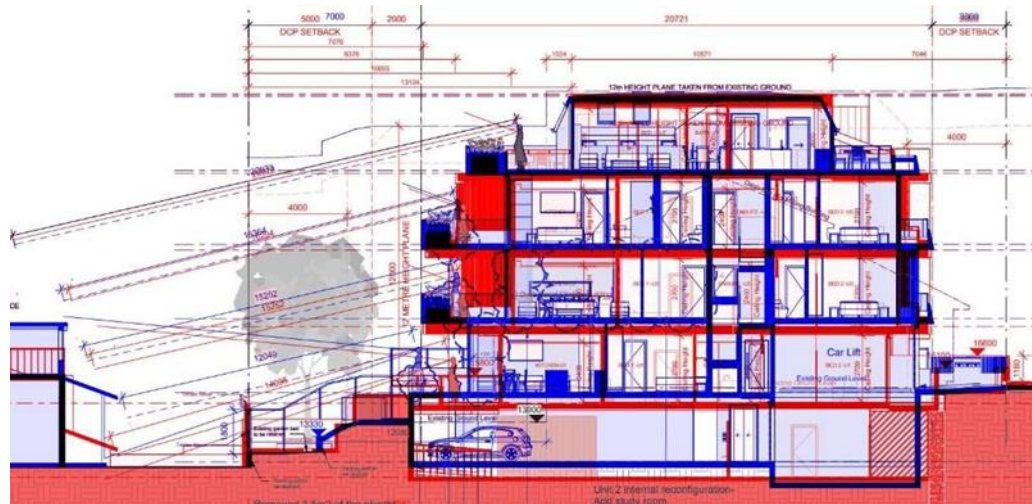
Visual Privacy

The proposed development will not impact on visual privacy more than previous approvals under DA/161/2022 and DA/150/2022/A.

The side-setback non-compliance to the eastern boundary is non-compliant with minimum separation distances for visual privacy as stipulated by the ADG. Separation between the eastern façade and the neighbouring No.60-62 Bream Street is 2.28m. Additionally, the side setback is non-compliant with Section 3.4.2 of RDCP as outlined above. The proposal has nominated frosted

glass and privacy screens as mitigation measures. If approval were recommended, suitable conditions would be imposed to ensure the frosted glass is to a height of 1.6m and privacy screens are to Council's satisfaction.

The rear southern setback is compliant and consistent with previous approvals and with the Section 3F of the Apartment Design Guide (refer Figure 16).



- The proposed development presents substantial variations to the controls established in the RDCP, including side setbacks, landscaped open space, solar access and landscaped open space, rooftop terraces, earthworks, overshadowing and external wall height.

Design Quality

The Applicant has failed to provide a context analysis to inform the design of the proposed development. The design quality of the proposal was not supported by the Randwick Design Excellence Advisory Panel as referred to pursuant to Clause 145 of the Housing SEPP. The proposal fails to meet aim of Chapter 4 of the SEPP to achieve better built form and aesthetics of buildings, streetscapes and public spaces. Refer to Appendix 1 for full comments from The Panel.

Public Interest

The development application is recommended for refusal because approval of the proposed development is not in the public interest having regard to the issues raised in this report and the objections raised in the public submissions. These submissions are largely consistent with the significant issues and impacts outlined in this report.

The proposed development sets an undesirable precedent for future development in the locality.

BCA Building Compliance - Fire-Isolated Stairway & Separation

The development application is recommended for refusal because it has not been demonstrated that the Building Code of Australia has been complied with.

The proposed development does not provide a fire-isolated stairway as outlined in the National Construction Code (NCC). This would add to the bulk & scale of the proposal and a redesign of the floor plans may be required which would require assessment.

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, this has not been provided.

Waste Management

As advised by Council's Development Engineer (refer Appendix 1), the development application is recommended for refusal because it has not provided sufficient room for the adequate storage of waste that will be generated by the proposed development.

Part B6 of the RDCP requires waste bins be provided for residential flat buildings at the rate of 1 x 240L bin per two units for both garbage and recycling resulting in a requirement of 4 x 240L bins for garbage and 4 x 240L bins for recycling.

Since March 2021 Council has also commenced a Food Organics and Garden Organics (FOGO) collection service. In consideration of the number of units and landscaped areas it is considered a minimum of 2 x 240L bins must also be provided for FOGO.

In consideration of the above, the waste storage room must be able to provide storage for a minimum total of 10 x 240L bins. As the proposed waste storage room only provides storage for a maximum 7 bins, it is therefore undersized and will not accommodate the future waste demands of the proposed development.

No area for the storage of bulky waste has been provided as required by Clause 4 Part B6 of the RDCP

Insufficient Information

The Applicant has not provided the following information:

- Clause 4.6 Statement regarding the non-compliance with the FSR development standard.
- An Arborist Report;
- A Preliminary Acid Sulfate Soil Investigation;
- A Building Code of Australia Report;
- An Acoustic Report from a suitably qualified acoustic consultant is required for the acoustic impacts to be understood;
- Evidence that fire sprinklers (and other required building services) can be provided within the proposed floor and ceiling heights;
- A Design Context Analysis;
- Visitor parking allocation; and
- Details of large service voids.

10. Conclusion

That the application for site amalgamation of two (2) existing lots, demolition of existing dwellings/structures, tree removal and construction of part-3, part-4 storey residential flat building containing seven residential units (including an Affordable Housing unit), a basement level comprising 12 car spaces, a communal open space (at ground level), ancillary and landscaping works be refused for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the proposal does not comply with the following objectives and controls of Randwick Local

Appendix 1: Referrals

1. Design Excellence Panel Comments

DA INFORMATION	
Meeting Date	07 April 2025
Panel Members	Connie Argyrou, Rachel Yabsley, Tom Rivard
Report Date	08 April 2025

1. Context and Neighbourhood Character

- The site is zoned R3 Medium Residential
- The site analysis plan provided is cursory. A genuine urban design site analysis should be conducted, documenting and considering the larger context, including topography, landscape, tree canopy, local street typologies, access, parking, cycleways, surrounding built form and streetscape information, along both Brook and Bream Streets. Streetscape documentation should include trees, building massing, access and entries, open space architectonic elements and materiality.
- The subject site is a corner site, with frontages to both Bream and Brook Streets. Directly across Brook Street, to the west, is the Coogee Beach Tennis Club, representing two full blocks of open courts, lawns, landscaping and mature trees.
- The proposed scheme has not considered this unique location and its assets, the outcomes do not respond to this setting.
- Street elevations should show the adjacent properties up to 4 lots on either side of the site to better understand and illustrate the proposal’s relationship to neighbouring buildings.
- The view from the sun diagrams are also missing adjacent properties

