

Randwick Local Planning Panel (Public) Meeting

Thursday 9 October 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, 9 October 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.

General Reports

Nil

Development Application Reports

D56/25	130-134 Coogee Bay Road, Coogee (DA/535/2025)	1
D57/25	41 Oberon Street, Randwick (DA/634/2025)	89

Meryl Bishop
DIRECTOR CITY PLANNING

Development Application Report No. D56/25

Subject: 130-134 Coogee Bay Road, Coogee (DA/535/2025)

Executive Summary

Proposal:	Demolition of existing buildings/structures, tree removal and construction of a shop top housing development over 8 levels 6 habitable levels with 21 residential units, 3 commercial tenancies and 2 levels of basement containing 42 car spaces (accessed from Powell Lane).
Ward:	East Ward
Applicant:	The Trustee For The CBR9 Trust
Owner:	Cbr9 Pty Ltd & Ms C J Sharpe
Cost of works:	\$13,076,949.63
Reason for referral:	Development contravenes the development standard for floor space ratio and building height by more than 10% and 29 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/535/2025 for the demolition of existing buildings/structures, tree removal and construction of a shop top housing development over 8 levels 6 habitable levels with 21 residential units, 3 commercial tenancies and 2 levels of basement containing 42 car spaces (accessed from Powell Lane), at No. 130-132 and 134 Coogee Bay Road, Coogee, for the following reasons:

1. The proposed development is of an excessive density that is incompatible with surrounding development and the streetscape, resulting in non-compliance with the height of buildings development standard pursuant to clause 4.3 of RLEP 2012 and the floor space ratio (FSR) development standard pursuant to clause 4.4 of RLEP 2012 and the number of storeys in part D6 of the RDCP 2013.
2. The submitted written requests to vary the height of buildings and FSR development standards pursuant to clause 4.6 of RLEP 2012 are not considered to be well founded in that they do not sufficiently demonstrate that the proposed non-compliance is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify a variation to the development standard.
3. The proposal is inconsistent with the objectives of the E1 Local Centre zone (RLEP 2012), which seeks to encourage high-quality urban design, protect the amenity of residents in the zone and nearby zones surrounding residential areas, and inconsistent with Council's Strategic planning for residential development in the area. The northern-most wing and Powell Lane frontage are visually dominant, limit deep soil and communal open space, and fail to respond to the residential context.
4. The proposal fails to achieve design excellence under Clause 6.11 of RLEP 2012 and Schedule 9 of the Housing SEPP, with inappropriate bulk, scale, finishes, and insufficient deep soil, open space and landscaping that does not contribute to nor does it respond positively to neighbouring sites.
5. The proposal has not demonstrated consistency with Clause 6.22 of RLEP 2012 in regards the impact of the development on the amenity of surrounding residential areas, the desired future character of the local centre and the hierarchy of centres.

6. Pursuant to Part 3 and Part 4 of the Apartment Design Guide (ADG), the proposal is contrary to the following controls and design guidance:
 - a. The rear wing and FSR exceedances fail to achieve the minimum 2 hours of direct sunlight to the east-facing living room windows of No. 124–126 Coogee Bay Road between 9 am and 3 pm on 21 June, as required under ADG Objective 3B-2, which seeks to provide reasonable solar access to existing neighbouring dwellings. This reduces solar access to neighbouring apartments and is inconsistent with the Housing SEPP Schedule 9 Amenity design principle, which requires apartments to provide appropriate solar access, natural ventilation, outlook and visual privacy to support the health and comfort of residents, and the Built Form and Landscaping design principle, which requires development to achieve good urban amenity, provide solar access to public and communal open space, and ensure bulk and scale do not unreasonably compromise neighbouring development.
 - b. The proposal fails to provide the minimum 25% communal open space required under ADG Objective 3D-1, which seeks to provide sufficient, accessible, and useable communal space for residents. This reduces amenity for future occupants and is inconsistent with the Housing SEPP Schedule 9 Amenity design principle, which requires appropriate access to communal open space that enhances resident comfort and well-being, and the Built Form and Landscaping design principle, which requires development to provide open space that contribute positively to the streetscape, landscape character, and visual amenity of the locality.
 - c. The development fails to achieve the 7% deep soil landscaping requirement under ADG Objective 3E-1, which seeks to provide sufficient soil depth for large tree planting, stormwater infiltration, and urban cooling. This reduces opportunities for canopy planting, diminishes residential amenity, and contributes to the urban heat island effect. As a result, the proposal is inconsistent with the Housing SEPP Schedule 9 Built Form and Landscaping design principle, which requires development to provide deep soil zones that support planting and enhance landscape character; the Amenity principle, which requires appropriate outlook, visual privacy, and environmental comfort for residents; and the Sustainability principle, which requires development to be environmentally sustainable and resilient, minimising energy and water use and positively contributing to the microclimate.
 - d. The proposed 3 m side setback and 5 m rear setback do not meet ADG Objective 3F-1 (6–9 m separation), which seeks to provide adequate separation between buildings to protect visual and acoustic privacy, solar access, and reasonable amenity for neighbouring properties, and Part D6 of the RDCP 2013, which seeks to ensure development respects the scale, bulk, and topography of the site while protecting the amenity of adjoining properties. This results in overlooking, overshadowing, excessive visual bulk, and a poor transition to adjoining lower-density zones, and is inconsistent with the Housing SEPP Schedule 9 Built Form and Landscaping principle, which requires development to maintain appropriate scale and separation, and the Amenity principle, which requires visual privacy, solar access, and outlook to neighbouring properties.
 - e. The proposal fails to provide the required 10 m² minimum area of private open space for the balconies to Units 1, 10, 13, 14, and 15 under ADG Objective 4E-1, which seeks to provide sufficient private open space to meet the functional needs of residents. This reduces the quality of private amenity for these apartments and is inconsistent with the Housing SEPP Schedule 9 Amenity principle, which requires private open space that supports resident comfort, recreation, and social interaction.
7. The proposal does not provide adequate waste storage or collection arrangements and is inconsistent with Randwick City Council Waste Management Guidelines (Clauses i, Section

- 9.3.3; C24 and C50, Appendix C; ii, Section 7.3). The commercial waste room provides insufficient bins, bin wash facilities are not provided, service compartments at each level are absent, and no safe bin transport arrangements are demonstrated. The development fails to ensure safe, efficient, and sustainable waste management for residential and commercial components, resulting in potential operational and amenity impacts.
8. The proposed commercial tenancy fronting Powell Lane is inconsistent with the predominantly residential character of the laneway and does not achieve design excellence under Clause 6.11 of the RLEP 2012 or the Schedule 9 Housing SEPP in that it is inconsistent with the desired future character of the residential area along Powell Lane, reduces opportunities for deep soil, landscaping and sustainability outcomes.
 9. Insufficient information – a full and robust assessment of the proposal cannot be completed as there are a number of deficiencies and lack of detail in the information submitted with the development application including:
 - a. View impacts,
 - b. Acoustic amenity,
 - c. Stormwater compliance,
 - d. Contaminated land,
 - e. Acid sulfate soils, and
 - f. Tree management.
 10. Approval of the subject application would set an undesirable precedent for overdevelopment in the E1 zone and adjoining lower-density residential areas, contrary to design excellence, strategic planning objectives, additional adverse amenity impacts on adjoining land and the public interest.

Attachment/s:

Nil

D56/25



1. Executive summary

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

- the development contravenes the development standard for floor space ratio, building height and lot size by more than 10%; and
- 29 unique submissions by way of objection were received regarding the subject proposal.

The proposal seeks development consent for demolition of existing buildings/structures, tree removal and construction of a shop top housing development over 8 levels (2 basement and six habitable) with 21 residential units, 3 commercial tenancies and 2 levels of basement containing 42 car spaces (accessed from Powell Lane) at 130-132 and 134 Coogee Bay Road, Coogee.

The key issues associated with the proposal relate to the application seeking substantial variations to the development standards for Height of buildings and FSR under the LEP, additional adverse impacts on the amenity of future residents and neighbouring properties, the excessive rear depth and number of storeys at the rear not providing an appropriate transition down to the adjoining and neighbouring E1 and R3 medium density zone, absence of communal open space and deep soil zones, and adverse impacts including visual bulk, overshadowing, privacy and potential loss of views.

The development application is subject of a class 1 deemed refusal before the Land and Environment Court.

The proposal is recommended for refusal for the reasons identified in the recommendation of this report.

2. Site Description and Locality

The site is known as 130-134 Coogee Bay Road, Coogee and is legally described as Lot B in DP 102102 (130-132 Coogee Bay Road) and Lot 1 in DP 940970 (134 Coogee Bay Road). An aerial photograph of the site is provided at **Figure 6**. The site has a combined area of 1,005.3m² and is rectangular in shape. The site has a 24.995m frontage to Coogee Bay Road, to the south, and the same to Powell Lane at the rear. The site falls across the frontage from south at Coogee Bay Road to the north at Powell Lane by approximately 10.95m.

The site is currently occupied by two buildings – a part 1, part 3-storey brick shop top housing building at 130-132 Coogee Bay Road and a 2-storey dwelling house at 134 Coogee Bay Road (refer to **Figure's 1** and **2**). The site also contains a significant number of trees, particularly concentrated within 134 Coogee Bay Road.

The site is within Zone E1 Local Centre under the provisions of Randwick Local Environmental Plan 2012 ("RLEP 2012").



Figure 1: Aerial photograph of the site (Source: Geocortex viewer)

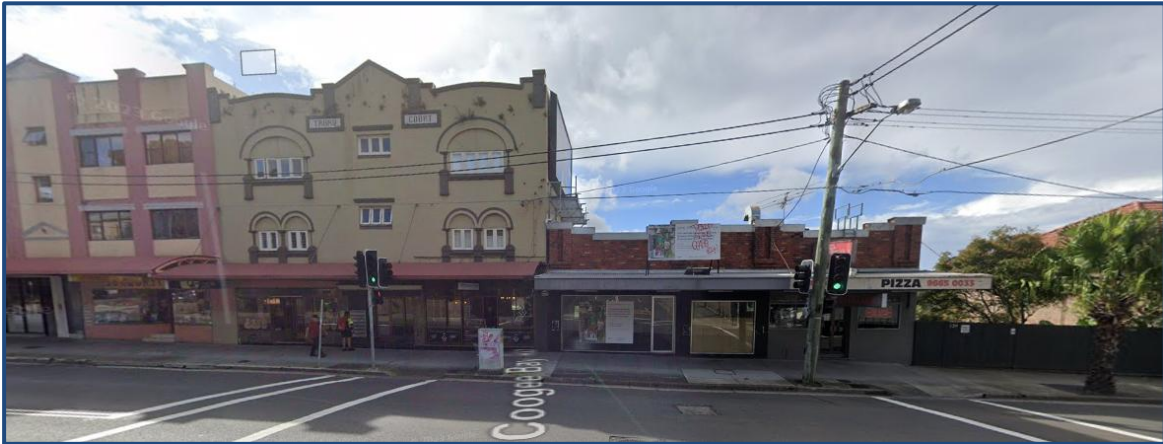


Figure 2: Subject site, viewed east from Coogee Bay Road (Source: Geocortex)

Surrounding development comprises a mix of residential and commercial uses that range in height from 1 to 5 storeys.

Development to the west of the site, at No. 124-126 Coogee Bay Road, is a part 5, part 6-storey mixed commercial residential development of older stock within the E1 zone. Further afield to the west, are Nos. 114-122 Coogee Bay Road, which contain several part 3, part 5-storey buildings with a 2-storey building at the rear fronting Powell Lane.

Development to the east of the site includes a 3-storey residential flat building at No. 136 Coogee Bay Road and a single storey dwelling at No. 28 Powell Street further to the rear fronting Powell Lane, which is identified as a heritage item of local significance under RLEP 2012 ("Belle", Item 197).

Development at the opposite side of Powell Lane is No. 26 Powell Street, which contains a single storey dwelling, and No. 67 Melody Street, which contains a 2-storey dwelling, both of which have rear vehicular access off Melody Lane that runs perpendicular to the site. The area is zoned R3 Medium Density Residential, permitting a 9.5m maximum height and 0.75:1 maximum FSR pursuant to clauses 4.3(2) and 4.4(2) of the RLEP 2012.

Development to the south of the site is at the intersection of Coogee Bay Road and Byron Street as well as the Coogee Public School on the south-western corner of the intersection and other retail premises on the south-eastern corner.

3. Relevant history

- BA/68/1934 – 2 shops & dwellings & one lock-up shop.
- DA/64/1973 – Use existing shop as fish shop.
- DA/229/1973 – Use shop as fruit shop.
- DA/134/1978 – Use the existing shop premises as a retail lighting showroom.
- DA/266/1982 – Convert existing commercial premises (currently vacant/previously cake shop) as real estate.
- BA/78/1984 – Alterations to shop.
- BA/685/1985 – Exhaust ventilation system.
- DA/469/2008 – Change of use and fit-out to provide a body piercing and tattoo studio, operating 12 noon to 9 pm, 7 days a week.

4. Proposal

The proposal seeks development consent for the demolition of existing buildings/structures, tree removal and construction of a shop top housing development with 21 residential units, 3 commercial tenancies and 2 levels of basement containing 42 car spaces (accessed from Powell Lane) at 130-132 and 134 Coogee Bay Road, Coogee.

Specifically, the proposed development includes:

- Demolition of the existing structures and trees at the site.
- Site amalgamation of Nos. 130-132 and 134 Coogee Bay Road.
- Construction of an 8 level shop top housing building comprising:

Two (2) Basement levels:

Basement 2 (Lowest Level):

- 22 car spaces (3 accessible)
- 13 bicycle spaces
- 1 motorcycle space
- Ceiling-mounted traffic signal system
- 8 storage rooms
- Fire pump room
- Excavation depth: about 7m below natural ground level at Coogee Bay Road frontage (RLs down to ~17.0).

Ground floor Powell Lane (Basement):

- Small commercial tenancy/outdoor commercial area fronting Powell Lane (~31m²)
- 14 car spaces (2 accessible and 2 commercial)
- 1 motorcycle space
- Residential and retail waste rooms
- Bulky waste storage
- On-site detention (OSD) tank
- Excavation depth: approx. 5m below natural ground at Powell Lane side (RL ~19.95–21.5).

Six (6) habitable levels above and roof:

Lower Ground 3 (first habitable residential level above Powell Lane):

- 4 apartments (2 × 2B (U18 & U19 ~75m² each), 2 × 3B (U20 & U21 ~95m² each)
- Residential storage cages
- Retail storage

Lower Ground 2:

- 4 apartments (2 × 2B (U14 & U15 ~75m² each), 2 × 3B (U16 & U17 ~95m² each)
- Plant and equipment: Hydraulic plant, electrical plant, combined fire hydrant & sprinkler tank, fire tank air lock.

Lower Ground 1:

- 6 apartments (mix of 1B (U8 & U9 ~50m²), 2B (U10 & U13 ~75m²), 3B (U11 & U12 ~95m²)
- Services risers and waste chute

Ground Floor (Coogee Bay Road frontage)

- Two small retail tenancies (~29m² and 35m²) fronting Coogee Bay Road
- 3 apartments (U5, U6 & U7 - 2B and 3B, ~95–97m² each)
- Lift lobby
- Entry foyer
- Booster assembly (fire)
- Waste chute
- Corridor access

First Floor

- 2 apartments (U3 & U4 - 3B, ~112–114m²)

Second Floor

- 2 apartments (U1 & U2 - 2B, ~79–83m²)

D56/25

Roof (RL42.05)

- Lift overrun (RL43.65)
- AC units (no details on height)

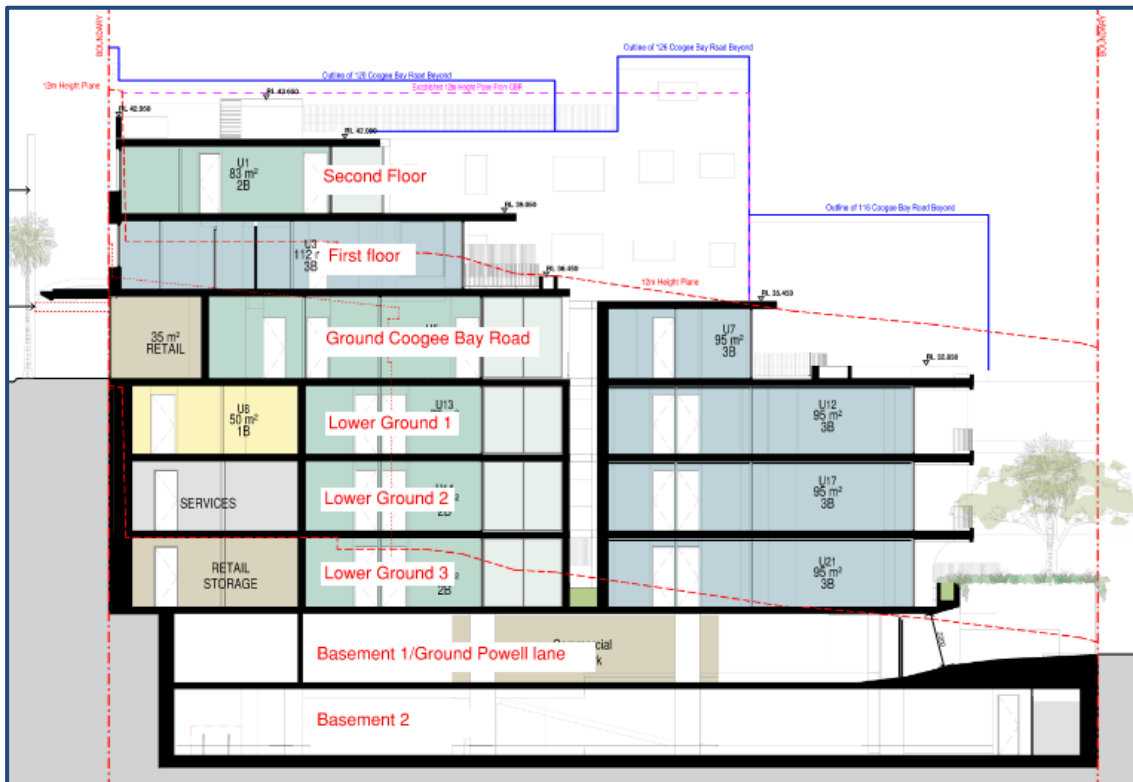


Figure 3: Section identifying levels (Source: EMK)



Figure 4: Photomontage of proposed development facing Coogee Bay Road (Source: EMK)



Figure 5: Photomontage of proposed development facing Powell Lane (Source: EMK)

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:

- 1 Berwick Street, Coogee
- 1/68 Bream Street, Coogee
- 64 Brook Street, Coogee
- 107-121E Coogee Bay Road, Coogee (school)
- 124-126 Coogee Bay Road, Coogee - Owners corporation strata manager
- 2/124-126 Coogee Bay Road, Coogee (2 submissions)
- 6/124-126 Coogee Bay Road, Coogee
- 8/124-126 Coogee Bay Road, Coogee
- 136 Coogee Bay Road, Coogee (2 submissions)
- 3/136 Coogee Bay Road, Coogee
- 5/136 Coogee Bay Road, Coogee
- 53 Melody Street, Coogee (2 submissions)
- 63 Melody Street, Coogee (2 submissions)
- 67 Melody Street, Coogee (2 submissions)
- 68 Melody Street, Coogee
- 1/1A Powell St, Coogee
- 12 Powell St, Coogee
- 13 Powell St, Coogee
- 17 Powell St, Coogee (2 Submissions)
- 19 Powell St, Coogee
- 25 Powell St, Coogee (2 Submissions)
- 298 Rainbow Street, Coogee

Issue	Comment
Detracts from the character of the area.	Concerns noted in the below assessment.
Loss of ocean views to east unit 8/124-126 Coogee Bay Road.	Agreed insufficient information has been provided with regard to view sharing analysis.