2. Built Form and Scale

- The built form complies with front and rear setbacks but not with the side setback. The current setback is 1.2m on lower levels and 2.2m on the uppermost floor. The required setback is 4m. Further any windows within 3m of the boundary need fire protection measures, these have not been identified. This proximity of the eastern façade to the boundary creates overlooking and privacy issues to the neighbour with bedrooms facing adjacent windows. Although these are screened, the design has not appropriately considered privacy issues.
- The built form has a series of overlapping curved balconies to the north and south, and similar curved indentations to the east and west, as the primary architectural articulation. While it creates interest in plan, the primary rationale for the overall design moves should be direct responses to the site conditions and surrounding context. The eastern façade facing Brook Street and the tennis club beyond, which one would expect to be the most open, articulated and permeable, is basically flat with superfluous projecting elements applied to the surface.
- There is a significant height breach to the south-east portion of the building; this creates overshadowing on the neighbouring properties.
- The building needs to consider the sloping nature of the site, which falls from Bream Street to the southern boundary by over 4 meters. The current proposal establishes the basement as a monolithic flat podium, atop of which the building sits. Given the relationship to the residences along the south boundary, and potential negative impacts on overshadowing and overlooking, this level change should be explored as a means to mitigate any negative impacts.
- Currently, the built form of the proposed development in relation to the two, 2-storey

residences to the south is poor. It would be useful to illustrate the shadows cast on the rear facades of these buildings, to accurately assess the impacts. The shadow diagrams show that the rear private open spaces of these properties do not achieve 2 hours of sun in mid-winter (to 50% of the outdoor space).

- Overall the built form should be reconsidered to respond to the site conditions, neighbouring properties, and setback and height controls.

3. Density

- The maximum floor space is 1.13:1 (with the affordable housing bonus), the proposed development is 1.4:1 (24% variation), considerably over the maximum which further reinforces the fact the built form proposed is an overdevelopment on the site.
- The Applicant has incorrectly calculated the FSR, it has included the internal corridors on all levels, the wall cavity in between units and the car parking (over allowable). Further the riser behind the lift is not noted and its shape and area vary up the building. It appears the risers may be used to gain further GFA.

4. Sustainability

- The development should consider sustainable initiatives, including solar panels and green roofs at a minimum.
- Given the extensive site coverage proposed, and the extent of built works, all rainwater falling on the site should be harvested, stored, treated and reused, in garden irrigation, toilets and laundries.

5. Landscape

- The proposal complies with deep soil, being at 38%, significantly over the required 7%, which is positive.
- The landscape space calculation diagram appears to indicate an area in or under the front stair as landscape space, this needs clarifying.
- The communal open space has not been considered in terms of access for residents. The residents need to go outside of the property to Bream Street, then come back in along a long narrow path, alongside bedroom windows of Unit 1 to access the communal open space. Access should be via the lift lobby on the ground floor. Further the communal space needs accessible access.
- The communal open space is 22% of the site as apposed to 25% required, although if it is functional this area is supported.
- If readily accessible, the communal open space should be designed as a viable, usable space, containing the necessary space, surfaces, infrastructure and services to support daily residential activity: paving, furniture, shade/shelter, BBQ and outdoor kitchen facilities, water and electricity.
- Given the proposed location of the communal open space, directly opposite the open space of the tennis club, it is likely that low-level after sun could penetrate to this space all year round. TO this end, the perimeter fence should be operable, allowing afternoon sun to penetrate, and views over the courts.
- Further the Communal open space requires 2 hours of direct sun to 50% of the area - this has not been demonstrated.
- Many of the planter boxes indicated on the upper-level plans are inaccessible, or directly back onto blank walls. All elevated planters proposed should be accessible for maintenance, directly related to interior or exterior spaces, and designed with sufficient soil depth and width to ensure viability of the specimens planted. Detailed consideration needs to be given at the early stage to irrigation and drainage as well, to ensure watering and dewatering infrastructure will not be applied externally to the building.
- The architect should work closely with their landscape architect to develop a cohesive

design, with planting solutions that are viable, low-maintenance, and resilient, especially given the harsh coastal environment.

6. Amenity

- Overall, the communal spaces, individual apartments and overall amenity provided are not especially generous – this seems at odds with the project location and the associated market and resident expectations.
- At a communal level, no consideration has been given to amenities one might expect in this location, such as outdoor shower surfboard storage and bike parking.
- The main pedestrian entry and foyer off of Bream Street would be a poor outcome: constricted and seemingly bounded by high masonry walls. The entry area should include space for bike parking (visitors and residents), seating, and package and food delivery.
- Internally, the common foyers seem very tight, with no room in front of the lift door for more than one person.
- Throughout the building, no common risers have been provided. This service overlay needs to be included on the plans – this might further constrain the already tight apartments and lobbies.
- The apartments themselves are small, with all 3-bedroom units being between 100-109sqm. For this market, the apartments should be much more generous, particularly the top floor penthouse. The ADG stipulates a minimum 95sqm for 3-bedroom units, and these are only 5sqm larger.
- Unit 7, the lift should open directly into the apartment (instead of onto an external terrace), and a more generous spatial layout provided. It seems the external access is a result of floor space limits, as the external foyer has not been included in GFA. This external access is unsuitable for this type of residence.
- Many of the bedrooms are not the minimum size of 3x3 meters, excluding wardrobes., Bedroom 1 in Units 3, 5 and 7 does not comply. Bedroom 3 of Unit 7 does not meet the 9sqm requirement.
- Private Open space areas are not compliant for Units 3 and 5, which have balconies only 2m in depth – minimum depth required is 2.4m.
- ADG Compliance with Solar Access is not achieved, with 3 of the 7 apartments not achieving 2 hours in mid-winter. On this corner site without buildings of significant height surrounding it, this requirement should be readily achieved, with all apartments achieving the minimum required.
- 3.1m is the proposed floor to floor height. The architect should demonstrate, via construction details in section, how they will achieve the required 2.7m ceiling height to all habitable rooms. Presently, the kitchens have 2.4m ceilings, and unit 7 has a non-compliant ceiling height of 2.6m.

7. Safety

- Direct access to the ground floor apartments will increase visual surveillance.

8. Housing Diversity and Social Interaction

- The proposed development has 7 x 3-bedroom apartments, there is no concern about the mix in this location.
- As mentioned in Principle 6 the units appear too constrained, and the mix should be reconsidered to provide some larger units.

9. Aesthetics

- The architectural language of curved forms of the building could be supported, but at

present there appears no rationale for the overall orientation and modelling of the building, the resultant shapes, and the associated landscaped planter beds off the balconies. This needs further design exploration.

- The East and West facades are mostly flat facades, with the Brook Street façade requiring more articulation and modulation, and a much more considered spatial response to the site and location. Currently it is dominated by a masonry street wall at pedestrian level.
- The materials selected of painted render and external moulding (unclear what this material is- as not shown on Schedule of Colours and finishes) do not exhibit design excellence and we suggest these are considered further for their durability near the ocean. It would be worth drawing from the coastal setting, unpainted masonry and sandstone should be considered.
- The applicant should provide detailed sections through the balconies, indicating solutions for the upturned parapets, planters (including soil extents and drainage), and rainwater drainage infrastructure and hardware. These sections should indicate true depths and widths for structural elements like floor slabs and parapets.
- There are no services shown on the street, applicant should consider if sprinkler assembly and booster are required, they need to be discrete and within the development, not at the street frontage.

Summary

The Panel does not support this proposal. It appears this proposal is an overdevelopment, evidenced by the fact the proposal is over FSR, over the height controls and not compliant with side setbacks. Further there are ADG non-compliances with respect to solar access, amenity of apartments and poor outcomes for neighbouring properties, in terms of overshadowing and overlooking. The Panel believes there is a great opportunity in the amalgamation of these two sites to create a property that adds value to the street and neighbourhood while offering high level residential amenity. However, this potential has not been realised, with the proposal not evidencing site specific and contextually responsive design.

2. Internal Referral Comments:

2.1. Development Engineer

The proposal was referred to Council's Development Engineering team, who provided the following comments:

Waste Management

The development application should be refused because it has not provided sufficient room for the adequate storage of waste that will be generated by the proposed development.

- (a) Part B6 of the RDCP requires waste bins be provided for residential flat buildings at the rate of 1 x 240L bin per two units for both garbage and recycling resulting in a requirement of 4 x 240L bins for garbage and 4 x 240L bins for recycling.
- (b) Since March 2021 Council has also commenced a Food Organics and Garden Organics (FOGO) collection service. In consideration of the number of units and landscaped areas it is considered a minimum of 2 x 240L bins must also be provided for FOGO.
- (c) In consideration of the above, the waste storage room must be able to provide storage for a minimum total of 10 x 240L bins. As the proposed waste storage room only provides storage for a maximum 7 bins, it is therefore undersized and will not accommodate the future waste demands of the proposed development.
- (d) No area for the storage of bulky waste has been provided as required by Clause 4 Part B6 of the RDCP

Controls

- Appendix B6-3 Part B6 of the RDCP
- Clause 4 Part B6 of the RDCP

Car Parking

Conditions will be imposed to allow for one visitor car parking space in place of one of the 12 car parking spaces that were to be unit allocated. This visitor parking allocation must be in accordance with Table 1, Part B7 of RDCP 2013.

2.2. Landscape Development

The proposal was referred to Council's Landscape Development team, who provided the following comments:

- Council would require the retention & protection of T4 (a mature Palm) & T5 (a large, established canopy tree) which are both located centrally/towards the SE corner of No.58 Bream Street due to a combination of their size/presence and the setback of the Basement & Ground Floor Levels as well as the provision of deep soil across the rear boundary.
- The key on the Basement Plan plots the SRZ & TPZ of T5, and then appears to nominate it for removal as indicated by the inclusion of a 'green circle'. Council does not support the removal of T5, and all plans should be amended to clarify this. Plans must also include distances in millimetres from the centre of its trunk to any new retaining walls, the Basement and Ground Floor Levels, as well as finished ground levels to enable accurate & thorough assessments. The location and retention of T4 must be shown for the same reasons. The new hydraulic/stormwater system (line & pits) that are shown for the lowest, most southern terrace will also need to be re-designed/relocated to achieve a greater offset from T5, to now be wholly outside of its TPZ.
- An Arborist Report assessing these impacts as well as the extent of clearance pruning needs to be submitted.

3. External referral comments:

3.1. Ausgrid

The application was referred to Ausgrid in accordance with CI 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as the proposal is likely to affect an electricity transmission or distribution network. On 06 March 2025, the following referral response was received from Ausgrid:



TELEPHONE: 13 13 65
EMAIL: development@ausgrid.com.au

24-28 Campbell St
Sydney NSW 2000
All mail to
GPO Box 4009
Sydney NSW 2001
T +61 2 13 13 65
ausgrid.com.au

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

Ausgrid consents to the development subject to the following conditions: -

The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Underground Cables are in the vicinity of the development.

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA)

In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground levels change above Ausgrid's underground cables in areas such as footpaths and driveways, Ausgrid must be notified, and written approval provided prior to the works commencing.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Ausgrid Overhead Powerlines are in the vicinity of the development.

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

New Driveways - Proximity to Existing Poles

Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance.