D56/25

Issue	Comment
Traffic and parking demand along Powell Lane.	Noted, Council's Development Engineer has not raised any concerns with regard to the number of parking spaces provided or the traffic generated from the development.
Earthwork depth and proximity to boundaries compromises structural adequacy of adjoining buildings.	Several conditions of consent would be applied to suitably protect the neighbouring land and buildings including those relating to: - Dilapidation reports prior to and after completion of works; and - Suitable engineering monitoring and practices
Flooding notably along Powell and Melody Street.	Flooding has been considered by Council's Development Engineer. See Referral section of this report.
Absence of Heritage impact statement.	Council's Heritage Planner has reviewed the subject application and does not raise any concerns with the impact on the curtilage of this item at No. 28 Powell Street or the School on the opposite side of Coogee Bay Road.
Removal of established trees (15 Melaleuca and 18 Ficus Lyrata) could be retained as they are at the back of the site. T9 and T12 canary island palms are established trees. Removal of trees on adjoining sites. Notes revised standard for tree protection zones AS 4970:2025.	Council's Landscape officer has considered the removal of trees in their review of the proposed development. See Landscape Officers comments in the referral section of this report.
Inaccessibility loading along Powell Lane.	Council's Development Engineer has not raised concerns relating to the access driveway into and out of the development.
Commercial space fronting Powell Street is of a size and potential use that will adversely impact amenity of adjacent residential uses.	Agreed, the proposed commercial tenancy facing Powell Lane is incompatible with the uses along Powell Lane, which is predominately designated to provide access to the buildings fronting Coogee Bay Road.
Insufficient parking.	The proposal provides compliant levels of parking for the site, as confirmed in the Engineering assessment section below.
Traffic and pedestrian safety due to narrow streets accessing the site from Powell Street and Powell Lane. Traffic report makes reference to incorrect locale.	The reference to the incorrect locality is noted and likely a typo noting the traffic report considers the traffic flow in the surrounding area.
Non-compliance with building height standard.	Noted – see Assessment against the height of buildings development standard.
Non-compliance with FSR standard.	Noted – see Assessment against the floor space ratio development standard.
Overshadowing impacts notably at eastern side of 124-126 Coogee Bay Road notably reduced to less than 3 hours to – around 1 hour.	Noted, the overshadowing caused by the proposed non-compliant FSR to a large extent and building height to a lesser extent result in unreasonable increase of overshadowing to

Issue	Comment
	the neighbouring property to the west at No. 124-126 Coogee Bay Road.
Visual bulk and privacy.	The proposed visual bulk largely relating to the rear components of the development extending beyond the rear building line of the adjoining development to the west results in adverse visual bulk as viewed from the neighbouring properties habitable room windows and the rear yards of No. 28 Powell Street.
Construction management and traffic.	Conditions of consent can appropriately manage construction onsite.
Noise and Vibration.	An acoustic report has not been provided which doesn't allow for consideration as to whether the proposed development's plant and equipment will not result in any adverse impacts on the amenity of neighbouring properties. The applicant has not provided an assessment as to whether the internal noise of the apartments will meet the minimum levels of amenity required. See Environmental Health officer comments in the referral section of this report.
Demand on waste collection.	Council's Development Engineer has considered the waste management issues and indicated that the waste measures are insufficient. See Development Engineer's comments in the referral section of this report.
Air quality.	The proposed development is unlikely to result in poor air quality.
Blocking of advertising sign on eastern wall of 124-126 Coogee Bay Road, Coogee which provides economic benefit for the strata.	There is no automatic right to retain visibility of a sign across adjoining land. However, the matter is a relevant consideration under section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, which requires assessment of the likely impacts of the development, including social and economic impacts. In this regard, it is necessary to consider whether the sign is approved, its location, and its contribution to the amenity of the locality. The advertising sign located on the eastern wall of No. 124–126 Coogee Bay Road has development consent (DA/498/2014) noting the legitimate use of the existing sign (as it was constructed around 1977 without consent). The sign is not directly associated with the businesses operating within the building but instead functions as general advertising signage. While the proposed development would obscure this sign, it is positioned on the side wall of the building and relies on visibility across the adjoining site.

Issue	Comment
	The subject site and the adjoining property are within the same zone, which anticipates mixed-use development of a bulk and scale consistent with the desired future character of the area. Such development would invariably limit visibility of side-wall signage. Although some economic impact to the strata at No. 124–126 Coogee Bay Road is acknowledged, this impact is not considered sufficient to warrant amendment of the development at the front so as to preserve sightlines to the sign, particularly given the broader planning objectives of the zone and compatibility of the bulk and scale of the development as viewed from along Coogee Bay Road.

6. Relevant Environment Planning Instruments

6.1. SEPP (Sustainable Buildings) 2022

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

6.2. SEPP (Housing) 2021

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

- Chapter 4: Design of residential apartment development.

142 Aims of chapter

(1) *The aim of this chapter is to improve the design of residential apartment development in New South Wales for the following purposes—*

- (a) *to ensure residential apartment development contributes to the sustainable development of New South Wales by—*
 - (i) *providing socially and environmentally sustainable housing, and*
 - (ii) *being a long-term asset to the neighbourhood, and*
 - (iii) *achieving the urban planning policies for local and regional areas,*
- (b) *to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*
- (c) *to maximise the amenity, safety and security of the residents of residential apartment development and the community,*
- (d) *to better satisfy the increasing demand for residential apartment development, considering—*
 - (i) *the changing social and demographic profile of the community, and*
 - (ii) *the needs of a wide range of people, including persons with disability, children and seniors,*
- (e) *to contribute to the provision of a variety of dwelling types to meet population growth,*
- (f) *to support housing affordability,*
- (g) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions,*
- (h) *to facilitate the timely and efficient assessment of development applications to which this chapter applies.*

(2) *This chapter recognises that the design of residential apartment development is significant because of the economic, environmental, cultural and social benefits of high quality design.*

Comment: Whilst the proposal provides additional and a variety of housing, the DEAP raised the following concerns:

- The proposal particularly at the rear is visually dominant and has a poor relationship with surrounding development.
- Subterranean 1 bedroom apartments have limited access to natural light resulting in poor amenity and therefore less sustainable.
- Provides a commercial premises at the rear laneway, which is inconsistent with and compromises amenity of the prevailing residential character along this laneway.

The Assessment officer concurs with the DEAP advice, noting the following:

- The proposed bulk and scale associated with the variations to the development standards for FSR and to a limited extent the HOB at the rear of the site is incompatibly distributed further to the rear than that of adjoining and neighbouring development to the west at No. 124-126 Coogee Bay Road located in the same E1 zone.
- The proposal's distribution of bulk and scale at the rear results in adverse visual bulk and additional adverse overshadowing on adjoining sites at No. 124-126 Coogee Bay Road and adverse visual bulk on the eastern neighbour's rear yard at No. 28 Powell Street in the R3 zone.
- The proposal's bulk and scale at the rear does not provide an appropriate transition down to the lower density properties on the other side of Powell Lane.
- In combination with the incompatible distribution of bulk and scale at the rear, the non-provision of communal open space and deep soil on site and insufficient planter box details, the proposed development will result in poorer levels of social interaction between residents and less environmentally sustainable housing than if the development included open space in the rear of the site consistent with the openness of adjoining development to the west and the reduced scale that provides a better transition down to the lower density buildings and zones.

144 Application of chapter

(1) *In this policy, development to which this chapter applies is referred to as **residential apartment development**.*

(2) *This chapter applies to the following—*

- (a) *development for the purposes of residential flat buildings,*
- (b) development for the purposes of shop top housing,**
- (c) *mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.*

(3) *This chapter applies to development only if—*

- (a) *the development consists of—*
 - (i) the erection of a new building, or**
 - (ii) *the substantial redevelopment or substantial refurbishment of an existing building, or*
 - (iii) *the conversion of an existing building, and*
 - (b) *the building is at least 3 storeys, not including underground car parking storeys, and*
 - (c) *the building contains at least 4 dwellings.*

Comment: The proposal is for erecting a new building for shop top housing.

145 Referral to design review panel for development applications

- (1) *This section applies to a development application for residential apartment development, other than State significant development.*
- (2) *Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.*
- (3) *This section does not apply if—*
 - (a) *a design review panel has not been constituted for the local government area in which the development will be carried out, or*
 - (b) *a competitive design process has been held.*

Comment: The application was referred to Council's Design Excellence Advisory Panel (DEAP). The Panel provided detailed advice on the 9 design principles, raising multiple concerns that remain unresolved. Key recommendations included:

- Remove commercial tenancy fronting Powell Lane.
- Reduce density to better comply with FSR control and address amenity issues.
- Reconsider allocation of mass - in particular the 3-storey Northern-most residential wing which is visually dominant.
- Remove subterranean 1B apartments - to be replaced with basement services/storage.

147 Determination of development applications and modification applications for residential apartment development

- (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.*
- (2) *The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.*
- (3) *To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.*
- (4) *Subsection (1)(c) does not apply to State significant development.*

Comments: Consent cannot be granted unless design quality is addressed with regard to the SEPP Design Principles, ADG, and DEAP advice. Both the DEAP Panel and Council assessment staff agree the current design does not demonstrate design excellence.

Schedule 9 Design principles:

The application was referred Council's Design Excellence Advisory Panel for comment – see referral section of this report. In summary the Panel advised of the following key points:

The application was referred to Council's Design Excellence Advisory Panel (DEAP). In summary, the Panel advised the following key points:

- **Context & Neighbourhood Character:** The Panel found that “further work is required to address the Powell Lane interface.” The development must better respond to the transition from multi-storey shop-top housing along Coogee Bay Road to predominantly low-scale residential dwellings along Powell Lane.
- **Built Form & Scale:** Council noted that the height and FSR variations create “adverse visual bulk, overshadowing, loss of privacy, and potential view loss.” The northern-most

wing is visually dominant, and floor space allocation requires reconsideration in the context of neighbouring development.

- **Landscape:** Both Panel and Council identified a “failure to provide communal open space and deep soil landscaping,” with the Panel recommending that deep soil landscaping be provided along Powell Lane. The Panel also encourages retention of perimeter planting to private open spaces on structure.
- **Amenity:** Council highlighted nil communal open space and substandard setbacks, while the Panel noted poor amenity for subterranean apartments. Opportunities exist to reconfigure units (e.g., U10/U13) and relocate basement storage to improve natural light, privacy, and solar access.
- **Aesthetics:** The Panel required conditioning for the Coogee Bay Road material palette to avoid “painted render substitution which would be a poor outcome.” Clarification of the retail base materiality is also recommended, with tiles or stone encouraged in lieu of painted render or concrete.
- **Other Key Recommendations:**
 - Remove the commercial tenancy fronting Powell Lane.
 - Reduce density and reconsider allocation of mass/floor space, particularly the northern-most 3-storey wing.
 - Reduce basement excavation to allow for deep soil along the northern frontage.
 - Review podium design to incorporate north-facing communal open space and landscaped buffer.
 - Review floor-to-floor heights to retain landscaped terracing concepts on rooftops.

The Panel concluded that the proposed development could achieve design excellence if these matters were addressed, ensuring improved Context, Built Form & Scale, Landscape, Amenity, and Aesthetics outcomes consistent with Schedule 9 design principles.

148 Non-discretionary development standards for residential apartment development—the Act, s 4.15

- (1) *The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*

Note—

See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.

- (2) *The following are non-discretionary development standards—*
- (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,*
 - (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,*
 - (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.*

Comments: The proposal's provision of parking complies with the vehicular and bicycle parking rates under Part B7 of the RDCP 2013. The proposed apartment sizes comply the minimum required under the ADG.

149 Apartment Design Guide prevails over development control plans

(1) *A requirement, standard or control for residential apartment development that is specified in a development control plan and relates to the following matters has no effect if the Apartment Design Guide also specifies a requirement, standard or control in relation to the same matter—*

- (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) *This section applies regardless of when the development control plan was made.*

Comments: The proposal does not comply with the ADG separation requirements requiring larger separation than part D6 of the RDCP 2013 as indicated in Appendix 4 of this report and discussed in the key issues section of this report.

The proposal does not comply with the minimum private open space and balconies for several units as detailed in the ADG table in appendix 4 and discussed in the key issues section of this report.

6.3. 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 proposal does involve the removal of trees on the site and referred to Council's Landscape Officer for comment. Refer to assessment consideration in referral section below.

6.4. SEPP (Resilience and Hazards) 2021Chapter 4 - Remediation of Land

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.

Council's Environmental Health Officer has reviewed the application and raises concern that in the absence of a Preliminary Site Investigation (PSI) report that it cannot be concluded that the site is suitable for its intended use.

6.5. State Environmental Planning Policy SEPP (Transport and Infrastructure) 2021 ("T&I SEPP").

Section 2.48 *Determination of development applications—other development* requires the consent authority to give written notice to Ausgrid and take into consideration any response for development within proximity to electrical transmission and distribution infrastructure. Ausgrid consent to the development subject to conditions.

6.6. Sydney Water Act 1994 ("SW Act").

Section 78 Consent authority to notify Corporation of development and building applications. Sydney water raised no objection to the proposed development.

6.7. Randwick Local Environmental Plan 2012 (LEP)

The site is zoned E1 Local Centre under Randwick Local Environmental Plan 2012 and the proposal is permissible with consent.

The objectives of E1 Local Centre zone are:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- ***To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.***
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To maximise public transport patronage and encourage walking and cycling.*
- ***To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community.***
- ***To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones.***
- *To facilitate a safe public domain.*
- *To support a diverse, safe and inclusive day and night-time economy.*

The proposal is inconsistent with the specific objectives of the zone in that the proposed activity and built form is inconsistent with the objectives for the following reasons:

- The development application is inconsistent with the objective of facilitating a high standard of urban design and pedestrian amenity in that the proposed development is of an excessive bulk, scale and density, has a poor relationship with surrounding development and fails to demonstrate design excellence contrary to clause 6.11 of RLEP 2012.
- The development application is also inconsistent with the objective of minimising the impact of development and protecting the amenity of residents in the zone in providing nil communal open space areas and deep soil zones, being of excessive visual bulk, and contributing to loss of privacy, overshadowing and potential loss of views, resulting in poor amenity for future occupants and neighbouring residents.

Clause	Development Standard	Proposal	Compliance (Yes/No)
CI 4.4: Floor space ratio (max)	1.5:1	1.94:1	No
CI 4.3(2): Building height (max)	12m	18.15m	No

Height of building shown in figure 6 further below–

- 18.15m** maximum building height from lift overrun (RL 43.65) to ground level (RL25.50).
- 16.71m** (CBR and side roof parapet at eastern at RL42.95 to ground at RL25.34).
- 16.81m** (Second floor roof behind at RL42.05 to ground at RL25.24).
- 14.4m to 14.87m** (First floor roof in middle at RL39.05 to ground at RL24.65/RL24.18).
- 12.4m to 12.8m** (CBR ground level rear roof at RL35.45 to ground in middle at RL23.05 to east at RL22.65).
- 10.20m to 10.53m** (From lower ground level 1 roof parapet at RL32.85 to ground eastern corner at RL22.65 and to ground western corner at RL22.32) and **10.04m to 10.51m** (From lower ground level 1 rear middle at RL32.50 to ground rear west middle at RL22.46 and to ground rear east middle at RL21.99). 3 storeys above existing ground level and 4 storeys above Powell Lane level.

G. 3.16m (Powell Lane ground floor roof at RL24.05 to ground at middle RL20.89).

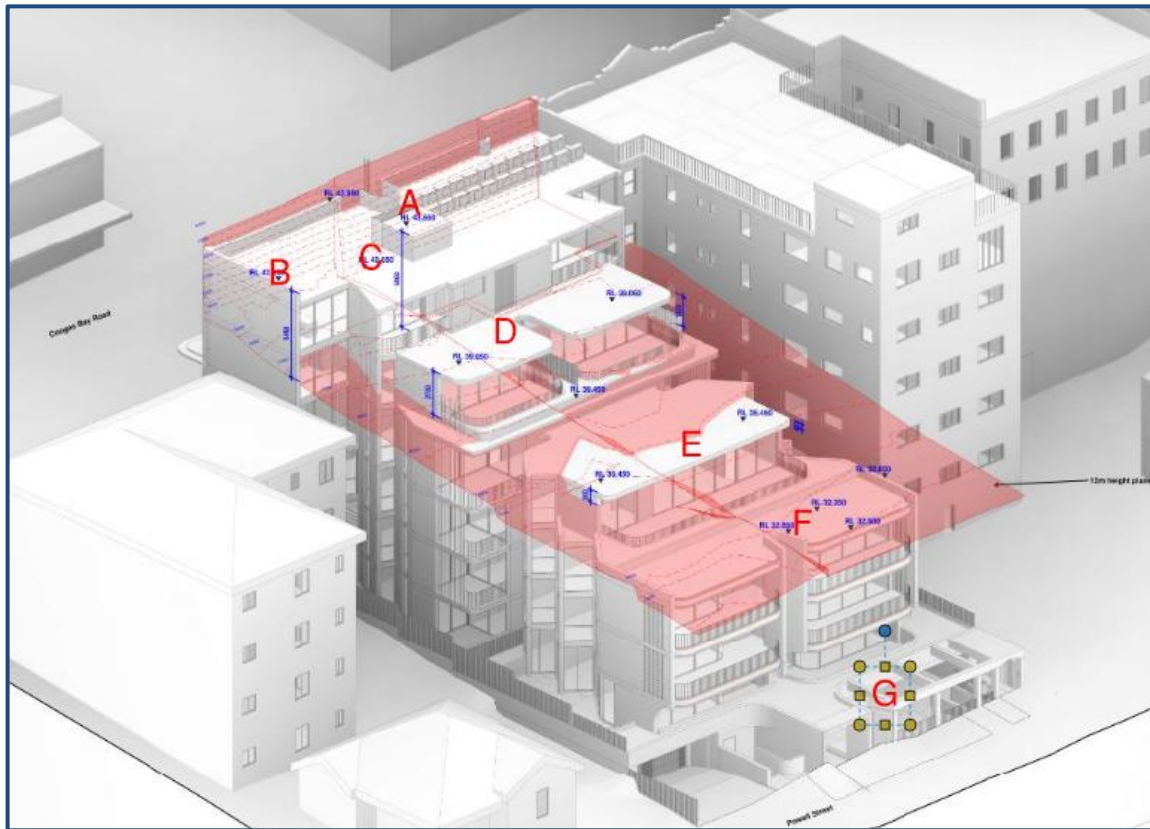


Figure 6: Height of building components.

6.7.1. Clause 4.6 - Exceptions to development standards

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

6.7.2. Clause 5.10 - Heritage conservation

The subject site adjoins a heritage item at No. 28 Powell Street to the east of No. 134 Coogee Bay Road. The application was referred to Council's Heritage Planner for comment, who did not raise any objections to the proposed development. See Heritage Planner referral comments in referral section of this report.

6.7.3. Clause 6.2 – Earthworks

Pursuant to clause 6.2 of RLEP 2012, before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The proposed development involves excavation works of up to 9.5m in height. The submitted Geotechnical Report indicates that the site is suitable for the proposed development from a geotechnical viewpoint, subject to the recommendations and conditional on further geotechnical investigation being carried out.

6.7.4. 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.

6.11 Design excellence

- (1) *The objective of this clause is to deliver the highest standard of architectural and urban design.*
- (2) *This clause applies to development involving the construction of a new building or external alterations to an existing building—*
...
(c) that is, or will be, at least 15 metres in height.
- (3) *Development consent must not be granted to development to which this Clause applies unless the consent authority is satisfied that the proposed development exhibits design excellence.*
- (4) *In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—*
 - (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
 - (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
 - (c) *how the proposed development responds to the environmental and built characteristics of the site and whether it achieves an acceptable relationship with other buildings on the same site and on neighbouring sites,*
 - (d) *whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency.*
 - (e) *whether the proposed development detrimentally impacts on view corridors and landmarks."*

The application was referred to the Design Excellence Advisory Panel who raised concerns with the following:

- The proposed rear elements of the development didn't present an acceptable relationship with development on neighbouring sites and would result in a poor transition of built form down to the lower density zones surrounding the site and to the adjoining Local Centre zoned sites to the west.
- The incompatibility of the proposed commercial tenancy along Powell Lane noting it was essentially a residential laneway.
- The lack of communal open space and deep soil was a direct consequence of the excessive bulk and scale at the rear of the site and its unacceptable relationship with other buildings on neighbouring sites.
- The subterranean one-bedroom apartments on Lower Ground 1 have poor access to natural light, recommending the reallocation of this area as secondary components of a larger apartment which would free up land along the northern frontage and within the rear for deep soil landscaping.

Overall, the proposal does not achieve design excellence as it fails to appropriately respond to context, scale, amenity, sustainability, landscaping, and aesthetics, and it does not improve the public domain in accordance with the objectives of Clause 6.11 of the Randwick LEP 2012 and Schedule 9 of the Housing SEPP. In this regard, Council is not satisfied that the proposal exhibits design excellence pursuant to clause 6.11 of RLEP 2012.

6.7.5. Clause 6.22: Development in Local Centres

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure the scale and function of development in local centres are appropriate for the location,*
 - (b) *to ensure development in local centres is compatible with the desired future character and amenity of surrounding residential areas.*
- (2) *This clause applies to land in Zone E1 Local Centre.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered—*
 - (a) *the impact of the development on—*
 - (i) *the amenity of surrounding residential areas, and*
 - (ii) *the desired future character of the local centre, and*
 - (b) *whether the development is consistent with the hierarchy of centres.*

Assessment against Clause 6.22

Amenity of surrounding residential areas:

The proposed development fails to adequately protect the amenity of neighbouring properties. Key issues include:

- Excessive bulk and scale, particularly at the rear, resulting in overshadowing and loss of solar access to east-facing living areas of No. 124–126 Coogee Bay Road.
- Inadequate side (3 m) and rear (5 m) setbacks relative to adjoining residential properties, creating overlooking, visual dominance, and poor transition to lower-density zones.
- Rear elements extending beyond neighbouring development, increasing visual bulk and enclosing open spaces.
- Lack of communal open space and deep soil landscaping, compromising amenity for future residents.

Desired future character of the local centre:

The development exceeds height (18.15 m vs. 12 m) and FSR (1.94:1 vs. 1.5:1) controls, resulting in an overdeveloped form inconsistent with the local centre's scale and character.

- Rear 3–4 storey components along Powell Lane are incompatible with the primarily residential, low-rise laneway context.
- Proposed commercial tenancies along Powell Lane are inconsistent with the established residential character and contrary to Design Excellence Advisory Panel advice.
- Overall bulk, scale, and inadequate landscaping fail to achieve the high-quality urban design expected under the zone objectives and Housing SEPP.

Consistency with the hierarchy of centres:

- The scale, intensity, and density of the development are not appropriate for a local centre and risk undermining the orderly hierarchy of centres by introducing a higher-order scale of development in a neighbourhood-level centre.
- The proposal would set an undesirable precedent for similar overdevelopment in other local centres, contrary to strategic planning objectives.

Conclusion:

The proposed development is inconsistent with Clause 6.22 of RLEP 2012:

- It would have significant adverse impacts on the amenity of surrounding residential areas.
- It does not align with the desired future character of the local centre.
- It is not consistent with the hierarchy of centres, representing an overdevelopment of a neighbourhood-level centre.

Accordingly, refusal of the application is recommended in the public interest.

7. Clause 4.6 exception to a development standard

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

Clause	Development Standard	Proposal	Proposed variation	Proposed variation (%)
CI 4.4: Floor space ratio (max)	1.5:1	1.94:1 (1,949.75m ²)	452.25m ²	30%
CI 4.3: Building height (max)	12m	18.15m (RL43.65- RL25.50)	6.15m	51.2%

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

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

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

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

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

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

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

Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 reinforces his previous decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 where

he identified five commonly invoked ways of establishing that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. The most common is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

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

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

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

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

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

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

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

7.1. Exception to the Floor Space Ratio (FSR) development standard (CI 4.4(2))

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

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

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

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

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

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

- The 3-storey scale to Coogee Bay Road is consistent with the western buildings also within the E1 local Centre zone.
- The 3-storey scale at the rear is consistent with and does not generate incompatibility with the scale envisaged by the LEP and DCP controls.
- The development provides greater than minimum side and rear setbacks
- The development presents as a 3-storey scale and below the 12m maximum control to the rear.
- A substantial component of the density is concealed from the public vantage points along Powell Lane and adjoining buildings to the east in the R3 medium density zone.
- Other development to the west are closer to the laneway, have greater height with no landscaping and the development provides high level of articulation and deep soil and on slab planting that softens the impact to the proposed bulk and scale.
- The built form is substantially separated from and will not visually generate adverse visual bulk to the dwellings in the lower density properties at the opposite side of Powell Lane.

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

The applicant's written justification (in summary) seeks to demonstrate that this objective is satisfied by noting that the distribution in a staggered built form down from Coogee Bay Road to Powell Lane, and northern aspect of windows and balconies provide good solar access, and apartments are designed with natural cross ventilation.

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

The development is near a heritage item at 28 Powell Street and opposite side of Coogee Bay Road – the school. The applicant's written justification (summarised below) seeks to demonstrate that this objective is satisfied by noting that:

- In relation to the school, the building height is consistent with the height of buildings presenting along Coogee Bay Road;
- In relation to the adjoining heritage item, there are no structural or overshadowing adverse impacts on heritage house due to the north south orientation.

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

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

- Visual bulk: The articulated and staggered/stepped distribution of FSR from Coogee Bay Road down to Powell Lane is a sensible distribution of bulk and will not be viewable from Coogee Bay Road.
- Overshadowing: The neighbouring properties retain sunlight to their habitable rooms with a minimum of 3hrs on June 21.

- View loss: No unreasonable impact due to the stepped down form. Views from living and communal open spaces of buildings to the west will be retained.
- Privacy: Apartment orientation to the street and rear, ensures no sideways privacy impacts.

Assessing officer's comment: In conclusion, the applicant's written request has not adequately demonstrated that compliance with the floor space ratio development standard is unreasonable or unnecessary in the circumstances of the case. The non-compliant FSR is directly responsible for not satisfying the objectives of clause 4.4 of RLEP 2012 having regard to the following:

- (i) Objective (a) as it will result in a building form that is not consistent with the desired future character of the locality.
- (ii) Objective (d) as it will adversely impacts on the amenity of adjoining and neighbouring land in terms of visual privacy, acoustic privacy, solar access, and view sharing.

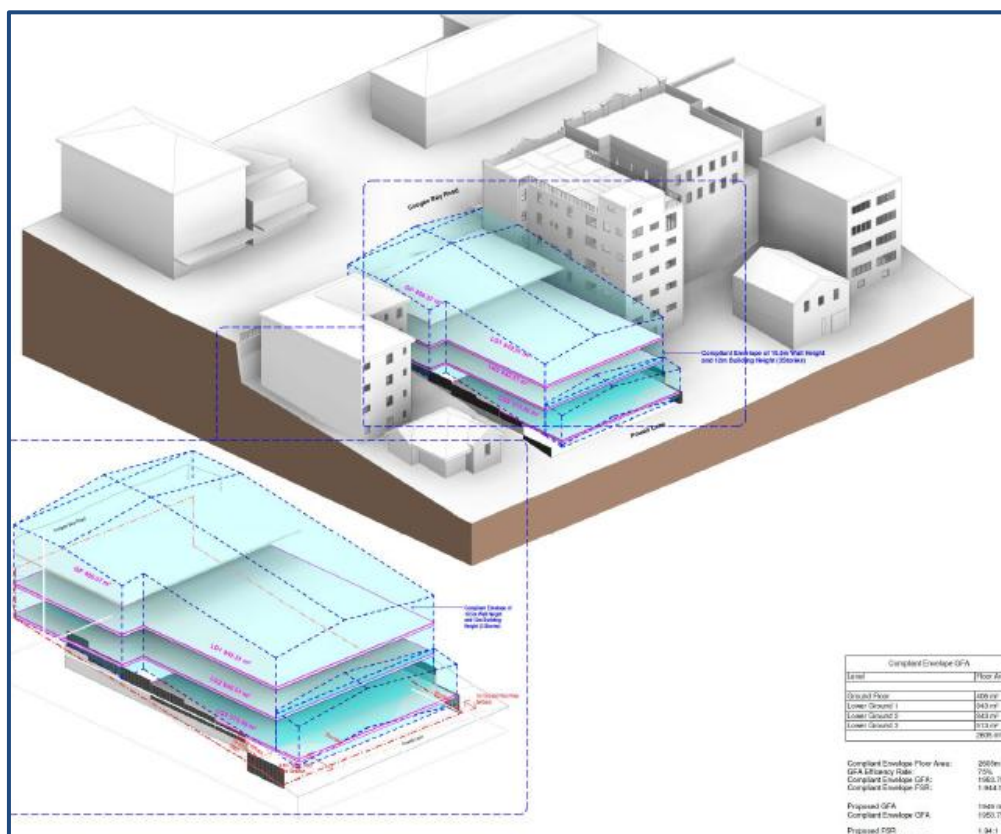
The proposal namely the distribution of built form in particular the rear elements of the development are not considered to satisfy the objectives of the FSR standard for the following reasons:

- Excessive rear elements: The scale and bulk at the rear are inconsistent with the existing and desired future character, failing to provide a proper transition to the medium-density zone (9.5m height, 0.75:1 FSR). The design does not respect the established streetscape or built form along Powell Lane.
- Non-compliance with rear setback controls: The rear elements substantially exceed RDCP 2013 controls (4.5m wall height, 6m overall height) and are inconsistent with surrounding buildings. The oversized rear components (approx. 309m², ~68% of the FSR variation) demonstrate overdevelopment, and their removal or reduction (including U7's roof area) would likely bring the scheme closer to compliance.
- Visual bulk impacts: The development's overall size and scale are excessive compared to adjoining and opposite Powell Lane development, creating adverse visual impacts.
- The applicant has not justified that the proposed development would not result in unreasonable loss of views from the neighbouring property to the west.
- The proposal reduces solar access to less than existing levels at the winter solstice to the western neighbours west facing habitable room windows.

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 (summarised below) seeks to demonstrate that there are sufficient environmental planning grounds to justify contravening the FSR development standard as follows:

- A significant portion of the excess FSR is concealed from the public domain fronting Coogee Bay Road and Powell Lane whilst being below side facing windows of side neighbouring buildings not resulting in unreasonable visual bulk.
- The built form or FSR represents less than 75% of the envelope established by the 12m height standard in the LEP and is greater than the side setbacks controls in part D6 of the RDCP 2013 (see 3D - envelope image in suite of material submitted by the applicant) which is consistent with Part 2D of the ADG methodology for developing controls for FSR.



- The stepped and articulated nature of the built form is subservient to and has a compatible relationship with the established context of the taller buildings to the west maintaining their outlook and district views. The proposal achieves a compatible outcome with the existing and desired future character.
- The high-quality compliant landscaping and setbacks avoids privacy and acoustic impacts to adjoining properties and will enhance the amenity and visual setting of the development.
- The articulated and indented facades minimise perceived bulk and perception of non-compliant GFA.
- There are no unreasonable amenity impacts in terms of overshadowing, loss of views, privacy or visual amenity.
- The built forms suitable design and amenity represents the orderly and economic use and development of land satisfying the (S1.3) objects of the Act.

Assessing officer's comment: The environmental planning grounds partially focus on elements that are specific to the site such as the lower land level directly behind Coogee Bay Road and established character of other buildings to the west on similar land levels. However, the extrapolation of these unique characteristics to justify the variation are not considered suitable environmental planning grounds for the following reasons:

- The applicant's envelope (Drawing A0651) misrepresents relevant controls and does not reflect the site's specific context, particularly the adjoining shop-top housing, which provides a larger rear setback and areas of open spaces, or the heritage item at No. 28 Powell Street, and the adjacent medium-density zone to the east and rear with lower FSR standards. The distribution of built form at the rear is inconsistent and does not represent an appropriate built form relationship with the neighbouring buildings and zones.
- The envelope provides no open space that is inconsistent with the existing and desired elements of the zone and the surrounding areas. Whilst the site is located in a E1 Local zone and can be classified as a "business zone", identified under the ADG as potentially allowing for reduced areas of communal open spaces, the E1 zone is distinct from a commercial E2 zone which accommodates full zero lot alignment and

higher density and scale. E1 zones previously labelled as “neighbourhood centre” zone are focused on meeting the needs of residents in the immediate surrounds and to ensure development in these centres is compatible with the character and form of existing development in the neighbourhood. In this context, providing a suitably dimensioned areas of open spaces within a larger rear setback would be more consistent with the open spaces at the rear of No. 124-126 Coogee Bay Road, as well as sites in the adjoining zone to the east at No. 136 Coogee Bay Road and No. 28 Powell Street.

- The built form at the rear results in additional adverse visual bulk and overshadowing on the neighbouring properties that if the development were to comply and be more responsive to the neighbouring built form and context, it would achieve greater levels of compliance in terms of solar access to the neighbouring properties, less visual impact, a more contextually appropriate form with the western neighbours in the same zone and a better transition down to the lower density zones to the east and north.

In conclusion, whilst the applicant’s written request identifies some aspects of the development such as the front elements closer to Coogee Bay Road do provide environmental planning grounds, they have not adequately demonstrate that there are sufficient environmental planning grounds with regard to the rear extent and context at the rear to adequately justify contravening the development standard.

Conclusion

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have not been satisfied and that development consent may not be granted for development that contravenes the FSR development standard.

7.2. Exception to the Building Height development standard (Clause 4.3)

The applicant’s written justification for the departure from the Height of Buildings standard is contained in Appendix 2.

3. 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 height of buildings (HOB) 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 HOB standard are set out in Clause 4.3 (1) of RLEP 2012. The applicant has addressed each of the objectives as follows:

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

The applicant’s written justification (in summary) demonstrates that this objective is satisfied – will not generate any incompatibly with the character of the locality - by noting that:

- The building’s height complies with the 12-meter limit as viewed from Coogee Bay Road, with a 3-storey design that aligns with the character of the area and neighbouring properties.
- At the rear, the 3-storey structure near Powell Lane also adheres to the E1 zone’s height expectations.
- The main height variation comes from the lift overrun, a minor and inconspicuous element that does not disrupt the area’s character.

- Other height-exceeding components are recessed and well-separated from nearby properties, including those to the north across Powell Lane, ensuring no incompatibility with the lower-density residential zone.
- The height variation and highly articulated and stepped form will not generate incompatibility with established built forms to the west which are higher.
- The height variations has a form that is compatible with the 4-storey flat building to the east at No. 136 Coogee Bay Road and well separated from the heritage item at No. 28 Powell Street.

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

The development is near a heritage item at 28 Powell Street and opposite side of Coogee Bay Road – the school. The applicant's written justification (summarised below) seeks to demonstrate that this objective is satisfied by noting that:

- In relation to the school, the building height is consistent with the height of buildings presenting along Coogee Bay Road;
- In relation to the adjoining heritage item, there are no structural or overshadowing adverse impacts on the heritage house due to the north south orientation.

(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 applicant's written justification (summarised below) seeks to demonstrate that this objective is satisfied by noting that:

- Reducing the height would not deliver additional benefits to neighbours or the locality in relation to adverse impacts.
- The building presents as 3 storeys from Coogee Bay Road, compliant with the 12m limit from the street and within the stie as well as its presentation along Powell Lane, the height variations are recessed, which reduces its visual bulk impacts.
- Overshadowing and sun-eye diagrams show compliance with minimum 3 hours of winter solar access to neighbouring habitable rooms.
- District and local views from adjoining properties are maintained due to the stepped-back design which maintains views from primary living room and rooftop communal open space at No. 124-126 Coogee Bay Road.
- The north facing orientation avoids overlooking where height variations do not introduce unreasonable privacy impacts.

Assessing officer's comment: The applicant's written request has not adequately demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- The proposed development in the middle and rear building elements (12.4–12.8m and above) exceed the 12m limit and present as 3–5 storeys, which is considered out of scale with neighbouring development and inconsistent with the transition down to the envisaged Powell Lane streetscape. The built form of these elements do not provide a proper transition down to surrounding medium-density and lower-scale dwellings and is considered to be incompatible with desired future character (Objective a).
- The proposed development namely parts of the middle and rear components are visible from adjoining development to the east and west and result in adverse visual bulk impacts

(Objective c) that is considered to result in excessive visual bulk and scale compared to adjoining properties and laneway development.

- The proposed development results in additional adverse overshadowing of habitable room windows at No. 124–126 Coogee Bay Road, with insufficient solar access analysis (no 8am sun-eye diagrams).
- The proposed height variation in the middle section associated with balconies attached to the apartments results in additional privacy impacts.
- The proposed height variation in this middle section, which exceeds the number of storeys has not adequately demonstrated that district or local views from surrounding properties will be preserved.

The assertions in relation to the height exceedances in the front section of the development are acknowledged, however in regard to the middle component the claim that it has no adverse impacts is not supported by assessment staff. The non-compliant elements introduce excessive bulk, overshadowing, loss of amenity, and privacy impacts. The excessive height results in poor transition down to the adjoining eastern neighbours and rear Powell Lane interface. The objectives of the Height of Buildings development standard are therefore not satisfied.

4. 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 HOB development standard as follows:

The site's slope and excavation justify the variation. Despite the exceedance, the proposal is compatible with the bulk and scale of surrounding development and consistent with E1 Local centre zone objectives, it is lower than adjoining buildings to the west, it doesn't result in adverse impacts such as overshadowing of neighbour's habitable rooms, view loss, visual or acoustic privacy impacts, improves and softens the built form by providing very good landscaping.