New or modified connection

To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; <https://www.ausgrid.com.au/Connections/Get-connected>

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

Should you require further information please contact Ausgrid via email to Development@ausgrid.com.au

Regards,
Ausgrid Development Team

3.2. Sydney Water

Sydney Water was notified of the application in accordance with Section 78 of the Sydney Water Act 1994. The following response was received on 07 March 2025:



7 March 2025

Our reference: N/A

Thomas Awford
Randwick City Council
thomas.awford@randwick.nsw.gov.au

RE: Development Application DA/19/2025 at 58 Bream Street, Coogee

Thank you for notifying Sydney Water of DA/19/2025 at 58 Bream Street, Coogee, which proposes the amalgamation of two Torrens title allotments, demolition of the existing structures, and the construction of a new residential flat building (7 dwellings; GFA = 717m²). Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

Sydney Water position:	Condition of Consent applies
Condition of Consent which applies:	Section 73 and Building Plan Approval required See Attachment 1 for recommended wording for Sydney Water conditions to be included in the consent letter.
Additional comments:	Adjustments/deviations to the 225mm wastewater main traversing the site may be required. Maintenance structures located within the property boundary will need to be protected/access maintained. More information can be found in Sydney Water's <u>Technical Guidelines – Building over and adjacent to pipe assets</u> . We recommend the proponent contact Sydney Water as early as possible to prevent development delays where significant adjustments or design variations are required.
Other information:	This advice is not formal approval of our servicing requirements. Detailed requirements will be provided once the development is referred to Sydney Water for further applications. The <i>Sydney Water Development Application Information Sheet (for proponent)</i> enclosed contains details on how to make further applications to Sydney Water and further information on Infrastructure Contributions. A copy of this should be provided to the proponent in conjunction with the development consent.

If you require any further information, please contact the Growth Analytics Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

Growth Analytics Team
Growth and Development, Water and Environment Services
Sydney Water, 1 Smith Street, Parramatta NSW 2150
Sydney Water Corporation ABN 49 776 225 038
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 92 Media (24/7) 8849 5151 sydneywater.com.au



Attachment 1 – Recommended Development Conditions

Prior to the issue of an Occupation/Subdivision Certificate:

Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Prior to the issue of a Construction Certificate/Complying Development Certificate:

Building Plan Approval (including Tree Planting Guidelines)

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in®](#) to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

Tree Planting

Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's [Technical guidelines – Building over and adjacent to pipe assets](#).

Sydney Water Corporation ABN 49 776 225 038
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 82 Media (24/7) 8849 5151 sydneywater.com.au



Appendix 2: Apartment Design Guide Compliance Table

Clause	Design Criteria	Proposal	Compliance												
Part 3: Siting the Development															
3C-1	Public Domain Interface														
	<p>Ground terrace with direct public domain access.</p> <p>Ground terraces to include level change from public domain.</p> <p>Solid fences / walls up to 1m</p> <p>Planted edges to terraces recommended.</p> <p>Services located away from public domain.</p>	<ul style="list-style-type: none">• No direct public domain access.• Level changes from public domain, apartments are lower to Bream Street and raised to Brook Street as a consequence of site topography.• Fences are not solid above 1m. Walls greater than 1m to Brook Street as a result of steep slope.• Services located away from public domain.	Yes.												
3D-1	Communal and Public Open Space														
	Communal open space has a minimum area equal to 25% of the site (see figure 3D.3)	The communal open space has been measured at 136m ² , which equates to 22% of site area.	No.												
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Not demonstrated - failure to comply is a consequence of the location at the southern and lower side of the site.	No.												
3E-1															
	<p>Deep soil zones are to meet the following requirements:</p> <p>Site Area:</p> <table><tr><th>Site Area</th><th>Min. Dimension</th><th>Deep Soil Zone (% site)</th></tr><tr><td>< 650m²</td><td>-</td><td>7%</td></tr><tr><td>650–1,500m²</td><td>3m</td><td>7%</td></tr><tr><td>>1,500m²</td><td>6m</td><td>7%</td></tr></table>	Site Area	Min. Dimension	Deep Soil Zone (% site)	< 650m ²	-	7%	650–1,500m ²	3m	7%	>1,500m ²	6m	7%	<p>21% (128.91m²)</p> <p>Revised from 38% (230.26m²) as presented in planning memo to DEAP. Ground floor landscaped areas above the basement had been erroneously counted.</p>	Yes.
Site Area	Min. Dimension	Deep Soil Zone (% site)													
< 650m ²	-	7%													
650–1,500m ²	3m	7%													
>1,500m ²	6m	7%													
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</th><th>Habitable</th><th>Non-</th></tr><tr><td></td><td></td><td></td></tr></table>	Building	Habitable	Non-				<p>Separation between the eastern façade and the neighbouring No.60- 62 Bream Street is 2.28m.</p> <p>The proposal has nominated frosted</p>	To be conditioned if approval were recommended.						
Building	Habitable	Non-													

D31/25

D31/25

Clause	Design Criteria			Proposal	Compliance
	Height	Rooms and Balconies	habitable rooms	glass and privacy screens as mitigation measures. If approval were recommended, suitable conditions would be imposed to ensure the frosted glass is to a height of 1.6m and privacy screens are to Council's satisfaction.	
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 storeys)	9m	4.5m		
	Over 25m (9+ storeys)	12m	6m		
	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties				
Part 4: Designing the Building					
4A	Solar and Daylight Access				
	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.			Solar diagrams provided with the application do not show compliance with units 1, 3 and 5 all failing to meet the private open space requirement.	No.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter			All apartments receive some direct sunlight between 9 am and 3 pm at mid-winter	Yes.
4B	Natural Ventilation				
	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			Apartments are cross ventilated.	Yes.
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.				Yes.
4C	Ceiling Heights				
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none">Habitable Rooms – 2.7mNon-habitable – 2.4mAttic spaces – 1.8m at edge with min 30 degree ceiling slopeMixed use areas – 3.3m for ground and first floor			The proposal fails to meet these controls as Section 1 shows kitchen to units 1, 3 and 5 with 2.4m ceiling heights and bedroom to unit 7 with a 2.6m ceiling height. Section 2	No.

Clause	Design Criteria	Proposal	Compliance															
	These minimums do not preclude higher ceilings if desired	shows the kitchen to units 2, 4 and 6 with 2.4m ceiling height.																
4D	Apartment Size and Layout																	
	<p>Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none">• Studio - 35m²• 1 bedroom - 50m²• 2 bedroom - 70m²• 3 bedroom - 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m² each</p>	All 3 bedroom apartments >90m ²	Yes.															
	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		Yes.															
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height		Yes.															
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Yes.															
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	Bedroom 3 of unit 7 fails to meet this minimum area requirement at 8.12m ² .	No.															
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Bedroom 1 of unit 3, 5 & 7 all fail to comply.	No.															
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">• 3.6m for studio and 1 bedroom apartments• 4m for 2 and 3 bedroom apartments	Living/dining rooms generally 4m wide - large kitchen islands impinge on the dining room width.	Partial.															
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts		Yes.															
4E	Apartment Size and Layout																	
	<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>	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 balconies of units 3 & 5 fail to meet this requirement.	No.
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																

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Clause	Design Criteria	Proposal	Compliance
	The minimum balcony depth to be counted as contributing to the balcony area is 1m		
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m	The private open space of unit 1 fails to meet this requirement.	No.
4F	Common Circulation and Spaces		
	The maximum number of apartments off a circulation core on a single level is eight		Yes.
4G	Storage		
	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments - 4m³ • 1 bedroom apartments - 6m³ • 2 bedroom apartments - 8m³ • 3+ bedroom apartments - 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>	<p>The proposed 3-bedroom apartments have at least 8.1m³ in the basement carparking level. Each apartment is therefore required to have 5m³ of storage indicated within the apartments. This has not been demonstrated.</p>	No.
4H	Acoustic Privacy		
	Interface design to preserve amenity.	Units appear to be appropriately designed. Minimum distances to neighbouring properties as per 3F not achieved.	Partial.
4L	Ground Floor Apartments		
	<p>Direct access to ground floor apartment.</p> <p>Private open space next to street.</p> <p>Terrace elevated above street level and landscape incorporated.</p> <p>Solar access maximized by high ceilings.</p>	<ul style="list-style-type: none"> • Direct street access is not provided. • POS of Unit 2 next to Brook Street; POS from bedrooms of Unit 2 and Unit 1 face Bream Street. • Private open space off is elevated with landscaping incorporated. • Higher ceilings are not provided. 	Partial.

Appendix 3: DCP Compliance Table**3.2 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"> 1 space 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 	10.5 spaces required 12 allocated spaces 0 visitor spaces	1 space to be conditioned as visitor parking if approval were recommended.
	Motor cycle requirements: 5% of car parking requirement	1 motor cycle spot	Yes
4.	Bicycles		
	Residents: <ul style="list-style-type: none"> 1 bike space per 2 units Visitors: <ul style="list-style-type: none"> 1 per 10 units 	5 bicycle spaces	Yes

3.3 Section C2: Medium Density Residential

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
2.	Site Planning		
2.1	Site Layout Options		
	Site layout and location of buildings must be based on a detailed site analysis and have regard to the site planning guidelines for: <ul style="list-style-type: none"> Two block / courtyard example T-shape example U-shape example Conventional example 	No detailed site analysis provided. Site layout is the result of combining building envelope of two separate approvals and 'filling in' space between.	No.
2.2	Landscaped open space and deep soil area		
2.2.1	Landscaped open space		
	A minimum of 50% of the site area (306.3m ²) is to be landscaped open space.	206m ² of landscaped open space, which equates to 34% of the site area.	No.
2.2.2	Deep soil area		
	(i) A minimum of 25% of the site area (153.15m ²) should incorporate deep soil areas sufficient in size and dimensions to accommodate trees and significant planting.	21% (128.91m ²)	No.
	(ii) Deep soil areas must be located at ground level, be permeable, capable for the growth of vegetation and large	Deep soil areas are at ground level.	Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	trees and must not be built upon, occupied by spa or swimming pools or covered by impervious surfaces such as concrete, decks, terraces, outbuildings or other structures.		
	(iii) Deep soil areas are to have soft landscaping comprising a variety of trees, shrubs and understorey planting.	Landscape plan demonstrating a variety of trees, shrubs and understorey planting.	Yes.
	(iv) Deep soil areas cannot be located on structures or facilities such as basements, retaining walls, floor slabs, rainwater tanks or in planter boxes.	128.91m ² area does not include areas above the proposed basement.	Yes.
	(v) Deep soil zones shall be contiguous with the deep soil zones of adjacent properties.	Deep soil areas to south and west boundaries shared with adjacent properties.	Yes.
2.3	Private and communal open space		
2.3.2	Communal open space		
	Communal open space for residential flat buildings is to be: (a) Of a sufficient contiguous area, and not divided up for allocation to individual units. (b) Designed for passive surveillance. (c) Well oriented with a preferred northerly aspect to maximise solar access. (d) adequately landscaped for privacy screening and visual amenity. (e) Designed for a variety of recreation uses and incorporate recreation facilities such as playground equipment, seating and shade structures.	<ul style="list-style-type: none"> Communal open space is poorly oriented, located to south of site and downhill, accessed by stairs only. Not designed for a variety of recreational uses. 	No.
3.	Building Envelope		
3.1	Floor space ratio		
	0.9:1 + 26% bonus under Housing SEPP = 1.13:1	1.41:1	No.
3.2	Building height		
	12m + 26% bonus under Housing SEPP = 15.12m	13.67m	Yes.
3.3	Building depth		
	For residential flat buildings, the preferred maximum building depth (from window to window line) is between 10m and 14m. Any greater depth must demonstrate that the design solution provides good internal	Maximum building depth = 15.87m <ul style="list-style-type: none"> All apartments have at least three aspects to 	No.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	amenity such as via cross-over, double-height or corner dwellings / units.	<p>enable sufficient natural ventilation.</p> <ul style="list-style-type: none"> Living rooms do not receive sufficient solar access as per the ADG controls due to apartment layout. 	
3.4	Setbacks		
3.4.1	Front setback		
	<p>(i) The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Notwithstanding the above, the front setback generally must be no less than 3m in all circumstances to allow for suitable landscaped areas to building entries.</p> <p>(ii) Where a development is proposed in an area identified as being under transition in the site analysis, the front setback will be determined on a merit basis.</p> <p>(iii) The front setback areas must be free of structures, such as swimming pools, above-ground rainwater tanks and outbuildings.</p> <p>(iv) The entire front setback must incorporate landscape planting, with the exception of driveways and pathways.</p>	<ul style="list-style-type: none"> The front setback on the primary and secondary property frontages must be consistent with the prevailing setback line along the street. Complies with prevailing setbacks. 	Yes.
3.4.2	Side setback		
	<p>Residential flat building</p> <p>(i) Comply with the minimum side setback requirements stated below:</p> <ul style="list-style-type: none"> 14m ≤ site frontage width < 16m: 2.5m <p>(ii) Incorporate additional side setbacks to the building over and above the above minimum standards, in order to:</p> <ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> Minimum west side setback of 0.6m to Brook Street. East side setback of 1.31m. Setback to Brook Street complies with prevailing secondary frontage setback defined by existing dwelling and No.74 Dolphin Street. No additional side setbacks - east and west facades are not well articulated. A fire protection statement has not been submitted. 	No.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - 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		
	For residential flat buildings, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the greater.	10.2m approx. 5m minimum required.	Yes.
4.	Building Design		
4.1	Building façade		
	<p>(i) Buildings must be designed to address all street and laneway frontages.</p> <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>	<ul style="list-style-type: none"> • 14m wall section to western façade facing Brook Street. • 18m ground level wall on south façade. • Articulation provided by blade walls added to façade. 	No.
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>	<ul style="list-style-type: none"> • Flat roof form with 3rd level presenting as a roof terrace does not respond to the orientation of the site • Urban block consists of buildings with pitched roof forms. There is a flat roofed RFB opposite the site at No.63 Bream Street. 	No.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<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 the habitable room windows and private and communal open space of the adjoining residences. - 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>	<ul style="list-style-type: none"> • 3rd level is articulated into distinctive sections. • The proposed rooftop terrace is not acceptable as the size and location of the terrace will result in unreasonable noise impacts on neighbouring properties. 	
4.4	External wall height and ceiling height		
	(i) a 12m building height limit under the LEP, a maximum external wall height of 10.5m applies.	The proposed development seeks external wall heights of 13.26m.	No.
4.5	Pedestrian Entry		