Assessing officer's comment: The applicant's written request has not adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:

- The proposal reaches 18.15m (6.15m / 51% variation) whilst appropriate at the Coogee Bay Road frontage it includes 4-5storey elements presenting above Powell Lane levels where the RDCP 2013 seeks to limit built form to 4.5m wall / 6m overall height. The non-compliant element in the middle section confirms overdevelopment rather than it being associated with site-specific merit and goes well beyond a minor or site-responsive breach.
- The height of buildings variance in the middle section creates additional adverse impacts in relation to overshadowing, visual impact, dominance facing the laneway, and reduced amenity for neighbours.
- The air conditioning roof components, which exceed the height standard are not accompanied by an acoustic report that demonstrate that the preserved acoustic amenity of the roof top communal open space of the adjoining building at No. 124-126 Coogee Bay Road.
- The Applicant has not demonstrated that strict compliance with the 12m height is unreasonable or unnecessary with particular regard to the variance in the rear of the middle section of the development that extends beyond the rear of No. 124-126 Coogee Bay Road in terms of view loss from east facing apartment windows.
- The unique environmental planning grounds applicable to the front elements of the development adjoining the height of No. 124-126 Coogee Bay Road have been

identified that would justify departure; however, the middle components exceeding the standard are not and the design outcome inclusive of the elements that extend further to the rear (although compliant with the HOB standard) largely drive yield maximisation at the expense of providing for an appropriate contextual response with the adjoining built forms and the transition down to the lower density to the east and north on the opposite side of Powell Lane.

Conclusion

The proposed middle and rear building elements do not meet the objectives of the HOB standard because they have a height that is inconsistent with desired future character of adjoining and nearby development, create excessive bulk, overshadowing, potential view loss and privacy impacts. There are no sufficient environmental planning grounds because the extent of non-compliance is unwarranted, fails related DCP controls, results in adverse amenity impacts, and is not supported by site-specific circumstances.

On the basis of the above assessment, it is considered that the requirements of Clause 4.6(3) have not been satisfied and that development consent may not be granted for development that contravenes the height of buildings development standard.

8. Development control plans and policies

8.1. Randwick Comprehensive DCP 2013

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

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

9. Environmental Assessment

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

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

D56/25

Section 4.15 'Matters for Consideration'	Comments
development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The proposed development associated with the rear built form is inconsistent with the dominant character in the locality. The proposal will result in detrimental social, and adverse amenity impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate a shop top housing land use however the structures associated with the development are excessive in bulk and scale will result in adverse impacts on the amenity of the neighbouring properties. The absence of communal open space and deep soil do not provide suitable amenity for the occupants of the development. Therefore, the site is considered unsuitable 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 does not promote the objectives of the zone and will result in adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is not considered in the public interest.

9.1. Discussion of key issues

Zone Objectives

The site is located within the E1 Local Centre zone under RLEP 2012. The proposed development is inconsistent with key objectives of the zone, particularly those requiring a high standard of urban design, the protection of residential amenity in the zone and in the adjoining and nearby residential zones and is inconsistent with Council's strategic planning for residential development in the area.

The proposal particularly the rear northern wing is of excessive bulk and scale, has a poor relationship with surrounding development namely:

- To the west also in the E1 local Centre zone where it extends further to the rear than No. 124-126 Coogee Bay Road, it results in additional adverse visual bulk and overshadowing;
- To the east in the R3 medium density zone where it sits along the rear boundary of No. 28 Powell Street, the 3m setback and 3 and a half storey height above their ground level results in adverse visual bulk on their rear yard; and
- To the north on the other side of Powell Lane also in the R3 medium density zone where its number of storeys and 5m setback of the 3-4 storey presentation above Powell Lane is considered to represent a poor transition of built form down to the lower density zone noting that the DCP anticipates a built form of only 4.5m wall and 6m overall height and the ADG has a 9m minimum separation control.

The northern wing reduces the opportunity to provide communal open space or deep soil landscaping in the rear of the site that is consistent with their open spaces and compromises the amenity of future occupants as well as the amenity of neighbouring buildings in relation to overshadowing, potential view loss, privacy and visual amenity.

Building Height

The proposal significantly exceeds the 12m maximum building height applying to the site, with a maximum of 18.15m, representing a 51.2% variation. While the front variations are somewhat justified in terms of the existing streetscape and zero lot alignment, part of the middle section of the development (to RL35.45) which is of lesser variation and the rear-most component (to RL32.85) which complies, are more problematic in that they reads as a 4-5 storey form above Powell Lane level, exceeding the three-storey controls in S2.3 of Part D6 of the RDCP 2013 and the laneway height controls of 4.5m wall and 6m overall height controls in S2.4.2 i) of Part D6 of the RDCP 2013. This is also discussed further in the FSR section below. The proposed heights are also associated with non-compliant separation controls under the ADG namely Objective 3F-1 compromising the visual privacy of neighbouring properties.

The proposal also includes rooftop air conditioning units on the Coogee Bay Road frontage which exceeds the height standard, and without an accompanying acoustic report to demonstrate that they will not cause adverse noise or privacy impacts on the communal open space of No. 124–126 Coogee Bay Road. The potential noise and visual impacts remain unresolved.

Overall, the request to vary the height standard under clause 4.6 of RLEP 2012 does not demonstrate that compliance is either unreasonable or unnecessary in the circumstance of the site. In relation to the general bulk and scale and having regard to the DCP controls and objectives, it is not considered that the proposed built form particularly at the rear has a scale that is consistent with the existing and desired future character along Powell Lane, and that it will adversely impact the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views (noting a view loss assessment has not been provided by the applicant).

Floor Space Ratio (FSR)

The development proposes an FSR of 1.94:1, which exceeds the maximum 1.5:1 applying to the site by 30%. The floor space primarily concentrated in the middle and more so to the rear elements of the building, result in a poor transition in scale to adjoining residential zones and adjoining building to the west at No. 124-126 Coogee Bay Road, resulting in excessive visual bulk, overshadowing, and reduced opportunities for landscaping and communal open space. The extent of the

exceedance, together with the amenity for future occupants and adverse impacts on neighbouring land, confirms that the proposal represents an overdevelopment of the site and fails to satisfy the objectives of clause 4.4 of RLEP 2012.

In particular, the rear elements extend beyond the adjoining development at No. 124–126 Coogee Bay Road which has a rear setback of around 14m from the laneway and has wall heights that rise 3.01m above a nearby outbuilding (circa 1933) at the rear of No. 114–122 Coogee Bay Road. This outbuilding itself is non-compliant with the current DCP, which has since 2013 limited the height of outbuildings to maximum 4.5m wall and 6m overall height. The proposed 3-4 storey scale at the rear with a 5m setback is considered to create adverse visual bulk, overshadowing, privacy loss, and potential view impacts for neighbouring properties, particularly Nos. 124–126 Coogee Bay Road and 28 Powell Street (see further discussion under visual privacy and overshadowing).

The density at the rear and its 3-4-storey scale is unacceptable, particularly given the shallow 5m rear setback, which is less than that of the adjoining site to the west. While comparisons are drawn with the development at 114–122 Coogee Bay Road, this is inappropriate reference point noting that this site presents to Melody Street—a primary frontage capable of supporting a stronger built form and greater street activity than that of the subject site. In contrast, the subject site presents to Powell Lane, a laneway with a predominantly residential character. When viewed from this laneway, the proposal is considered to appear overbearing and inconsistent with the existing and desired lower scale built form along Powell Lane. The excessive scale and shallow setbacks fail to achieve an appropriate transition to the adjoining residential context to the east, and north and extend further to the rear than the neighbouring development to the west at No. 124–126 Coogee Bay Road.

Design Excellence

The proposal is subject to the design excellence provisions in clause 6.11 of RLEP 2012. The development does not exhibit design excellence, as its bulk, scale, and external appearance will not improve the quality of the public domain namely in relation to Powell Lane. The finishes are of low quality, and the design namely bulk and scale at the rear fails to appropriately respond to the site context or achieve an acceptable relationship with neighbouring development. The Design Excellence Advisory Panel raised concerns about the visual dominance of the northern wing (rear component), the inappropriate use of commercial frontages to Powell Lane (predominately a residential presentation), and the absence of adequate landscaping. The proposal is inconsistent with several design principles under the Housing SEPP, particularly those relating to context, built form, density, amenity, and landscape.

Setbacks and Separation

The proposed development does not provide adequate side and rear setbacks in accordance with Objective 3F-1 of the Apartment Design Guide (ADG), which recommends separations of 6–9 m for four storey buildings and an additional 3m where it adjoins a lower density zone. The shallow side setbacks of 3m and 5m rear setbacks, particularly at the rear wing, will result in additional adverse privacy, overshadowing, and visual bulk impacts, noting that the proposal also exceeds the maximum FSR applicable to the site. The 5m rear setback to Powell Lane is also insufficient to provide an appropriate interface with the adjoining lower density residential property at No. 28 Powell Street and the lower density residential zone on the opposite side of Powell Lane.

Of particular concern is the relationship to No. 28 Powell Street, which contains a single dwelling that is setback between 5.25 m and 6.15 m from its rear boundary adjoining the subject site. The proposed building, with a 3–4-storey scale located only 3 m from the side boundary, would result in overlooking and an overbearing sense of enclosure to the rear private open space of this property. This lack of separation fails to maintain an adequate level of outlook, light, and amenity for neighbouring residents a key objective of the separation control.

The adjoining mixed-use development at No. 124–126 Coogee Bay Road provides a reference for rear separation, the subject proposal extends further to the rear, with a 4-storey bulk and mass when viewed from Powell Lane. While the proposal generally complies with the 3 m side setback control under Part D6 of the Randwick DCP for Neighbourhood Centres (now E1 Local Centres), the combination of inadequate side and rear setback, excessive building depth, and greater rear projection produces a four-storey built form that does not provide reasonable residential amenity to

the open spaces and habitable rooms of adjoining properties with particular regard to overshadowing of their east facing living room windows.

Overall, the proposal falls short of the amenity outcomes sought by both the ADG and the DCP, particularly in terms of maintaining privacy, solar access, outlook, and an appropriate scale and transition to the surrounding residential context. It is noted that attempts to mitigate privacy impacts through additional side massing would further exacerbate inappropriate visual bulk, sense of enclosure, and overshadowing.

Communal Open Space and Deep Soil

The proposal fails to provide any communal open space in accordance with Objective 3D-1 of the ADG, which requires a minimum of 25% of the site area (251.3m²).

The development fails to provide deep soil landscaping in accordance with Objective 3E-1 of the ADG, which requires a minimum of 7% of the site area (70.37m²).

The absence of communal and landscaped / deep soil area is a direct result of the excessive site coverage of the rear wing and FSR exceedance. Their absence significantly reduces opportunities for social interaction, residential amenity, and environmental performance of the site key aspects of the Design Principle 5 Landscape and 8 Housing diversity and social interaction of Schedule 9 Design principles for residential apartment development in the Housing SEPP. The applicant's assertion of proximity to nearby uses is not justified noting the nature of Local Centres are focused on meeting the needs of residents in the immediate surrounds. It is further noted that several apartments balcony sizes are lower than minimum private open space areas required under Objective 4E-1 for 2 bedroom units – U1, U10, U13, U14 and U15 – which further erodes the justifications under the ADG Design guidance under Objective 3D-1.

Further still, the limited landscape coverage around the perimeter and over-reliance on planter beds and absence of critical planter depths raises the possibility of unsustainable canopy planting, which undermines the ability to provide for integrated built form and landscape outcome as required by the design principles for built form and scale and landscape in Schedule 9 of the SEPP.

Visual Privacy and Orientation

Balconies and windows are located within minimum separation distances to neighbouring dwellings, inconsistent with Objective 3F-1 of the ADG, which recommends 6–9m separation between habitable spaces - for buildings up to 4 storeys with the additional 3m (9m) for buildings adjoining a lower density zone - to maintain privacy. While additional privacy measures could be applied to windows, mitigation for balconies would increase side massing, further exacerbating the perception of enclosure and visual bulk on neighbouring land. Given the non-compliance with FSR standards, the separation provided fails to provide adequate visual privacy for adjoining residential properties.

Beyond direct overlooking, the scale and bulk of the development, particularly at the rear, is likely to result in secondary overshadowing of neighbouring properties, including the east-facing living room windows of No. 124–126 Coogee Bay Road. These windows currently receive 2 hours of direct sunlight which is noted as being a result of the largely underdeveloped nature of the subject site. Under Objective 3B-2 for Orientation in the ADG, the design guidance is that:

- *Solar access to living rooms, balconies and private open spaces of neighbours should be considered*
- *Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%*
- *If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy*

It is considered that the proposed side setbacks, rear extent and FSR exceedances have a direct consequence of reducing solar access to these east-facing windows to less than 2 hours, directly contributing to the neighbour's loss of amenity.

The development does however comply with the 3m side setback control under Part D6 of the RDCP, however this compliance alone isn't considered to satisfy the setback (bold emphasised) objectives of the DCP, which are:

- *To define the street edge and establish or maintain the desired spatial proportions of development on the street.*
- ***To ensure a development does not detrimentally affect the amenity of adjoining residential development.***
- ***To ensure any building fronting a rear lane has a scale and mass secondary to the main dwelling on the site and is appropriate for the width of the lane.***

In relation to the second objective, the proposed 3m side and 5m rear setbacks are significantly shallower than the side and rear setbacks of adjoining development with the dwelling at No. 28 Powell Street having a 5-6m setback from the shared boundary and the adjoining property at No. 124–126 Coogee Bay Road having a rear setback of 14m from Powell Lane. The combination of shallow setbacks, substantial overall mass, and rear projection beyond neighbouring buildings results in excessive visual bulk, overlooking, and overshadowing. Whilst the development at the rear is secondary to the main bulk at the Coogee Bay Road frontage, its siting in close proximity to the adjoining properties open space and bulk and scale in close proximity to Powell Lane on the adjoining lower-density residential context suggests that it is inappropriate for the width of the laneway and fails to provide a suitable transition along Powell Lane.

To meet the intent of both the ADG and Part D6 of the DCP, the development should incorporate larger side setbacks closer to ADG standards, reduced rear depth closer to the adjoining building at No. 124-126 Coogee Bay Road or a stepped-down built form, thereby reducing overlooking, minimising overshadowing of neighbouring habitable spaces, and ensuring a secondary scale and massing appropriate to the sites width, the adjoining built form and the laneway interface.

Waste Management

The proposal fails to provide adequate waste storage and management facilities for both the residential and commercial components of the development, which is largely a consequence of the proposed yield. The number and type of bins, the absence of bin wash facilities, and lack of clarity around bin collection and movement are inconsistent with Council's Waste Management Guidelines. These deficiencies raise concerns about the ongoing functionality and amenity of the development. Refer to Council's Engineering review in the referral section below.

Commercial premises along Powell Lane

The proposal seeks a commercial premises along Powell Lane, noting that this is in response to notion that the proposed development could not be considered to fall within the definition of shop top housing as the development contained residential components were located below the commercial retained premises at the Coogee Bay Road frontage. The Design Excellence Advisory Panel stated that the commercial tenancy proposed along Powell Lane is not supported given the surrounding residential dwellings and ancillary structures. The Panel encourages Council to reconsider this suggestion as an urban outcome, considering there is no established precedent for commercial development fronting this lane. They further note that deep soil landscaping would be more appropriate along this frontage. In response to the DEAP comments it is considered that even if the commercial component were to be deleted that the proposed development would satisfy the definition for shop top housing because the residential components that sit below the commercial tenancies would still be located above secondary / ancillary commercial uses in the basement thereby satisfying the definition for shop top housing.

Insufficient Information

- View Impacts

Insufficient information has been provided to enable a proper assessment of potential view loss. The proposed rear extension is likely to impact ocean views from adjoining units at 124–126 Coogee Bay Road (notably Unit 8). No view sharing analysis has been submitted,

despite the proposal seeking significant variations to the height and FSR development standards.

- Acoustic Privacy

The application does not include an acoustic assessment addressing either internal acoustic amenity or external noise impacts. Generalised statements in the SEE regarding acoustic treatment are unsubstantiated without expert input. In the absence of a detailed acoustic report, Council cannot determine compliance with relevant criteria or the adequacy of mitigation measures. See Environmental Health Officer comments in the referral section of this report.

- Stormwater Management

The stormwater documentation is inconsistent and does not demonstrate compliance with Council's Private Stormwater Code. The permissible site discharge (10.56 L/s) is exceeded by the proposed system outflow (12.19 L/s), and key details such as pervious/impervious bypass areas are not shown. Accordingly, based on this concerns that stormwater impacts have not been properly addressed have been identified by technical officers. See Development Engineering comments in the referral section of this report.

- Contaminated Land

Given the site's historical commercial uses, there is a reasonable likelihood of contamination. No Preliminary Site Investigation has been provided despite Council's request for further information. Without this, the consent authority cannot be satisfied that the land is suitable for the proposed residential use, as required by clause 4.6 of the R&H SEPP. See Environmental Health Officer comments in the referral section of this report.

- Acid Sulfate Soils

The geotechnical report provides preliminary pH testing but does not confirm whether investigations were undertaken in accordance with the NSW Acid Sulfate Soil Assessment Guidelines. The applicant has not provided confirmation from a qualified person that the findings have been gained from aligning with the guidelines for assessment under the SEPP. See Environmental Health Officer comments in the referral section of this report.

- Tree Management and Landscaping

Insufficient information has been provided regarding the retention or removal of trees on adjoining land. The structural stability of Tree T2 (to be retained) cannot be confirmed in light of basement works, and the removal of Tree T4 (on neighbouring land) cannot be approved without landowner consent. Landscape plans also lack soil depth and volume details for planters, limiting the assessment of viability.

Public Interest

The proposal has attracted public submissions raising concerns consistent with the issues identified above, including excessive height and bulk, overshadowing, privacy loss, and traffic and waste impacts. Given the key issues and absence of necessary information, refusal of the application is recommended. The proposal would set an undesirable precedent for future development in the E1 zone and nearby locality, undermining the strategic planning framework for the Local centre. On this basis, the proposal is not in the public interest.

10. Conclusion

That the application to demolish the existing buildings/structures, tree removal and construction of a shop top housing development over 8 levels (2 basement and six habitable) with 21 residential units, 3 commercial tenancies and 2 levels of basement containing 42 car spaces (accessed from Powell Lane) be refused for the following reasons:

1. The proposed development is of an excessive density that is incompatible with surrounding development and the streetscape, resulting in non-compliance with the height of buildings development standard pursuant to clause 4.3 of RLEP 2012 and the floor space ratio (FSR) development standard pursuant to clause 4.4 of RLEP 2012 and the number of storeys in part D6 of the RDCP 2013.
2. The submitted written requests to vary the height of buildings and FSR development standards pursuant to clause 4.6 of RLEP 2012 are not considered to be well founded in that they do not sufficiently demonstrate that the proposed non-compliance is unreasonable or unnecessary in the circumstances of the case, nor that there are sufficient environmental planning grounds to justify a variation to the development standard.
3. The proposal is inconsistent with the objectives of the E1 Local Centre zone (RLEP 2012), which seeks to encourage high-quality urban design, protect the amenity of residents in the zone and nearby zones surrounding residential areas, and inconsistent with Council's Strategic planning for residential development in the area. The northern-most wing and Powell Lane frontage are visually dominant, limit deep soil and communal open space, and fail to respond to the residential context.
4. The proposal fails to achieve design excellence under Clause 6.11 of RLEP 2012 and Schedule 9 of the Housing SEPP, with inappropriate bulk, scale, finishes, and insufficient deep soil, open space and landscaping that does not contribute to nor does it respond positively to neighbouring sites.
5. The proposal has not demonstrated consistency with Clause 6.22 of RLEP 2012 in regards the impact of the development on the amenity of surrounding residential areas, the desired future character of the local centre and the hierarchy of centres.
6. Pursuant to Part 3 and Part 4 of the Apartment Design Guide (ADG), the proposal is contrary to the following controls and design guidance:
 - a. The rear wing and FSR exceedances fail to achieve the minimum 2 hours of direct sunlight to the east-facing living room windows of No. 124–126 Coogee Bay Road between 9 am and 3 pm on 21 June, as required under ADG Objective 3B-2, which seeks to provide reasonable solar access to existing neighbouring dwellings. This reduces solar access to neighbouring apartments and is inconsistent with the Housing SEPP Schedule 9 Amenity design principle, which requires apartments to provide appropriate solar access, natural ventilation, outlook and visual privacy to support the health and comfort of residents, and the Built Form and Landscaping design principle, which requires development to achieve good urban amenity, provide solar access to public and communal open space, and ensure bulk and scale do not unreasonably compromise neighbouring development.
 - b. The proposal fails to provide the minimum 25% communal open space required under ADG Objective 3D-1, which seeks to provide sufficient, accessible, and useable communal space for residents. This reduces amenity for future occupants and is inconsistent with the Housing SEPP Schedule 9 Amenity design principle, which requires appropriate access to communal open space that enhances resident comfort and well-being, and the Built Form and Landscaping design principle, which requires development to provide open space that contribute positively to the streetscape, landscape character, and visual amenity of the locality.
 - c. The development fails to achieve the 7% deep soil landscaping requirement under ADG Objective 3E-1, which seeks to provide sufficient soil depth for large tree planting, stormwater infiltration, and urban cooling. This reduces opportunities for canopy planting, diminishes residential amenity, and contributes to the urban heat island effect. As a result, the proposal is inconsistent with the Housing SEPP Schedule 9 Built Form and Landscaping design principle, which requires development to provide deep soil zones that support planting and enhance

landscape character; the Amenity principle, which requires appropriate outlook, visual privacy, and environmental comfort for residents; and the Sustainability principle, which requires development to be environmentally sustainable and resilient, minimising energy and water use and positively contributing to the microclimate.

- d. The proposed 3 m side setback and 5 m rear setback do not meet ADG Objective 3F-1 (6–9 m separation), which seeks to provide adequate separation between buildings to protect visual and acoustic privacy, solar access, and reasonable amenity for neighbouring properties, and Part D6 of the RDCP 2013, which seeks to ensure development respects the scale, bulk, and topography of the site while protecting the amenity of adjoining properties. This results in overlooking, overshadowing, excessive visual bulk, and a poor transition to adjoining lower-density zones, and is inconsistent with the Housing SEPP Schedule 9 Built Form and Landscaping principle, which requires development to maintain appropriate scale and separation, and the Amenity principle, which requires visual privacy, solar access, and outlook to neighbouring properties.
 - e. The proposal fails to provide the required 10 m² minimum area of private open space for the balconies to Units 1, 10, 13, 14, and 15 under ADG Objective 4E-1, which seeks to provide sufficient private open space to meet the functional needs of residents. This reduces the quality of private amenity for these apartments and is inconsistent with the Housing SEPP Schedule 9 Amenity principle, which requires private open space that supports resident comfort, recreation, and social interaction.
7. The proposal does not provide adequate waste storage or collection arrangements and is inconsistent with Randwick City Council Waste Management Guidelines (Clauses i, Section 9.3.3; C24 and C50, Appendix C; ii, Section 7.3). The commercial waste room provides insufficient bins, bin wash facilities are not provided, service compartments at each level are absent, and no safe bin transport arrangements are demonstrated. The development fails to ensure safe, efficient, and sustainable waste management for residential and commercial components, resulting in potential operational and amenity impacts.
 8. The proposed commercial tenancy fronting Powell Lane is inconsistent with the predominantly residential character of the laneway and does not achieve design excellence under Clause 6.11 of the RLEP 2012 or the Schedule 9 Housing SEPP in that it is inconsistent with the desired future character of the residential area along Powell Lane, reduces opportunities for deep soil, landscaping and sustainability outcomes.
 9. Insufficient information – a full and robust assessment of the proposal cannot be completed as there are a number of deficiencies and lack of detail in the information submitted with the development application including:
 - a. View impacts,
 - b. Acoustic amenity,
 - c. Stormwater compliance,
 - d. Contaminated land,
 - e. Acid sulfate soils, and
 - f. Tree management.
 10. Approval of the subject application would set an undesirable precedent for overdevelopment in the E1 zone and adjoining lower-density residential areas, contrary to design excellence, strategic planning objectives, additional adverse amenity impacts on adjoining land and the public interest.

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 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

Additional requirements for commercial and industrial developments including the proposed mixed-use development can be found in **Attachment 2**. 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

D56/25

1.2. Sydney Water Corporation



30 June 2025

Our reference: N/A

Louis Coorey
Randwick City Council
louis.coorey@randwick.nsw.gov.au

RE: Development Application DA/535/2025 at 130-132 Coogee Bay Road, Coogee

Thank you for notifying Sydney Water of DA/535/2025 at 130-132 Coogee Bay Road, Coogee, which proposes the demolition of existing structures, and the construction of a shop-top housing development with 21 dwellings and 94m² of commercial GFA. 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 150mm wastewater main traversing the site may be required. Maintenance structures located within the property boundary will need to be protected and 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.

Please note that the available capacity may change over time depending on the rate of development and increased demand elsewhere in the potable water and wastewater catchments. Sydney Water does not reserve capacity pre-development and it is advised that the proponent applies directly to Sydney Water for a Section 73 Compliance Certificate as soon as feasible.

Sydney Water Corporation ABN 49 776 225 038
2 Parramatta Square, 1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124
Telephone 13 20 92 sydneywater.com.au



2. Internal referral comments:

2.1. Design Excellence Advisory Panel (DEAP)

The panel provided the following comments on 25 July 2025:

PANEL COMMENTS

The panel have undertaken a review of the proposed changes as part of the amendments to the application and have highlighted the following to be addressed prior to approval.

1. Context and Neighbourhood Character

The subject sites natural topography appears to have been substantially excavated in the past and now features a sharp drop in existing levels towards the rear facing North. This creates inherent issues with internal residential amenity and relationships with existing neighbours. The proposal navigates between multi-storeyed shop top-housing along Coogee Bay Road to predominantly low-scale residential dwellings to Powell Lane.

Since being consolidated with the adjoining site, the proposal sits comfortably along the Coogee Bay Road frontage with an established street wall height borrowed from the Western neighbour. Further work is required to address the Powell Lane interface, in particular the transition of bulk to the North and appropriate uses fronting a residential street.

2. Built Form and Scale

The development proposes breaches in both height and FSR which are currently not justified in the application. The Panel acknowledges there is a topographical challenge to the site, which may not work with the height plane. Consolidating mass to the South and breaching height along Coogee Road is appropriate considering the existing built form along this frontage.

The sloping nature of the site exacerbates the impact of bulk particularly as viewed from the rear. There is an established precedent of adjoining taller buildings with greater setbacks to Powell Lane which needs to be considered in this context. The Northern most wing is visually dominant, which is apparent in the oblique CGIs from Powell Lane presented at the Panel meeting. This block should be reconsidered, particularly considering the excess in floor space proposed.

3. Density

Refer Item 2. While additional housing is encouraged, there needs to be demonstration of acceptable level of impact and greater consideration of context to justify proposed uplift.

The commercial tenancy proposed along Powell Lane is not supported given the surrounding residential dwellings and ancillary structures. The Panel encourages Council to reconsider this suggestion as an urban outcome, considering there is no established precedent for development fronting this lane. Deep soil landscaping would be more appropriate along this frontage.

4. Sustainability

Not discussed at meeting. To be provided to Councils satisfaction.

5. Landscape

Refer Item 3. There is an opportunity to introduce deep soil and a North-facing communal open space along the Powell Lane frontage with the removal of the commercial tenancy and increasing setbacks to upper levels. This landscaped verge could act as a buffer to the

neighbouring residential dwellings and assist in mitigating the visual impact of the proposed development.

The Panel encourages the retention of perimeter planting to private open spaces on structure, however floor to floor heights will need to be reconsidered to enable this.

6. Amenity

The Panel acknowledges the proposed apartment configurations oriented to the North, including angled blades to address privacy and maintain solar access.

Subterranean 1B apartments on Lower Ground 1 are not supported, with limited access to natural light for habitable spaces. There is opportunity for U10/U13 apartments to become 3B configurations with basement storage areas relocated to the subterranean spaces. This will also assist in reducing the basement extent enabling deep soil to the Northern frontage.

7. Safety

Refer Item 6. Extent of subterranean habitable areas and basement excavation to be reconsidered.

8. Housing Diversity and Social Interaction

The integration of shop-top housing along Coogee Bay Road is considered an appropriate outcome for the site. The proposed unit mix may need to be redistributed with the removal of subterranean apartments and reconsideration of the Powell Lane interface.

9. Aesthetics

The Panel is supportive of the proposed material palette along Coogee Bay Road and articulation which takes cues from neighbouring built form. It is recommended that Council condition the 'Pigmented Concrete' proposed, removing reference to 'Render Look' to avoid a painted render substitution which would be a poor outcome for the development. Clarification of the materiality to the retail base is also required, which appears to be tiled in the CGI. Being a public facing frontage, tiles or stone are encouraged in lieu of painted render or concrete.

Removal of the commercial tenancy and introduction of deep soil along Powell Lane will greatly change this elevation. The podium will need to be further refined to ensure the resulting form is considered and carpark entry remains integrated.

SUMMARY

The proposed development is capable of meeting design excellence requirements through the following measures:

- Reduce density to better comply with FSR control and address amenity issues identified in this report
- Remove subterranean 1B apartments U9 / U8 to be replaced with basement services / storage spaces
- Remove commercial tenancy fronting Powell Lane
- Reduce basement excavation to the Northern boundary to allow for deep soil
- Reconsider allocation of mass / floor space on the site in response to context, in particular the 3-storey Northern-most residential wing which is visually dominant from Powell Lane
- Review podium design fronting Powell Lane, with opportunity for North facing communal open space and landscaped buffer
- Review floor to floor heights to retain landscaped terracing concept on rooftops
- Clarification of proposed materials as previously noted

2.2. Heritage planner

The Heritage planner provided the following comments on 27 August 2025L

The only heritage issue is boundary to boundary excavation and its very minor. In terms of bulk, scale, setbacks and overshadowing the impacts to the neighbouring heritage item at No. 28 Powel Street are minor/ negligible.

Here is the standard condition for excavation in the vicinity of a heritage item that I mentioned:

Excavation in the vicinity of a heritage item

- a) *Prior to issue of a Construction Certificate for the development, a report from a suitably qualified and experienced Heritage Structural Engineer must be provided to the satisfaction of the Certifying Authority, including the following:*
 - (i) *Geotechnical details which confirm the suitability of the site for the development and relevant design and construction requirements to be implemented to ensure the stability and adequacy of the proposed development and adjoining properties.*
 - (ii) *Details of the proposed methods of excavation and support for the adjoining land (including any public place) and buildings located at XXX.*
 - (iii) *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.*
 - (iv) *Details of appropriate measures, monitoring regime/s and controls to be implemented during excavation and construction work, to maintain the stability and significance of the building/s located at XXX.*
 - (v) *The information shall include; details of suitable specific plant and equipment; inspection regimes; development and implementation of appropriate vibration limits; adoption of relevant standards and criteria; monitoring equipment and vibration control strategies.*
 - (vi) *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 Certifying Authority.*
- b) *A detailed assessment of the condition of the building/s located at XXX shall be carried out by the Heritage Structural Engineer prior to commencing works; at suitable intervals during the course of the excavation and construction work and; prior to issuing an occupation certificate for the development, which provides details of the condition of the subject building/s and which details any impacts or changes to the building which may be a result of the excavation and construction work.*

A copy of the assessments and reports must be provided to the Principle Certifying Authority (PCA), Council and owners of the subject properties.

This was followed up by another Heritage planner on 28 August 2025 as follows:

No issues have been raised in terms of bulk and scale from a heritage perspective.

2.3. Environmental Health Officer

The following comments were provided on 4 July 2025:

Proposed Development:

The proposal is for the demolition of the existing structures and the construction of shop top housing at 130-134 Coogee Bay Road, Coogee. The proposal contains 21 residential apartments, three retail areas and 42 car spaces.

Noise Concerns:

Council is required to consider both internal noise amenity for future occupants and potential noise impacts on neighbouring properties arising from the proposed development. No acoustic report was provided with this application however the Statement of Environmental Effects (SEE) notes that the front-facing windows will be acoustically treated to address potential noise exceedances. In this regard, an acoustic report must be submitted to Council for review prior to the determination of the application.

Contaminated Land:

The application does not include a Preliminary Site Investigation (PSI) to assess the potential for land contamination for the intensification of the land use.

A PSI should be submitted to Council before the application can be determined, to ensure the suitability of the site for the proposed use in accordance with the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021, Contaminated Land Management Act 1997 and Council's Contaminated Land Policy 1999.

Acid sulfate soils

The SEE states that proposed site is located on class 5 Land in accordance with the Acid sulfate soil map. The SEE states the accompanying geotechnical report confirms that the proposed excavation will not generate any environmental impacts. A review of the Geotechnical report does not discuss acid sulfate soils.

Council's Environmental Health team refer to the requirements of the LEP that state;

"Acid sulfate soils

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the [Acid Sulfate Soils Map](#) as being of the class specified for those works.

Class of land Works

- | | |
|---|---|
| 1 | Any works. |
| 2 | Works below the natural ground surface.
Works by which the watertable is likely to be lowered. |
| 3 | Works more than 1 metre below the natural ground surface.
Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface. |
| 4 | Works more than 2 metres below the natural ground surface.
Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. |
| 5 | Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. |

- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority."

it is therefore deemed appropriate to request a preliminary acid sulfate assessment be undertaken in accordance with the NSW Acid Sulfate Soil Assessment guidelines prior to the determination of the application.

Recommendation:

The following information is required to be submitted to Council prior to determination of the development application.

1. *An Acoustic Report is required to be prepared by a suitably qualified and experienced consultant in Acoustics and be submitted to Council prior to determination of the application.*

The acoustic assessment and report is to be completed in accordance with the NSW Environmental Protection Guidelines, including the Industrial Noise Policy and relevant Australian Standards.

The report is to include (but not be limited) to;

- *Noise emissions from all proposed plant and equipment within the subject development (e.g. mechanical ventilation systems, refrigeration equipment etc, mechanical lifts etc.)*
- *Noise emissions arising from the use and operation of the proposed development (including associated activities which may generate noise. Please also confirm if there is any proposed roof top plant/equipment and assess impacts accordingly).*
- *Noise emission into the proposed development from the surrounding environment;*
- *Road traffic noise intrusion (in accordance with the NSW Environmental Guidelines, Environmental Criteria for Road Traffic Noise and AS3671)*
- *Interior acoustic privacy (in accordance with Council's Development Control Plan- refer to below criteria)*
- *Aircraft noise intrusion (in accordance with AS2021).*

In addition to the above, the acoustic report must demonstrate that the development can achieve the following:

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:

In naturally ventilated spaces – the repeatable maximum Leq (1 hour) should not exceed:

- *35 dB(A) between 10.00pm and 7.00am in sleeping areas when windows are closed,*
- *40 dB(A) in sleeping areas when windows are open (24 hours),*
- *45 dB(A) in living areas when windows are closed (24 hours),*
- *50 dB(A) in living areas when windows are open (24 hours).*

Note: Where compliance cannot be achieved for this clause, the provisions of point (iii) shall prevail.

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

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

2. Contaminated land

A Preliminary Site Contamination Investigation must be undertaken and a report, prepared by a suitably qualified environmental consultant is to be submitted to Council prior to determination of the application.

This Preliminary Investigation shall be carried out in accordance with the requirements of the NSW EPA Guidelines and is to be undertaken by a suitably qualified environmental consultant.

The Preliminary Site Contamination Investigation is to identify any past or present potentially contaminating activities and must be provided to Council, in accordance with Council's Land Contaminated Land Policy. The Preliminary Site Contamination Investigation report is to be submitted to Council prior to any consent being granted.

Acid sulfate soils

3. *A preliminary acid sulfate soil investigation is to be undertaken by a suitably qualified consultant to confirm that the land is not affected by acid sulfate soils. This assessment must be undertaken in accordance with the NSW Acid Sulfate Soil Assessment Guidelines.*

Should the assessment determine that the land is affected by acid sulfate soils, an acid sulfate soils management plan is to be prepared for the development to outline necessary management and mitigation measures to the satisfaction of Council.

A request for additional information dated 30 July 2025 was sent to the applicant on 7 August 2025. Since then, no response was received other than a Class 1 deemed refusal received by Council on 13 August 2025.

The following comments were received from the Environmental Health officer on 28 August 2025:

In relation to the Environmental Health contentions relating to this development application, the following information has not been provided and the application cannot be supported without such information. Please see below Environmental Health concerns and reasons to support the refusal.

Outstanding information/ Reason for refusal

Environmental Health Item 1: Noise Concerns**Relevant Controls/Policies:**

- *Environmental Planning and Assessment Act 1979 Section 4:15 Evaluation (b)*
- *Randwick City Council DCP Residential – Medium density – requirements for internal acoustic privacy (Section 5.4)*

EH Assessment comments:

- *Council is required to consider both the internal acoustic amenity for future occupants and the potential noise impacts on surrounding properties arising from the proposed development. No acoustic report was submitted with the application. A formal request for additional information, including an acoustic assessment, was issued to the applicant; however, no such report was provided.*
- *The applicant's reliance on a general statement within the Statement of Environmental Effects (SEE)—noting that front-facing windows will be acoustically treated—is inadequate and unsubstantiated in the absence of a detailed acoustic assessment prepared by a suitably qualified consultant. Without this information, Council is unable to determine whether the proposed development complies with*

relevant internal noise criteria or whether appropriate mitigation measures have been incorporated.

- **Recommendation**

Council cannot properly assess the likely internal and external noise impacts of the proposed apartment development without an acoustic assessment being undertaken. In this regard, it is recommended the application is not supported by Council until the application includes sufficient information to assess acoustic impacts.

Environmental Health Item 2: Contaminated Land

Relevant Controls/Policies:

- *Environmental Planning and Assessment Act 1979 Section 4:15 Evaluation (b)*
- *State Environmental Planning Policy (Resilience and Hazards) - Chapter 4)*
- *Contaminated Land Management Act 1997*
- *Council's Contaminated Land Policy 1999.*

Environmental Health Assessment comments

Council is required to consider the potential for land contamination as part of its obligations under Section 4.15 of the Environmental Planning and Assessment Act 1979. The subject site includes land that has been used for historical commercial purposes, and as such, the potential for contamination must be appropriately assessed. The development application did not include a Preliminary Site Investigation (PSI) to address this matter. A formal request for information was issued to the applicant, specifically requesting the submission of a PSI however, no such report was provided.

- **Recommendation**

Council cannot be satisfied that the land is suitable for the proposed use, or that it can be made suitable. Accordingly, the application must not be supported on the basis that potential land contamination has not been adequately addressed.

Environmental Health Item 3. Acid Sulfate Soils

Relevant Controls/Policies:

- *Environmental Planning and Assessment Act 1979 Section 4:15 Evaluation (b)*
- *State Environmental Planning Policy (Resilience and Hazards) 2021,*
- *Contaminated Land Management Act 1997*
- *Council's Contaminated Land Policy 1999.*

Environmental Health Assessment comments

For land located within a mapped acid sulfate soil area, Council has an obligation to consider the potential presence and impacts of acid sulfate soils as part of its responsibilities under the planning assessment process. Council acknowledges receipt of the geotechnical report prepared by AssetGeoEnviro (Ref: 7567-1-R1, dated 25 May 2025), which includes a preliminary discussion of acid sulfate soils in Section 5.1. The report references the ASSMAC (1998) guidelines and includes laboratory pH testing that the soil did not show evidence of acid sulfate soils in the PH samples.