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>(i) Separate and clearly distinguish between pedestrian pathways and vehicular access.</p> <p>(ii) Present new development to the street in the following manner:</p> <ul style="list-style-type: none"> - Locate building entries so that they relate to the pedestrian access network and desired lines. - Design the entry as a clearly identifiable element in the façade composition. - Integrate pedestrian access ramps into the overall building and landscape design. - For residential flat buildings, provide direct entries to the individual dwellings within a development from the street where possible. - Design mailboxes so that they are convenient to residents, do not clutter the appearance of the development at street frontage and are preferably integrated into a wall adjacent to the primary entry (and at 90 degrees to the street rather than along the front boundary). - Provide weather protection for building entries. <p>Postal services and mailboxes</p> <p>(i) Mailboxes are provided in accordance with the delivery requirements of Australia Post.</p> <p>(ii) A mailbox must clearly mark the street number of the dwelling that it serves.</p> <p>(iii) Design mail boxes to be convenient for residents and not to clutter the appearance of the development from the street.</p>	<p>Pedestrian and vehicular access are separate.</p> <ul style="list-style-type: none"> • Centrally located pedestrian access to Bream Street. • Clearly identifiable in façade composition. • Pedestrian access ramp is integrated. • Direct entries to individual dwellings not provided directly off street. • Mailboxes well located near entry and integrated into a wall adjacent to primary entry. 	<p>Yes.</p> <p>Yes.</p>
4.6	Internal circulation		
	<p>(i) Enhance the amenity and safety of circulation spaces by:</p> <ul style="list-style-type: none"> - Providing natural lighting and ventilation where possible. - Providing generous corridor widths at lobbies, foyers, lift doors and apartment entry doors. - Allowing adequate space for the movement of furniture. - Minimising corridor lengths to give short, clear sightlines. - Avoiding tight corners. 	<ul style="list-style-type: none"> • Open circulation core and stair proposed. A fire-isolated stairway as outlined in the National Construction Code (NCC) has not been provided. • Corridor width at lobby of 1.315m. • Internal circulation areas are acceptable. 	<p>Yes.</p>

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<ul style="list-style-type: none"> - Articulating long corridors with a series of foyer areas, and/or providing windows along or at the end of the corridor. 		
	(ii) Use multiple access cores to: <ul style="list-style-type: none"> - Maximise the number of pedestrian entries along a street for sites with wide frontages or corner sites. - Articulate the building façade. - Limit the number of dwelling units accessible off a single circulation core on a single level to 6 units. 	<ul style="list-style-type: none"> • Corner site with 20.085m frontage to Bream Street. Single pedestrian entry and single access core. • Maximum two dwellings off a single circulation core per level. 	Partial.
4.9	Colours, materials and finishes		
	(i) Provide a schedule detailing the materials and finishes in the development application documentation and plans. (ii) The selection of colour and material palette must complement the character and style of the building. (iv) Use the following measures to complement façade articulation: <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. (v) Avoid the following materials or treatment: <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 (vi) Use materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration. (vii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	Design Excellence Advisory Panel comments: <i>The materials selected of painted render and external moulding (unclear what this material is- as not shown on Schedule of Colours and finishes) do not exhibit design excellence and we suggest these are considered further for their durability near the ocean. It would be worth drawing from the coastal setting, unpainted masonry and sandstone should be considered.</i>	No.
4.12	Earthworks Excavation and backfilling		
	(i) Any excavation and backfilling within the building footprints must be limited to 1m at any point on the allotment, unless it is demonstrated	Basement garage requires excavation of up to 3.74m in height, which	No.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>that the site gradient is too steep to reasonably construct a building within this extent of site modification.</p> <p>(ii) Any cut and fill outside the building footprints must take the form of terracing following the natural landform, in order to minimise the height or depth of earthworks at any point on the site.</p> <p>(iii) For sites with a significant slope, adopt a split-level design for buildings to minimise excavation and backfilling.</p>	exceeds the RDCP control.	
	<p>Retaining walls</p> <p>(iv) Setback the outer edge of any excavation, piling or sub-surface walls a minimum of 900mm from the side and rear boundaries.</p> <p>(v) Step retaining walls in response to the natural landform to avoid creating monolithic structures visible from the neighbouring properties and the public domain.</p> <p>(vi) Where it is necessary to construct retaining walls at less than 900mm from the side or rear boundary due to site conditions, retaining walls must be stepped with each section not exceeding a maximum height of 2200mm, as measured from the ground level (existing).</p>	Nil basement setback to the eastern side boundary.	No.
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 	<ul style="list-style-type: none"> • Quiet areas separated from common recreation areas, parking areas, vehicle access ways and other noise generating activities. • Side setback non-compliance and minimum separation distances as per the ADG not achieved. Roof terrace is considered excessive and does not meet Section 4.2. • Acoustic impacts of these non-compliance on No.60-62 Bream Street are not clear. 	Not sufficiently demonstrated.
5.5	View sharing		