However, to meet the requirements of the NSW Acid Sulfate Soil Assessment Guidelines, Council requested written confirmation from the geotechnical consultant that the investigation was carried out in accordance with those Guidelines and whether the site may be affected by ASS. No further information or confirmation was received in response to this request.

Recommendation

In the absence of this confirmation or an updated investigation undertaken in accordance with the relevant Guidelines—Council is unable to adequately assess whether the site is affected by acid sulfate soils. This remains a critical issue that must be resolved and the approval of the application is not supported until the required information is provided to confirm if the site is or is not affected by acid sulfate soils.

2.4. Development Engineer

The development Engineer provided the following comments on 21 August 2025L

Waste Management

1. *The development application should be refused because it has not provided adequate storage of waste that will be generated by the proposed development and lacks information regarding the movements of the waste bins for collection.*

Particulars

- (a) *The commercial waste storage room has been designed with only two (2) 240L garbage bins and one (1) 240L recycling bin. Clause i. Section 9.3.3 of “Randwick City Council Waste Management Guidelines” requires four (4) 240 L waste bins and three (3) 240 L recycling bins dedicated to waste storage for the commercial users of the site. The waste generation rate for the commercial spaces conservatively assumes that they will be used as cafés.*
- (b) *Bin wash facilities must be provided within all communal bin storage areas, and they must be graded and well drained with water discharging to sewer in accordance with Sydney Water requirements. As required by Clause C50. Appendix C of “Randwick City Council Waste Management Guidelines”.*
- (c) *The submitted “Waste Management Plan” does not outline the path of travel for the bins in order to place them at their collection point in Powell Lane.*
- (d) *Clause C24. Appendix C of “Randwick City Council Waste Management Guidelines” states that bulk bins should not be manoeuvred up or down sloped driveways or paths, with gradients greater than 1 in 20 (5%), for placement at the collection point. Therefore, a bin tug apparatus must be supplied, stored and used on site.*
- (e) *Clause ii. Section 7.3 of “Randwick City Council Waste Management Guidelines” states that a service compartment is required at each level of the building.*
- (f) *Each service compartment must have a 240L recycling bin, a 240L FOGO bin, and access to the garbage chute.*
- (g) *An additional six (6) 240 L green bins are required in the waste room as spares to be rotated when the full bins are removed from the bin rooms on each level. The requirement for FOGO bins was implemented by Council after the publishing of the “Randwick City Council Waste Management Guidelines” and seeks to minimise food waste in landfill.*

Controls

- *Clause i. Section 9.3.3 of “Randwick City Council Waste Management Guidelines”*
- *Clause C50. Appendix C of “Randwick City Council Waste Management Guidelines”*
- *Clause C24. Appendix C of “Randwick City Council Waste Management Guidelines”*
- *Clause ii. Section 7.3 of “Randwick City Council Waste Management Guidelines”*

Stormwater Management

2. *The development application should be refused because it has a lack of information and conflicting information regarding the stormwater management design for the proposed development.*

Particulars

- (a) *The locations of the impervious and pervious bypass areas are not shown on the "Site Analysis Catchment Plan".*
- (b) *With reference to Section 3.2 of Council's "Private Stormwater Code", the PSD (Permissible Site Discharge) for the site should be equal to 10.56 L/s.*
- (c) *The "Detention Sizing Mass Curve Analysis" table, submitted with the application, shows a "Q Max" value equal to 12.32 L/s which clearly varies from the previously mentioned PSD value.*
- (d) *The stormwater management system has been designed such that the outflow value from the site, labelled as "Actual Q", is equal to 12.19 L/s. This also exceeds the PSD value.*

Controls

- Section 3.2 of Council's "Private Stormwater Code"

2.5. Landscape Officer

The following comments were provided on 2 September 2025:

I've reviewed the following:

- *Site Surveys by Frank M Mason & Co Pty Ltd, dated 18/02/25.*
- *Arboricultural Impact Assessment Report by Jacksons Nature Works dated 05/06/25.*
- *Architectural Plans by EMK Architects rev A dated 03/06/25.*
- *Landscape Plans by Site Design + Studios, issue B dated 04/06/25.*

TREE MANAGEMENT

- *The Cabbage Palms on the CBR footpath (T34-35) are an important part of a single species avenue planting and can be retained given an absence of external civil works on this frontage. No awning?*
- *T2 in the rear setback of the private property to the west, no.124-128, is against the common boundary & listed for retention in the Arborist Report, but then piling for the Basement Level is shown right into this same area, so further information on how this will be achieved may be required from the Arborist. Would this undermine/de-stabilise the palm and/or require removal of all fronds from its eastern aspect?*
- *I confirm we have no objections to the removal of any Exempt species (defined by our DCP), as listed in the Arborist Report, being T1, 3-8, 16, 19-20, 20A, 21-29, 31-33.*
- *Annexure B - Tree Location Plan (in Arborist Report) shows T4 located on the neighbouring site at no.124-128 but is listed for removal. **This cannot be facilitated & needs clarification/further information.***
- *Other trees that are protected by the DCP and would require removal are: T9-15, 17-18, 30 & 33A. Despite being the most established specimens, their retention would not appear feasible given a combination of the proposed footprint, the steep fall of the land down to the north, their central location (which severely limits any practical development), their size & the subsequent exclusions zones that are required.*
- *Even if the building is pulled back further to the south, away from Powell Lane, new tree & feature plantings that have better amenity & longevity may still be favoured for this area.*

I would not consider any of the matters raised above sufficient for an RFI and/or refusal of the application.

LANDSCAPE PLANS

- *Quality of treatment & level of detail on the Landscape Plans is satisfactory, but there is clearly an over-reliance on podium planting as the Basement occupies the entire site.*
- *Planting of large canopy trees and palms in limited soil volume around the perimeter of private balconies as shown does not appear sustainable for the species & their mature dimensions.*
- *No details of soil depth or soil volume have been provided for the podium planters – spot levels, RL's, sqm etc.*

D56/25

- *The only deep soil within the whole site is a completely unusable and impractical 2m strip fronting Coogee Bay Road = worthless.*
- *DEAP comments are supported in that a re-design should be pursued to increase opportunities for deep soil and landscaping to assist with integration of the development into the area.*
- *Sloped topography is noted; however, appropriate site planning should still result in adequate zones of deep soil where tree & palm planting can be focussed, rather than an over reliance on planter boxes on private balconies.*
- *In this regard, courtyards & feature planting should be considered within each of the side setbacks to cater to amenity for future occupants as well as to reduce visual/privacy impacts on neighbours.*
- *Greater separation between the two north-south blocks should also be considered, as the planting of palms, tree ferns could then extend/link with these areas as above to address amenity.*
- *No dedicated area of Communal Open Space, which will not cater to the future amenity needs of occupants.*
- *The lower, northern frontage facing Powell Lane appears the most logical area for this due to aspect, with the resulting increased building setback to allow for this to then assist with minimising impacts on residential neighbours to the north.*

Appendix 2: Applicant's written requests seeking to justify the contravention of the development standards for Height of buildings and Floor space ratios under the RLEP 2012.

Height of buildings Clause 4.3 written request:

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

**CLAUSE 4.6 VARIATION REQUEST TO BUILDING HEIGHT DEVELOPMENT STANDARD
PURSUANT TO CLAUSE 4.3 OF RANDWICK LEP 2012**

130-134 COOGEE BAY ROAD, COOGEE

Demolition of the existing structure and construction of shop top housing development

PREPARED BY

ABC PLANNING PTY LTD

June 2025

*Clause 4.6 (Height)**130-134 Coogee Bay Road, Coogee*

**CLAUSE 4.6 VARIATION REQUEST TO BUILDING HEIGHT DEVELOPMENT STANDARD
PURSUANT TO CLAUSE 4.3 OF RANDWICK LEP 2012**

This Clause 4.6 variation request has been prepared to accompany the Development Application for the demolition of the existing structure and construction of shop top housing at 130-134 Coogee Bay Road, Coogee.

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

The proposal seeks to demolish the existing structures and construct a shop fronting Coogee Bay Road and 21 apartments.

The proposal results in a non-compliance with Clause 4.3 of the Randwick LEP 2012 which relates to height of buildings. As such, this Clause 4.6 variation request has been prepared in accordance with Clause 4.6 of the Randwick LEP 2012:

Clause 4.6 Exceptions to development standards

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

Note—

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

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)

Clause 4.6 (Height)

130-134 Congee Bay Road, Congee

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 6.16(3)(b)

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

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

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

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.3 of the Randwick LEP 2012 - a maximum height of 12m, demonstrated on the LEP map below.



Figure 1: Building Height Map (12-metre height standard)

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

Pursuant to Clause 4.3 of the RLEP2012, the maximum permissible height is 12m. The maximum variation is associated with the lift overrun which has a height from the already excavated ground level below the Coogee Bay Rd frontage of 17.96m (5.96m variation). The centre and rear components of the built form have lesser height variations, as shown in the 3D height plane below. The extent and siting of the components which breach the height limit are shown below:



Figure 2: Excerpt of the 3D height plane showing areas which vary the height standard



Figure 3: Roof plan overlay over the survey which verifies the height plane above

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

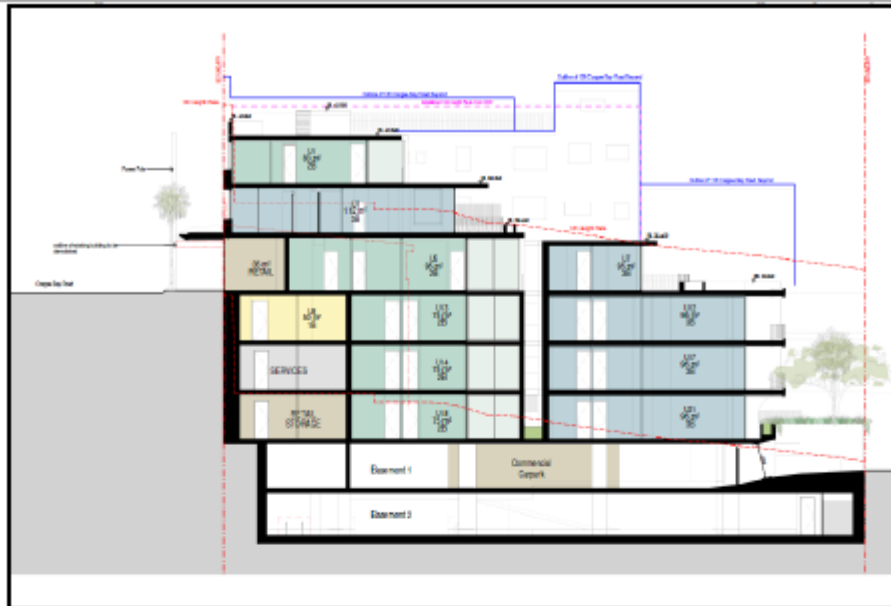


Figure 4: Excerpt of long section which shows the location and extent components over the height limit, mainly due to the previous excavation below the Coogee Bay Rd frontage

Justification for Contravention of the Development Standard

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

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

5-Part test

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

The 5-Part Test is summarised as follows:

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

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

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

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

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

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

Consistency with the Objectives of the Building Height Development Standard in the LEP	
Objectives	Assessment
(a) to ensure the height of buildings is compatible with the character of the locality,	The height of the building presents as compliant fronting Coogee Bay Road. The 3 storey presentation to the street is below the 12-metre height limit as viewed from Coogee Bay Rd and such height is compatible with the character of the locality, with the 2 western neighbouring properties having a similar or greater height. The 3-storey built form is also achieved at the rear of the site adjacent to Powell Lane which is also consistent with the height of building contemplated by the height limit in the E1 zone. The component that is associated with the greatest extent of height departure is the lift/lift overrun which is a minor element that will not be readily evident from either street/lane frontage. Such component does not generate any incompatibility with the character of the locality due to its confined form and isolated location from neighbouring properties. The remaining elements are recessed from the street/lane frontages and are not responsible from generating any incompatibility with the character of the locality. The components of the built form over the height standard are substantially separated from the properties to the north across Powell Lane. The residential dwellings to the north across Powell Lane have east-west orientations and not south towards the subject site/proposed built form. On this basis, the proposed height variation will not generate any incompatibility with the dwellings in the lower density zoning (R2) to the north across Powell Lane. The height variation will also not generate any incompatibility with the established built forms to the west, noting that these buildings are substantially taller and bulkier than the highly articulated and stepped form as proposed. The height variation is associated with a built form that is subservient to these forms. The height variation is associated with a built form which is compatible with the 4-storey flat building to the east at 136

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

	Coogee Bay Rd whilst also being well separated from the heritage listed dwelling at 28 Powell St, thereby avoiding any adverse visual bulk or incompatibility with the heritage listed property. On this basis, it is considered that the proposed height variation will not generate any incompatibility with the character of the locality.
<i>(b) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item</i>	The subject site is not within a heritage conservation area. The closest heritage item is the Public School across Coogee Bay Road and the heritage house to the east fronting Powell Street (Bella, Federation house at 28 Powell Street). There are no adverse impacts on the public school due to the height of the building presenting as compliant whilst being compatible with the established 3-storey presentation of buildings fronting Coogee Bay Road. There are no adverse impacts on the heritage house due to the north-south orientation of the proposal with no structural or overshadowing impacts due to the separation distance from the elements over the height and the heritage item.
<i>(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.</i>	The proposed exceedance of the height control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss of views, and a reduction in this height would not create additional benefit for adjoining properties or the locality. <u>Visual Bulk:</u> The proposal has been designed to present as a 3 storey building from Coogee Bay Road, being compatible with the streetscape and as compliant with the 12-metre height limit, as viewed from the public domain along Coogee Bay Rd. The built form is also compliant with height as it presents to Powell Lane. The central areas over the height limit are recessed from the street frontages and do not generate any adverse visual bulk impacts to the public domain nor to any primary living or balcony area on properties either side. The sensible distribution of the FSR allows for the reduction of visual bulk in terms of height. <u>Overshadowing:</u> As demonstrated in the 3D solar access/shadow diagrams submitted with this application, the neighbouring properties receive the required amount of sunlight to their habitable rooms with a minimum of 3hrs on June 21. The additional height causes no adverse impact of overshadowing on the neighbouring properties, with no shadow impacts on the heritage house, separated by the carport. The architect has included the layout of the units to the west. On this basis, the north-facing living room areas of both properties either side will maintain solar access, despite the height variation.

D56/25

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

	<u>View Loss:</u> The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. District views are available from the east and north-facing windows of the 7 storey building to the west (124-128 Coogee Bay Rd). Views from the rooftop of that property will also be maintained as the highest point of the proposed built form is below the floor level of the communal rooftop. No primary living room views will be affected as the built form steps back to allow for outlook to be retained from the east-facing living room windows in the building to the west. The views from 136 Coogee Bay Road are north facing and retained, overlooking the heritage building to the north. <u>Privacy:</u> The proposed development (inclusive of the components over the height limit) has been designed and sited to ensure adequate privacy between the proposed residential apartments and the adjoining properties either side. In this regard, all primary living room windows are oriented north, not sideways to adjoining properties. Side elevations have been designed to avoid mutual privacy impacts from the components over the height limit. The components adjacent to the Coogee Bay Rd frontage are oriented north and south to avoid privacy impacts to the eastern and western neighbouring dwelling/units. The 2 bedroom apartment which is over the height limit has its primary orientation to the north which also avoids privacy impacts. The north orientated apartments and landscape buffering allow for the proposal to avoid privacy impacts on 136 Coogee Bay Road to the east. On this basis, the elements over the height limit will not generate any adverse or unreasonable privacy impacts.
Consistency with the Objectives of the E1 Local Centre Zone	
Objectives	Assessment
- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. - To encourage investment in local commercial development that generates employment opportunities and economic growth. - To enable residential development that contributes to a vibrant and active local centre	The site is zoned E1 Local Centre under the provisions of Randwick LEP 2012. The proposed building height variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the E1 Local Centre zone. The proposal is consistent with the objectives of the E1 zone as follows: Despite the building height variation, the shop top housing will contribute to the local centre and

<i>Clause 4.6 (Height)</i>	<i>130-134 Condee Bay Road, Condee</i>
and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To maximise public transport patronage and encourage walking and cycling. • To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community. • To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones. • To facilitate a safe public domain. • To support a diverse, safe and inclusive day and night-time economy.	encourage investment in local commercial development. • The proposed development includes an enhanced shop front with residential apartments above that will serve the needs of people who live and work in the area. Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the height variation.

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.

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

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The scope of environmental planning grounds is wide as exemplified by the court cases (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [10]).

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

- The primary elements associated with the building height departure are limited to the portions at the southern end of the building including lift/lift overrun and central component. Previous excavation on the site is responsible for the height variation for this

Clause 4.6 (Height)

130-134 Coogee Bay Road, Coogee

component below the Coogee Bay Rd frontage. Such circumstance is consistent with the findings of the judgement *Merman Investments Pty Ltd v Woollahra Council* 2021, whereby Commissioner O'Neill found that previous excavation which results in a height variation constitutes an environmental planning ground.

- The height variation associated with the remaining element beyond the built form fronting Coogee Bay Rd is due to the sloping nature of the site, as shown in the long section below:

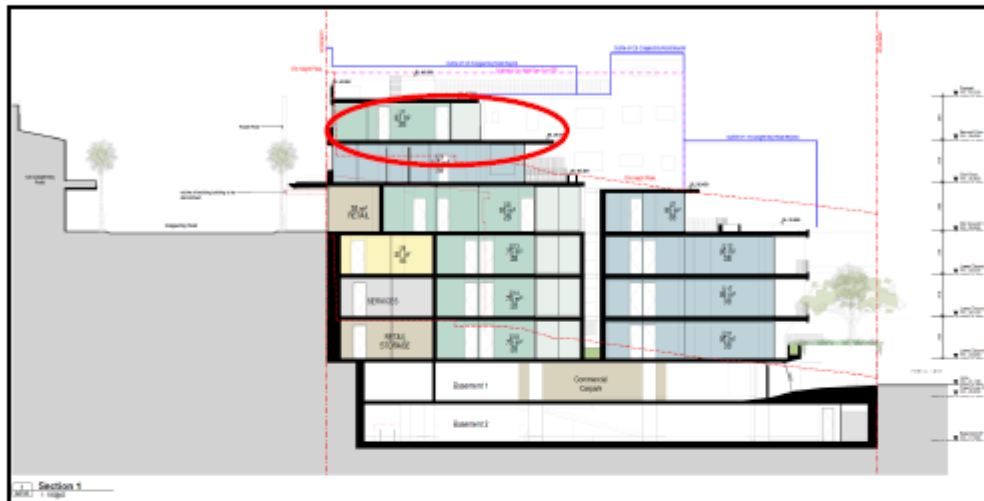


Figure 5: Excerpt of Section 1 showing the areas breaching the height standard circled in red, noting the previous excavation which has occurred at the southern end of the site

- Despite the building height non-compliance, the proposed height is compatible with neighbouring 3 storey buildings to the west of the site (as viewed from Coogee Bay Rd). The bulk and scale of the proposal is compatible with the existing and desired future character of the locality. The height is substantially lower than the adjoining built forms to the west (behind the Coogee Bay Rd frontage).