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<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>	<ul style="list-style-type: none"> • View sharing impact is acceptable. • No additional view loss compared with previous approvals DA/161/2022 & DA/150/2022/A. • No significant view loss from public domain. 	Yes.
5.6	Safety and security		
	<p>(i) Design buildings and spaces for safe and secure access to and within the development.</p>	<ul style="list-style-type: none"> • Direct entry to ground level dwellings from a common foyer, not from the street. • Direct access between car park and residential levels. • Recessed entrapment points adjacent to entries in common foyer. 	No.
	<p>(iii) For residential flat buildings, provide direct, secure access between the parking levels and the main lobby on the ground floor.</p>	<ul style="list-style-type: none"> • Direct access between car park and residential levels. 	Yes.
	<p>(iv) Design window and door placement and operation to enable ventilation throughout the day and night without compromising security. The provision of natural ventilation to</p>	Acceptable window and door placement.	Yes.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	the interior space via balcony doors only, is deemed insufficient.		
	(v) Avoid high walls and parking structures around buildings and open space areas which obstruct views into the development.	Views into development from Bream Street. High wall on Brook Street is a consequence of sloping site.	Yes.
	(vi) Resident car parking areas must be equipped with security grilles or doors.	Natural ventilation grilles incorporated to garage door. Would be conditioned to Council satisfaction if approval recommended.	
	(vii) Control visitor entry to all units and internal common areas by intercom and remote locking systems.	Conditioned to Council satisfaction if approval recommended.	
	(viii) Provide adequate lighting for personal safety in common and access areas of the development.	Conditioned to Council satisfaction if approval recommended.	
	(ix) Improve opportunities for casual surveillance without compromising dwelling privacy by designing living areas with views over public spaces and communal areas, using bay windows which provide oblique views and casual views of common areas, lobbies / foyers, hallways, open space and car parks.	Casual surveillance of the Street is enabled.	Yes.
	(x) External lighting must be neither intrusive nor create a nuisance for nearby residents.	Conditioned to Council satisfaction if approval recommended.	
	(xi) Provide illumination for all building entries, pedestrian paths and communal open space within the development.	Conditioned to Council satisfaction if approval recommended.	
6. Car parking and access			
6.1	Location		
	(i) Car parking facilities must be accessed off rear lanes or secondary street frontages where available.	Accessed off secondary street (Brook Street).	Yes.
	(ii) The location of car parking and access facilities must minimise the length of driveways and extent of impermeable surfaces within the site.	Garage entry on street boundary.	Yes.
	(iii) Setback driveways a minimum of 1m from the side boundary. Provide landscape planting within the setback areas.	Garage entry on secondary street frontage >1m from neighbouring property.	Yes.
	(v) For residential flat buildings, comply with the following: (a) Car parking must be provided underground in a basement or semi-basement for new development. (b) On grade car park may be considered for sites potentially	Car parking in basement.	Yes.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	<p>affected by flooding. In this scenario, the car park must be located on the side or rear of the allotment away from the primary street frontage.</p> <p>(c) Where rear lane or secondary street access is not available, the car park entry must be recessed behind the front façade alignment. In addition, the entry and driveway must be located towards the side and not centrally positioned across the street frontage.</p>		
6.2	Configuration		
	<p>(i) With the exception of hardstand car spaces and garages, all car parks must be designed to allow vehicles to enter and exit in a forward direction.</p>	Sufficient room for cars to enter and exit in a forward direction.	Yes.
	<p>(ii) For residential flat buildings, the maximum width of driveway is 6m. In addition, the width of driveway must be tapered towards the street boundary as much as possible.</p>	4m wide car park entry.	Yes.
	<p>(iv) Provide basement or semi-basement car parking consistent with the following requirements:</p> <p>(a) Provide natural ventilation.</p> <p>(b) Integrate ventilation grills into the façade composition and landscape design.</p> <p>(c) The external enclosing walls of car park must not protrude above ground level (existing) by more than 1.2m. This control does not apply to sites affected by potential flooding.</p> <p>(d) Use landscaping to soften or screen any car park enclosing walls.</p> <p>(e) Provide safe and secure access for building users, including direct access to dwellings where possible.</p> <p>(f) Improve the appearance of car park entries and avoid a 'back-of-house' appearance by measures such as:</p> <ul style="list-style-type: none"> - Installing security doors to avoid 'black holes' in the facades. - Returning the façade finishing materials into the car park entry recess to the extent visible from the street as a minimum. - Concealing service pipes and ducts within those 	<ul style="list-style-type: none"> • Natural ventilation grills incorporated to garage door. • Car park enclosing wall >4m high at entry. Partially a result of sloping site condition. • Landscaping used to soften car park enclosing walls. 	Partial.

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DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	areas of the car park that are visible from the public domain.		
7. Fencing and Ancillary Development			
7.1	Fencing		
	<ul style="list-style-type: none"> (i) Fences are constructed with durable materials that are suitable for their purpose and can properly withstand wear and tear and natural weathering. (ii) Sandstone fencing must not be rendered and painted. (iii) The following materials must not be used in fences: <ul style="list-style-type: none"> - Steel post and chain wire - Barbed wire or other dangerous materials (iv) Expansive surfaces of blank rendered masonry to street frontages must be avoided. 	<ul style="list-style-type: none"> • Detail lacking on materiality. Generally solid portion to 600mm with open elements to 1200mm. • Conditioned to Council satisfaction if approval recommended. • Expansive surface of wall to Brook Street. 	Partial.
7.2	Front Fencing		
	(i) The fence must align with the front property boundary or the predominant fence setback line along the street.	Front fencing aligns with predominant setback line.	Yes.
	(ii) The maximum height of front fencing is limited to 1200mm, as measured from the footpath level, with the solid portion not exceeding 600mm, except for piers. The maximum height of front fencing may be increased to 1800mm, provided the upper two-thirds are partially open, except for piers.	Generally solid portion to 600mm with open elements to 1200mm.	Yes.
	(iii) Construct the non-solid portion of the fence with light weight materials that are at least 30% open and evenly distributed along the full length of the fence.	Conditioned to Council satisfaction if approval recommended.	
	(iv) Solid front fence of up to 1800mm in height may be permitted in the following scenarios: <ul style="list-style-type: none"> - Front fence for sites facing arterial roads. - Fence on the secondary street frontage of corner allotments, which is behind the alignment of the primary street façade. Such solid fences must be articulated through a combination of materials, finishes and details, and/or incorporate landscaping, so as to avoid continuous blank walls.	Conditioned to Council satisfaction if approval recommended.	
	(v) The fence must incorporate stepping to follow any change in level along the street boundary. The height of the fence may exceed the	Fencing follows fall of site.	Yes.

DCP Clause	Control	Proposal	Compliance (Yes/No/NA/Conditioned)
	aforementioned numerical requirement by a maximum of 150mm adjacent to any stepping.		
	(vi) The preferred materials for front fences are natural stone, face bricks and timber.	Conditioned to Council satisfaction if approval recommended.	
	(vii) Gates must not open over public land.	Gate opens onto site.	
	(viii) The fence adjacent to the driveway may be required to be splayed to ensure adequate sightlines for drivers and pedestrians.		NA
7.3	Side and Rear Fencing		
	<p>(i) The maximum height of side, rear or common boundary fences is limited to 1800mm, as measured from the ground level (existing). For sloping sites, the fence must be stepped to follow the topography of the land, with each step not exceeding 2200mm above ground level (existing).</p> <p>(ii) In the scenario where there is significant level difference between the subject and adjoining allotments, the fencing height will be considered on merits.</p> <p>(iii) The side fence must be tapered down to match the height of the front fence once pasts the front façade alignment.</p> <p>(iv) Side or common boundary fences must be finished or treated on both sides.</p>	<p>Approximately 1.8m high side boundary fence shown on drawings.</p> <p>Conditioned to Council satisfaction if approval recommended.</p>	
7.7	Laundry facilities		
	(i) Provide a retractable or demountable clothes line in the courtyard of each dwelling unit.	Not specified.	
	(ii) Provide internal laundry for each dwelling unit.	Laundry room in each apartment.	Yes.
	(iii) Provide a separate service balcony for clothes drying for dwelling units where possible. Where this is not feasible, reserve a space for clothes drying within the sole balcony and use suitable balustrades to screen it to avoid visual clutter.	Not specified.	

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Appendix 4: Housing SEPP - In-fill Affordable Housing Compliance Table

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
15C Development to which division applies		
(1) This division applies to development that includes residential development if—		
(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and	The proposed development is permitted with consent under RLEP.	Yes
(b) the affordable housing component is at least 10%, and	Yes, >10%	Yes
(c) all or part of the development is carried out— (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.	The subject site is located in the Six Cities Region and is located in an accessible area, being within 400m walking distance of a bus stop used by a regular bus service.	Yes
(2) Affordable housing provided as part of development because of a requirement under another chapter of this policy, another environmental planning instrument or a planning agreement is not counted towards the affordable housing component under this division.	Noted.	N/A
16 Affordable housing requirements for additional floor space ratio		
(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).	0.9:1 (as per RLEP 2012) 1.17:1 (+30% as per Housing SEPP with 15% of GFA as AH) Site area = 612.6m ² (as per survey) Max GFA = 716.74m ² Applicant = 1.17:1 Council = 1.39:1 (or 848.48m ²)	No
(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows— $\text{affordable housing component} = \frac{\text{additional floor space ratio}}{(\text{as a percentage})} \div 2$	Min AHC = 26.95% (being 53.9% (848.48m ² being proposed GFA/ 551.34sqm being max GFA of 0.9:1 FSR DS) / 2) Proposed = 13.5% (based on the affordable housing component being	No

Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
	114.5m ² and the GFA being 848.48m ²).	
(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).	12m + 26% bonus under Housing SEPP = 15.12m 13.67m proposed	Yes
(4) This section does not apply to development on land for which there is no maximum permissible floor space ratio.	There is a 0.9:1 maximum floor space ratio on the land.	
19 Non-discretionary development standards—the Act, s 4.15		
(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—		
(a) a minimum site area of 450m ² ,		Yes
(b) a minimum landscaped area that is the lesser of— (i) 35m ² per dwelling, or (ii) 30% of the site area,	Control = 30% of site area (183.8m ²) Proposed = 34% (206m ²)	Yes
(c) a deep soil zone on at least 15% of the site area, where— (i) each deep soil zone has minimum dimensions of 3m, and (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,	Not applicable – refer subsection (3).	N/A
(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,	Not applicable – refer subsection (3).	N/A
(e) the following number of parking spaces for dwellings used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, (iii) for each dwelling containing at least 3 bedrooms—at least 1 parking space,	Control = 1 (1x 3-bedder) Proposed = 1 space	Yes
(f) the following number of parking spaces for dwellings not used for affordable housing— (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	Control = 9 (6x 3-bedders) Proposed = 11 spaces	Yes
(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,	Refer to Apartment Design Guide assessment.	Yes
(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,	Not applicable.	N/A
(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas— (i) for each dwelling containing 1 bedroom—65m ² ,	Not applicable.	N/A

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Standard	Proposal	Compliance
Part 2: In-fill affordable housing		
(ii) for each dwelling containing 2 bedrooms—90m ² , (iii) for each dwelling containing at least 3 bedrooms—115m ² plus 12m ² for each bedroom in addition to 3 bedrooms.		
(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.	Noted.	N/A
20 Design requirements		
(1) Development consent must not be granted to development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces) under this division unless the consent authority has considered the Low Rise Housing Diversity Design Guide, to the extent to which the guide is not inconsistent with this policy.	Not applicable.	N/A
(2) Subsection (1) does not apply to development to which Chapter 4 applies.	Noted.	N/A
(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with— (a) the desirable elements of the character of the local area, or (b) for precincts undergoing transition—the desired future character of the precinct.	The development is incompatible with the desirable elements of the character of the local area.	No
21 Must be used for affordable housing for at least 15 years		
(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development— (a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and (b) the affordable housing component will be managed by a registered community housing provider.	A condition would be included. The proposal is recommended for refusal.	Yes
22 Subdivision permitted with consent		
Land on which development has been carried out under this division may be subdivided with development consent.	No consent is sought for any subdivision.	N/A

Responsible officer: Thomas Awford, Environmental Planning Officer

File Reference: DA/19/2025