Figure 6: Excerpt of Southern Elevation showing the compatible streetscape with the height being below the 12m standard, noting the black dashed line showing the disparity between the ground levels of Coogee Bay Road and Powell Lane

- As demonstrated in the Shadow Diagrams submitted with this application, despite the building height variation, the proposal will not result in unreasonable overshadowing to the surrounding properties. The neighbouring properties will receive the required amount of sunlight as per the DCP to their habitable rooms with a minimum of 3hrs during June 21. The western neighbouring properties habitable room windows are unaffected due to the portion that exceeds the height standard being recessed to the south.

Despite the height variation, solar access is maintained to the living and or kitchen areas for the units to the west at 124-128 Coogee Bay Rd from 10am on June 21 through to 3pm, as shown in the excerpt of the 10am and 3pm 3D view from the sun diagrams shown below:



Clause 4.6 (Height)130-134 Coogee Bay Road, Coogee

Figure 7: Excerpt of 10am and 3pm 3D view from the sun diagrams

Despite the height variation, solar access is also maintained to the units within the residential flat building to the east at 136 Coogee Bay Rd as well as to the dwelling house at 28 Powell Street. The 3D solar access diagrams confirm that solar access is retained to these properties from 9am to 1pm as shown in the excerpts below:



Clause 4.6 (Height)130-134 Coogee Bay Road, Coogee

Figure 8: Excerpt of 9am and 1pm 3D view from the sun diagrams

- The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. The proposed height breach will not result in the loss of views from surrounding development as the views and outlook from primary living and kitchen areas from the units within the built form to the west at 124-128 Coogee Bay Rd are maintained.
- Despite the building height variation, the proposal will provide a development which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained. The north south facing windows and balconies allow for the proposal to receive solar access whilst ensuring no visual privacy impacts to the adjoining neighbours either side. Furthermore, the sensible distribution of FSR and introduction of side setbacks greater than that required allows for acoustic privacy to be minimised.
- The proposal includes a high-quality landscape design which includes the planting of a variety of trees, shrubs and turf. Compliant landscaping is provided within side and rear setback areas. Refer to the Landscape Plan submitted with this application. The proposed landscaping will enhance the amenity and visual setting of the proposed development and soften the visual built form of the proposal, notwithstanding the building height non-compliance.
- The proposal is consistent with the E1 Local Centre zone objectives and the building height objectives.

Clause 4.6 (Height)130-134 Coogee Bay Road, Coogee

- 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 proposal will provide a suitable design and amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as 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. On the above basis, it is considered that there are sufficient environmental grounds to permit the building height variation in this instance.

Conclusion

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

The proposal is consistent with the objects of Section 1.3 of the EP&A Act by promoting the following:

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

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 Randwick LEP 2012.

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 130-134 Coogee Bay Road, Coogee and is requested to be looked upon favourably by the consent authority.

Floor space ratio Clause 4.4 written request:

Clause 4.6 (FSR)

130-134 Coogee Bay Road, Coogee

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

130-134 COOGEE BAY ROAD, COOGEE

Demolition of the existing structure and construction of shop top housing development

PREPARED BY

ABC PLANNING PTY LTD

June 2025

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

This Clause 4.6 variation request has been prepared to accompany the Development Application for the demolition of the existing structure and construction of shop top housing at 130-134 Coogee Bay Road, Coogee.

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

The proposal seeks to demolish the existing structures and construct a shop fronting Coogee Bay Road and 21 apartments.

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

Clause 4.6 Exceptions to development standards

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

Note—

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

- (4) *The consent authority must keep a record of its assessment carried out under subclause (3).*
- (5) *(Repealed)*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*Clause 4.6 (FSR)**130-134 Congee Bay Road, Congee*

- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) (Repealed)*
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
- (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5,*
 - (ca) clause 6.16(3)(b)*

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

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

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

Development Standard to be Varied.

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

Clause 4.6 (FSR)

130-134 Congee Bay Road, Congee



Figure 1: FSR Map

Pursuant to Clause 4.4 of the RLEP2012, the site is subject to a maximum FSR of 1.5:1, with the proposal for an FSR of 1.94:1 (1949sqm), a variation to the standard of 29.2% (441.5sqm).

Justification for Contravention of the Development Standard

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

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

5-Part test

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

The 5-Part Test is summarised as follows:

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

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

*Clause 4.6 (FSR)**130-134 Coogee Bay Road, Coogee*

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

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

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

Consistency with the Objectives of the FSR Development Standard in the LEP	
Objectives	Assessment
(a) to ensure that the size and scale of development is compatible with the desired future character of the locality,	The 3 storey presentation to the street is compatible with the character of the locality, with the 2 western neighbouring properties having a similar or greater height. The 3-storey scale at the rear is also consistent with that contemplated by the LEP and DCP height provisions. On this basis, the excess FSR does not generate any incompatibility with the scale and form of development contemplated by the controls. The built form is also well within the permitted front, side and rear setbacks. In this regard, the bulk and scale (and associated excess FSR) of the development is mitigated by the provision of greater than required side and rear setbacks. The distribution of the built form is also appropriate as it steps down the considerable slope from the Coogee Bay Rd frontage down to Powell Lane. The articulated nature of the side elevations of the built form which step down the site also break down the apparent built form (inclusive of the excess FSR). The built form presents as 3-storeys to the rear whilst also being well below the 12m height standard. The 5.5m rear setback is also substantial, when compared to other forms along the lane towards the west. The other laneway developments are closer to the lane frontage and greater in height with no landscaping. In contrast, the proposed built form is highly articulated and includes extensive deep soil and on-slab planting which softens the visual impact of the proposed bulk and scale, including the GFA beyond the standard. A significant extent of the additional FSR is not evident from the Coogee Bay Rd frontage and from the Powell Lane frontage as a substantial component of the built form is concealed from these public vantage points.

Clause 4.6 (FSR)130-134 Coogee Bay Road, Coogee

	A considerable portion of the built form is also not visible from the western neighbouring building as the front/southern section of built form is concealed behind the blank east-facing wall of that property. Furthermore, the eastern neighbouring properties in the R3 Medium Density Residential zoned area at 28 Powell Street and units at 136 Coogee Bay Rd do not have their primary aspect towards the subject property and the proposed built form. The articulated form and landscaped setbacks assist in mitigating any visual bulk impacts from those vantage points. The built form is also substantially separated from the R23 Low Density zoned properties across Powell Lane to the north. The lack of aspect of the most proximate dwelling at 26 Powell Street, combined with existing and proposed landscaping, confirms that the FSR variation will not be responsible for generating any adverse or unreasonable visual bulk impacts to the dwellings in the R2 Low Density Residential zone.
<i>(b) to ensure that buildings are well articulated and respond to environmental and energy needs,</i>	The design of the building encompasses an appropriate distribution of FSR to create a staggered built form from Coogee Bay Road, down to Powell Lane. The north south facing windows and balconies respond to the environment, allowing for an adequate amount of solar access whilst all are naturally cross ventilated, thereby demonstrating that the additional floor space can be accommodated on the site.
<i>(c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,</i>	The subject site is not within a heritage conservation area. The closest heritage item is the Public School across Coogee Bay Road and the heritage house to the east fronting Powell Street. There are no adverse impacts on the public school due to the height of the building presenting as compliant whilst being compatible with the established 3-storey presentation of buildings fronting Coogee Bay Road. There are no adverse impacts on the heritage house due to the north-south orientation of the proposal and no structural or overshadowing impacts. On this basis, the additional FSR is not considered to be responsible for any heritage impacts.
<i>(d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms</i>	The proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of visual bulk, loss of privacy, overshadowing or loss

Clause A.6 (FSR)

130-134 Coogee Bay Road, Coogee

of visual bulk, loss of privacy, overshadowing and views.	of views, and a reduction in this FSR would not create additional benefit for adjoining properties or the locality. <u>Visual Bulk:</u> The sensible distribution of the FSR allows for the reduction of visual bulk, with a staggered built form from Coogee Bay Road down to Powell Lane. The variation from the FSR standard will not be evident due to the concealed nature of the built form from Coogee Bay Rd, along with the articulated and fragmented/stepped form of development. <u>Overshadowing:</u> As demonstrated in the Shadow Diagrams submitted with this application, the neighbouring properties retain sunlight to their habitable rooms with a minimum of 3hrs on June 21. The additional FSR thereby does not generate any adverse impact of overshadowing on the neighbouring properties. <u>View Loss:</u> The proposed development has been designed so as to not have an unreasonable impact on views from the public domain or surrounding properties. Views from living and communal open space areas to the west will be retained due to the stepped form of development on the site. <u>Privacy:</u> The additional floor space is not considered to generate any adverse privacy impacts as the apartments have been designed to have their orientation to the street or to the rear, not sideways to the neighbouring units or dwellings either side. The balconies are orientated to the north, limited in sized and appropriately designed to alleviate privacy impacts to neighbouring properties. On this basis, the proposed FSR variation will not generate any unreasonable amenity impacts.
Consistency with the Objectives of the E1 Local Centre Zone	
Objectives	Assessment
- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. - To encourage investment in local commercial development that generates employment opportunities and economic growth.	The site is zoned E1 Local Centre under the provisions of Randwick LEP 2012. The proposed FSR variation does not raise any inconsistency with the ability of the proposal to achieve the objectives of the E1 Local Centre zone. The proposal is consistent with the objectives of the E1 zone as follows:

*Clause 4.6 (FSR)**130-134 Coogee Bay Road, Coogee*

• To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To maximise public transport patronage and encourage walking and cycling. • To facilitate a high standard of urban design and pedestrian amenity that contributes to achieving a sense of place for the local community. • To minimise the impact of development and protect the amenity of residents in the zone and in the adjoining and nearby residential zones. • To facilitate a safe public domain. • To support a diverse, safe and inclusive day and night-time economy.	• Despite the FSR variation, the shop top housing development will contribute to the local centre and encourage investment in local commercial development. • The proposed development includes an enhanced shop front that will serve the needs of people who live in, work in and visit the area. • The shop fronting Coogee Bay Road will generate employment opportunities and economic growth in a location accessible by active transport. • The proposed building displays architectural and urban design quality and contributes to the desired character of the locality. • The excess FSR does not adversely affect the amenity of surrounding properties. • The provision of housing within the shop top housing development supports the viability of the local centre. Therefore, it is considered that the proposed development satisfies the zone objectives, notwithstanding the FSR variation.
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Compliance with the development standard is unreasonable and unnecessary as the proposed FSR and bulk is of an appropriate form and scale and is compatible with surrounding development and the desired future character for the locality and meets the objectives of the development standard.

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

As outlined in the 'Guide to Varying Development Standards' prepared by the Department of Planning and Environment in 2023, the term 'environmental planning grounds', while not defined in the EP&A Act or the Standard Instrument, refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the EP&A Act. The scope of environmental planning grounds is wide as exemplified by the court cases (*Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [10]).

Clause 4.6 (FSR)130-134 Coogee Bay Road, Coogee

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

- A significant proportion of the excess FSR is concealed from the public domain from both Coogee Bay Road and Powell Lane frontages whilst also being below the side-facing habitable windows of the neighbouring buildings either side. On this basis, the additional FSR is considered to be imperceptible and does not unreasonably add to the visual bulk of the built form as viewed from surrounding public and private vantage points.
- The built form is well within the permitted building envelope that is established by the 12-metre height limit in the LEP, as well as the setback provisions for Local centres in Part D6 of the Randwick DCP 2013. The built form is substantially within the envelope noting that the proposed setbacks are significantly greater than the setbacks permitted by the DCP. The proposed FSR represents less than 75% of the permissible envelope, which is a recognised method in establishing what is an appropriate FSR standard. Such methodology is consistent with the Apartment Design Guide (Part 2- Developing the Controls- 2D- FSR). The architect has prepared a 3D envelope based on the permitted setbacks and the 12m height limit/3-storey control in the DCP. Such envelope generates an FSR of 1.944:1 which is greater than the 1.5:1 standard. On this basis, the proposed of 1.94:1 is consistent with the envelope/FSR standard and demonstrates that such FSR is not unreasonable and is appropriate for the site. The above building envelope does not include the provision of a 3-storey built form above the Coogee Bay Rd frontage which confirms the reasonable nature of built form on the site.



- The stepped and articulated nature of the built form is subservient to the sheer and taller built forms to the west, which achieves a compatible built form relationship with the established context. The provision of landscaped side and rear setbacks, along with orientation of all primary openings and balconies to the north, also avoids any mutual privacy and acoustic impacts to the eastern and western neighbouring properties. The stepped and fragmented form of development, well within the building envelope, also maintains outlook and district views for adjoining properties whilst also breaking down the perception of built form on the site. On this basis, the proposal is considered to achieve a compatible outcome with the existing and desired future character, notwithstanding the FSR variation.
- The external facades are articulated and indented to minimise the perceived bulk and perception of the non-compliant GFA.

Clause 4.6 (FSR)

130-134 Congee Bay Road, Congee



Figure 3: Excerpt of North Elevation showing the compatible nature of the built form at the respective street and lane frontages (in the foreground)

- As outlined above, the proposed exceedance of the FSR control will not create unreasonable environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity.
- The proposal includes a high-quality landscape design which includes the planting of a variety of trees, shrubs and turf. Compliant landscaping is provided within side and rear setback areas. Refer to the Landscape Plan submitted with this application. The proposed landscaping will enhance the amenity and visual setting of the proposed development and soften the visual built form of the proposal, notwithstanding the FSR non-compliance.



Figure 4: Excerpt of Lower Ground 3 Landscape Plan, noting the abundance of planting which includes 36 trees with canopy heights of 4-6 metres

Clause 4.6 (FSR)130-134 Coogee Bay Road, Coogee

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

Conclusion

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

The proposal is consistent with the objects of Section 1.3 of the EP&A Act by promoting the following:

- economic welfare of the community and a better environment (Section 1.3(a))
- orderly and economic use and development of land (Section 1.3(c))
- protect the environment (Section 1.3(e))
- sustainable management of built heritage (Section 1.3(f))
- good design and amenity of the built environment (Section 1.3 (g))
- proper construction and maintenance of buildings, including the protection of the health and safety of their occupants (Section 1.3(h))

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

For reasons mentioned herein, this Clause 4.6 variation request is forwarded in support of the development proposal at 130-134 Coogee Bay Road, Coogee and is requested to be looked upon favourably by the consent authority.

Appendix 3: DCP Compliance Table**3.1 Section D6: Neighbourhood Centres**

DCP Clause	Control	Proposal	Compliance
2	Site planning		
2.3	Building heights		
	i) Where 12m height limit applies, development must not exceed 3 storeys (with exception of habitable roof space/partial floor). ii) Minimum 3.3m floor to ceiling height at ground floor and 2.7 at upper floors.	The proposal exceeds the maximum number of storeys located behind the front along Coogee Bay Road.	No, see discussion of height and density in key issues section of report.
2.4.1	Front setback		
	i) Development on primary road, up to 9.5m in height: nil setback. ii) Development on primary road, above 9.5m in height: 2m setback. iii) Corner allotments: minimum 1.5m x 1.5m splay corner at all levels.	The proposal doesn't provide a 2m setback above 9.5m however it is considered to align with the form and massing of the adjoining buildings to the west also in the comparable zone.	Adequate.
2.4.2.	Rear setback		
	i) Rear lane access: 1m minimum setback for car parking and ancillary buildings. ii) Maximum 6m height and 4.5m wall height for all ancillary buildings fronting laneways. iii) Ancillary buildings on laneways must have a mass and scale secondary to the primary dwelling on the allotment. iv) Any upper level must be contained within the roof form as an attic storey. v) Where there is no rear lane access and the site adjoins land in a residential zone, provide a minimum rear setback of 15% of allotment depth or 5m, whichever is the lesser.	The proposal has a bulk and scale at the rear that exceeds the maximum wall and overall height controls.	See discussions under the key issues section of this report.
2.4.3	Side setback		
	i) Adjacent to business zone: nil setback. ii) Dwellings in business zone: refer Part C1 or C2 of DCP. iii) Adjacent to non-business zone: 3m for a minimum of 60% of lot depth.	The proposal has zero setbacks for 7.5m and 3m for a depth of around 87% of the allotment depth.	Yes, however it is not considered that the proposal meets the objectives under this part of the DCP.
3	Building design		
3.1	Façades		
	i) Where a development has two street frontages, each façade treatment must respond to the buildings in those streets. ii) Include shopfronts on side street frontages of corner sites to enhance the commercial potential of the space and minimise blank	The proposed façade has been commented on by the Design Excellence Advisory Panel (DEAP) - they note that suitable	Condition able to be applied.

D56/25

D56/25

DCP Clause	Control	Proposal	Compliance
	walls to the street front. iii) Facades should display proportions and detailing which respect the prevailing building facades across the centre (i.e. designing fine grain shop fronts, where the existing subdivision is fine grain). iv) Distinguish residential entries from commercial/retail entries in the case of mixed use development. v) Design shopfronts, including entries and windows, to reinforce any prevalent character in the centre. vi) All street frontage windows at ground level are to have clear glazing. Large, glazed shopfronts should be avoided, with window configurations broken into discrete sections to ensure visual interest. vii) All facade elements must be contained within the site boundaries. viii) Building services, such as drainage pipes shall be coordinated and integrated with overall facade and balcony design. ix) Balconies to the street facade are to be recessed behind the principal building facade. x) Balcony balustrades should comprise a light open/glazed material and should be compatible with the style of the building. xi) The development of colonnades is discouraged.	conditions may address the comments raised.	
3.2	Roof Forms		
	i) In centres where parapet forms are prevalent, development should include parapets that reflect the rhythm, scale and detailing of existing parapets. ii) Provide flat roofs where these prevail across the centre, unless the site conditions justify an alternative roof form (e.g. Corner sites). iii) Design roof forms to generate a visually interesting skyline, while minimising apparent bulk and potential for overshadowing. The style and pitch of new roofs should relate sympathetically to neighbouring buildings. iv) Relate roof forms to the size and scale of the building, the building elevation and the three dimensional building form. v) Structures such as ventilation shafts, lift over-runs and service plants, should be wholly contained within roof structures and not project above the roof line.	Generally flat roofs and parapet presentation.	Yes
3.3	Awnings		
	i) Provide continuous street frontage awnings to all new development. ii) Generally awnings should be a minimum 3 metres deep and setback a minimum 600mm from the kerb. iii) Design new awnings to be complementary	Continuous awning provided.	Yes

DCP Clause	Control	Proposal	Compliance
	with their neighbours and aligned with the general alignment of existing awnings in the street. iv) Cantilever awnings from the building must have a minimum soffit height of 3.5metres. v) Provide under awning lighting to improve public safety. vi) Colonnades along the street edge are inappropriate. vii) Canvas blinds along the street edge may be suitable where they would assist in sun access/protection. viii) Signage on canvas blinds is inappropriate. ix) Ensure all awnings are structurally sound and safe and comply with relevant BCA requirements.		
3.4	Colours, materials, and finishes		
	i) Utilise high quality and durable materials and finishes which require minimal maintenance. ii) Combine different materials and finishes to assist building articulation and modulation. iii) The following materials are considered incompatible: large wall tiles; rough textured render and/or bagged finish; curtain walls; and highly reflective or mirror glass. iv) Avoid large expanses of any single material to facades. v) Visible light reflectivity from building materials used on the facades of new buildings should not exceed 20%.	DEAP comments.	Condition able.
3.5	Lighting		
	i) The external lighting of buildings must integrate external light features with the architecture of the building. ii) Under awning lighting should be provided in accordance with the relevant Australian Standard. iii) Where residential development is located above or adjoins the development, provide location and design details demonstrating that light is directed away from residences. iv) Avoid floodlights or excessive lighting of buildings.		Condition able.
3.6	Signage		
	i) The location, size and design of signage must integrate with the architectural detail of the building and act as a unifying element to the neighbourhood centre. ii) Signage must not: obscure important architectural features; dominate the architecture of buildings; protrude from, or stand proud of, the awnings; project above any part of the building to which it is attached; cover a large portion of the building façade. iii) Avoid fin signs, signage on canvas blinds, signage on roller shutters and projecting	No particulars provided.	Condition able.

D56/25

D56/25

DCP Clause	Control	Proposal	Compliance
	wall signs and large elevated solid panel business and building name signs including those fixed on parapets or roofs. iv) Ensure that signs provide clear identification of premises for residents, visitors and customers. v) All premises must display a street number. The height of these numbers should be legible but not a dominating feature, and no less than 300mm presented in a clear readable font. vi) Signage must relate to the business being carried out on the property. vii) Early building names (on parapets, pediments, etc) should be preserved wherever possible. viii) Any signage structure or sign must have regard to the impact on residential occupants in terms of illumination and visual impact.		
4	Public domain		
4.1	Active frontages		
	i) Maximise street level activity and minimise opaque or blank walls at ground level. ii) Minimise vehicular entrances not associated with active uses or building entries. iii) Security grilles or shutters may be fitted only within the shop itself behind glazing and must offer a minimum of 70% transparency. iv) Doors shall not encroach over the footpath when open. The use of fully operable glass walls or windows to open cafés and restaurants to the street is encouraged, where suitable for the prevailing character of existing buildings in the centre. v) ATMs and takeaway service counters should be recessed within a building wall to avoid negative impact on footpaths being used as service/queuing space. These areas are to be designed to avoid a hidden alcove/niche	Active commercial premises provided however they are relatively shallow in depth which calls into question the degree to which they would contribute to the activation of the street.	No – minor. Further refinement required.
4.2	Pedestrian friendly access and spaces		
	i) Development should aim to increase the area of public spaces and pedestrian links that are available in the business centres. ii) In designing such areas, consideration should be given to solar access and protection from wind and rain. iii) Pedestrian and vehicle accessways are to be separated and clearly distinguishable. iv) Pedestrian areas should minimise any changes in levels and allow wheelchair access to the shops from the car parking area and public footpaths. v) Consider artworks and design which integrates private development with the public domain. e.g. Window treatments,	Distinct entrances for commercial and residential.	Yes

DCP Clause	Control	Proposal	Compliance
	paving, sculptures and decorative elements.		
4.3	Vehicular access		
	i) Where new development has access available off rear laneways or side streets, vehicular access must be provided from the laneway or side streets. ii) Design driveways to minimise visual impact on the street and maximise pedestrian safety. Setback any rear lane garage doors 1 metre from the laneway alignment. iii) Avoid locating accessways to driveways adjacent to the doors or windows of habitable rooms.	Rear laneway access.	Yes
4.4	Loading areas		
	i) Provide for loading facilities on site wherever feasible or demonstrate that suitable alternative arrangements to minimise impact on other premises and people within the centre. ii) Service/delivery areas are to be located to minimise conflict between pedestrians/cyclists and vehicles and to minimise impact on residential amenity of neighbouring properties. iii) Where new development has access available off rear laneways or side streets, loading areas shall be located off these areas.	No loading bay only one commercial car space.	No, conditional noting the proposal provides more parking than the minimum.
5	Amenity		
5.1	Solar Access		
	i) Commercial and mixed use development are not to reduce sunlight to adjacent dwellings below a minimum of 3 hours of sunlight on a portion of the windows of the habitable rooms between 8am and 4pm on 21 June. ii) Where adjacent dwellings and their open space already receive less than the standard hours of sun, new development should seek to maintain this solar access where practicable.	Sunlight to adjacent dwellings at eastern side of No. 124-126 Coogee Bay road is lowered to less than 3 hours. ADG provisions override these controls.	See comments in key issues section of this report in relation to orientation.
5.2	Acoustic and visual privacy		
	i) Developments are to be designed to minimise noise transmission by: - Locating busy noisy areas next to each other and quieter areas next to each other; - Locating bedrooms away from busy roads and other noise sources; - Using storage or circulation areas within a dwelling to buffer noise from adjacent apartments, mechanical services or corridors/lobbies. - Avoid locating wet areas, such as toilets, laundries and kitchens, adjacent to bedrooms of adjoining dwellings.	ADG provisions override these provisions.	See comments in the key issues section of this report.

D56/25

DCP Clause	Control	Proposal	Compliance
	ii) Locate exhaust vents away from windows and open space of dwellings. iii) For development fronting arterial roads, provide noise mitigation measures to ensure an acceptable level of living amenity for the dwellings is maintained. iv) Operating hours must be submitted with the DA. Should the development require deliveries and/or operation of machinery outside of standard hours (7.30am to 5pm, Monday to Friday), an acoustic report must accompany the DA. The acoustic report must be prepared by a suitably qualified acoustic consultant.		
6	Shop top housing		
	i) Entries to residential apartments are to be separated from commercial entries to provide security and an identifiable address for each of the different users. ii) Each dwelling must be provided with private open space directly accessible from its living area, in the form of either a balcony at least 2m deep or a terrace or private courtyard at least 10 square metres in area. iii) Private open spaces should be: located adjacent to and accessible from the main living areas of the dwelling; located so as to maximise solar access; located to ensure privacy and away from noisy locations, where possible; and screened by vegetation or a wall to ensure privacy. iv) If an elevator is provided for residential use, it must not be used for retail loading or waste removal. v) Separate the waste storage facilities for commercial and residential components of a development. vi) Site services and facilities (such as letterboxes and drying yards) should be designed to enable safe and convenient access by residents; in an aesthetically sensitive way; to have regard to the amenity of adjoining developments and streetscape; to require minimal maintenance; and to be visually integrated with the development.	Separate entries for commercial and residential components. Each dwelling has an area of POS that is at least 2m deep and ground level POS is at least 10sqm – note ADG controls override these DCP controls. Accessible off living rooms. Lift used by both commercial and residential uses. See waste comments by Development Engineer. Separate waste is provided for commercial and residential components.	Partial compliance.
6.1	Neighbourhood shops and business uses in Residential Zones		
	i) Preserve glazed shopfronts (i.e. do not infill), awnings and primary wall heights at the street front. ii) A Noise Impact Assessment prepared by a qualified acoustic consultant may be required depending on the use, scale and location of a development to demonstrate that the use can suitably operate within a residential area.	NA	NA

Apartment Design Guide (ADG)

An assessment has been carried out in accordance with Part 3: Siting the Development and Part 4: Designing the Building of the Apartment Design Guide against the design criteria requirements. Any non-compliance to the design criteria includes a merit-based assessment as per the design guidance of the Apartment Design Guide.

Clause	Requirement	Proposal	Compliance
Part 3: Siting the Development			
3A -1	Site Analysis		
	Each element in the Site Analysis Checklist should be addressed.	Site analysis satisfactory and addresses elements in the checklist: Site location plan identifying the site in relation to retail and commercial areas Aerial photograph of the development site and surrounding context is provided in SEE as are photos of the development along Powell Lane and Coogee Bay Road. It would be better if the site plan included a reference to the zoning applicable to the site and neighbouring properties.	Yes
3B-1	Orientation		
	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street (see figure 3B.1).	Access is provided off Coogee Bay Road.	Yes
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be oriented to the east and west.	The excessive rear extent, northern aspect and shallow side setbacks considered to result in unnecessary additional adverse overshadowing of the neighbouring properties and the proposal is not minimising overshadowing or maximising solar access to the apartments.	No, see discussion of visual privacy and orientation in the key issues section of the report.
3B-2	Orientation		
	Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space (50% direct sunlight to the principal part of the communal open space for 2 hours) and Objective 4A Solar and daylight access requires at least 2 hours for at least 70% of apartments and maximum of 15% no sunlight between 9am and 3pm mid-winter.	No communal open space is provided. At least 70% of apartments in the development will receive at least 2 hours of solar access at mid-winter. Note: Solar access to living rooms is provided in accordance with the ADG, however the northern aspect of the development is the optimal aspect for maximising solar access under the ADG. The	No as communal open space not provided. Yes

D56/25

Clause	Requirement	Proposal	Compliance
		aspects of design that limit solar access include: shallower than the minimum side setbacks and inappropriate location of lower ground level subterranean 1B U8 & U9 units at the southern extent of the floor plate which could be amalgamated partially as secondary rooms to the apartments in front similar to first floor apartments above and rear most area used as storage freeing up space for deep soil at the northern boundary (as per DEAP advice).	See discussion in Key issues section of this report.
	Solar access to living rooms, balconies and private open spaces of neighbours should be considered.		
	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	The neighbouring buildings apartments to the west currently receive at least 2 hours of sunlight to their east facing living rooms due to the undeveloped nature of the subject site. However, the proposed developments substandard side boundary setback, FSR exceedances and rear extent contribute to the reduction of solar access to less than 2 hours at the winter solstice to these windows.	
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.		
	Overshadowing should be minimised to the south or downhill by increased upper-level setbacks.	The building separation is reduced to below the minimum under the ADG however it is compliant with the DCP provisions for development in the neighbourhood centres (part D6 of the RDCP) (now labelled as E1 Local Centre zones). Refer to key issues assessment above.	
	A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.		
3D-1	Communal and Public Open Space		
	Communal open space has a minimum area equal to 25% (251.3m ² / 1005.3m ²) of the site (see figure 3D.3)	None provided.	No, see key issues discussion section of report.
	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).	see above	No.
3E-1	Deep Soil Zones		
	Deep soil zones are to meet the following requirements: Site Area: 650m ² – 1500m ² = 7% (70.37m ²) Minimum dimensions of deep soil = 3m	None provided.	No, see key issues section of this report.

Clause	Requirement	Proposal	Compliance
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: Up to 12m (4 storeys) – Habitable rooms and balconies = 6m Up to 25m (5-8 storeys) – Habitable rooms and balconies = 9m, non-habitable rooms = 4.5m Note: an additional 3m when adjoining lower density zone.	3m side separation for all aspects of the development above ground level up to and 5m rear separation for development between 3-5 storeys (not including roof plant) above existing ground level. Concerns are raised in relation to the amenity (solar access of neighbours), visual bulk, visual and acoustic privacy impacts associated with certain aspects of the shallower setbacks than adjoining and to Powell Lane.	No, see discussion under key issues section of this report.
3J-1	Bicycle and Car Parking		
	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. The car parking needs for a development must be provided off street.	The proposal complies with the relevant requirements for car parking and bicycle parking.	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 mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	80.9% of units (17/21) achieve 2 hours solar access to part of their living area and POS.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	No units receive no solar access pursuant to Appendix 5 assessment.	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	90% of all units (19/21) are naturally cross-ventilated.	Yes

D56/25

Clause	Requirement	Proposal	Compliance
	ventilation and cannot be fully enclosed		
4C	Ceiling Heights		
	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable Rooms – 2.7m Non-habitable – 2.4m	3.1m floor to floor heights are provided which is consistent with the ADG guidelines for provision of 2.7m floor to ceiling heights for habitable rooms.	No
4D	Apartment Size and Layout		
	Apartments are required to have the following minimum internal areas: Studio - 35m ² 1 bedroom - 50m ² 2 bedroom - 70m ² 3 bedroom - 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each	All units comply with the minimum internal areas.	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	All habitable rooms comprise of a window opening for the purposes of light and will not have an area less than 10% of the floor area of the room.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height = 6.75m	All habitable room depths are within the maximum limit.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Compliant	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space	Bedrooms will achieve minimum area requirements.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space	All bedrooms have a minimum dimension of 3m.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1-bedroom apartments • 4m for 2- and 3-bedroom apartments	The dimensions are compliant.	Yes
4E	Apartment Size and Layout		
	All apartments are required to have primary balconies as follows: Studio apartments 4m ² 1-bedroom apartments 8m ² 2m dim.	The balconies are compliant except for the following units: • U1 (2B): 9.2sqm • U10 (2B): 9.8sqm • U13 (2B): 9.13sqm	Partial compliance. Refer to key issues above.

Clause	Requirement	Proposal	Compliance
	2-bedroom apartments 10m ² 2m dim. 3-bedroom apartments 12m ² 2.4m dim. The minimum balcony depth to be counted as contributing to the balcony area is 1m	- U14 (2B): 9.8sqm - U15 (2B): 9.8sqm	
	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 ground floor units have private open space with minimum 3m dimensions and are larger than the minimum area requirement.	Yes
4F	Common Circulation and Spaces		
	The maximum number of apartments off a circulation core on a single level is eight	The maximum number of apartments off a single lift core is between 2 and 6.	Yes
4G	Storage		
	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio apartments 4m ³ 1 bedroom apartments 6m ³ 2 bedroom apartments 8m ³ 3+ bedroom apartments 10m ³ At least 50% of the required storage is to be located within the apartment	All units comply with the minimum storage requirements.	Yes

Responsible officer: Louis Coorey, Senior Environmental Planning Officer

File Reference: DA/535/2025

Development Application Report No. D57/25

Subject: 41 Oberon Street, Randwick (DA/634/2025)

Executive Summary

Proposal:	Demolition of existing garage and construction of an outbuilding comprising a single garage with storage provision, at the rear of existing dwelling.
Ward:	East Ward
Applicant:	Studio Ga Pty Limited
Owner:	Ms S R Wolifson
Cost of works:	\$82,940
Reason for referral:	The General Manager has made a discretionary referral due to a potential conflict of interest.

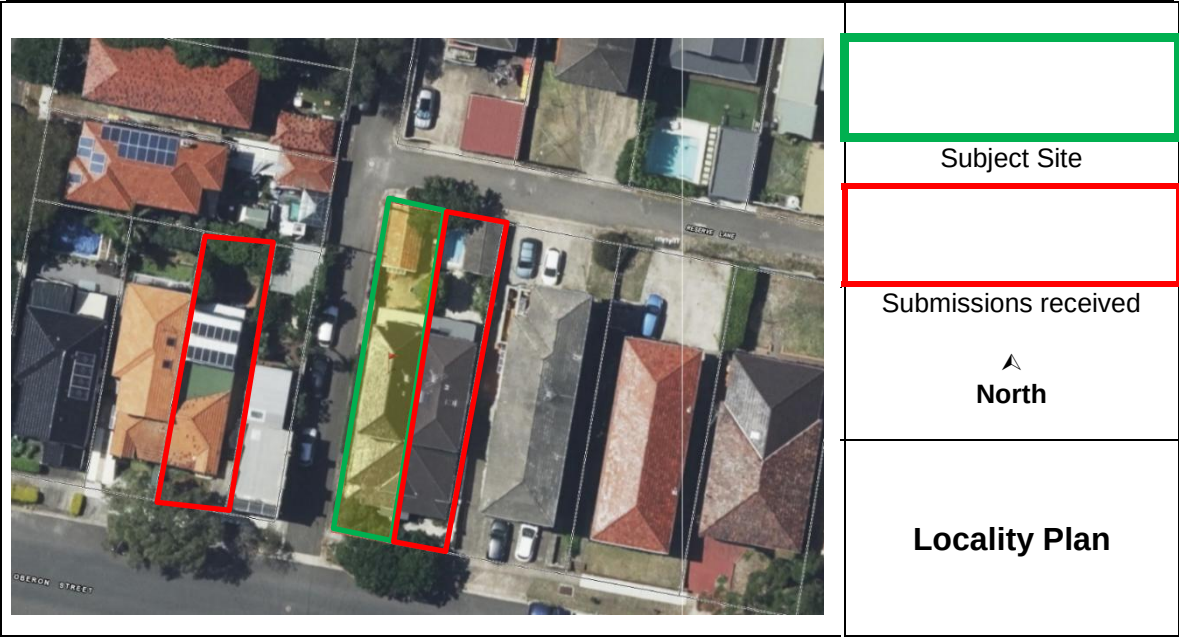
Recommendation

That the RLPP grants consent under Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 634/2025 for the demolition of existing garage and construction of an outbuilding comprising a single garage with storage provision, at the rear of the existing dwelling, at No. 41 Oberon Street, Randwick, subject to the development consent conditions attached to the assessment report.

Attachment/s:

-   RLPP Dev Consent Conditions - DA/634/2025 - 41 Oberon Street, RANDWICK

D57/25



1. Executive summary

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

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

The proposal seeks development consent for the demolition of existing garage and construction of an outbuilding comprising a single garage with storage provision, at the rear of the existing dwelling at No. 41 Oberon Street, Randwick (subject site).

As detailed in Section 3 of this report, this Development Application (DA) follows two previous applications (DA/312/2024 & DA/312/2024/A), which sought the approval of a new garage in the rear yard. DA/312/2024 was approved with a condition requiring the removal of the garage due to inadequate internal dimensions and inconsistent streetscape character. DA/312/2024/A was refused as it sought the modification of an element that was not approved and could not be processed as a modification application. This DA, as amended, has resolved the critical issues raised in the previous applications and has made further changes to address the concerns raised by neighbouring submissions, as detailed in this report.

This DA was submitted to Council on 4 July 2025. After a preliminary review of the application, some issues were noted, which warranted the issuing of a Request for Further Information (RFI). This RFI was issued to the Applicant on 18 August 2025 and raised the following issues:

- Clarification on the proposed works and what is sought to be approved under this application.
- Requirement of solar access diagrams.
- Requirement of a Waste Management Plan.
- Clarification of the scaling of the architectural plans.
- Potential for amenity impacts on neighbouring properties as a result of DCP non-compliances.

The Applicant submitted additional information for consideration in September 2025. The following is noted in regard to the above-submitted additional information:

- The Applicant has clarified within a letter prepared by Studio GA dated 2 September 2025 that the works sought include the replacement of a dilapidated garage structure and associated landscape works. The Applicant also noted that all perimeter boundary fences are to be retained, with the exception of where the garage will abut the boundary.
- The Applicant submitted solar access diagrams, which were meant to be submitted at the time of original lodgement.
- The Applicant submitted the waste management plan, which was meant to be submitted at the time of original lodgement.
- The Applicant further clarified the scale on the plans; they also confirmed the dimensions of the garage through DA.12 of the architectural plans prepared by Studio GA, which ensures that all dimensioned portions of the structure equate to the width of the lot shown on the survey.
- The Council outlined to the Applicant that there was room within the design to potentially reduce the scale of the garage further to reduce the possibility of amenity impacts on neighbouring sites. The Applicant considered these comments and provided a revised roof form that lowered the height of the structure by 200mm and set the skillion roof form off the common boundary with No. 43 by 900mm to ensure that the perception of the structure as viewed by No. 43 was reduced.

Following a review of this additional information, it was considered that the above-noted issues were resolved.

Notwithstanding the issues raised in the RFI letter, it is considered that the key issues associated with the proposal relate to:

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

These issues are further elaborated on in Section 8.1 of this Report.

The application successfully navigates these issues; therefore, for the reasons given throughout this assessment report, the application is recommended for approval, subject to conditions of consent.

2. Site Description and Locality

The subject site is known as No. 41 Oberon Street, Randwick, and is legally described as Lot 1 in DP 107203. The site is regular in shape and has a 5.715m frontage to Oberon Street to the south and Reserve Lane to the north, and a depth of 33.53m, resulting in a total site area of 191.6m² (by calculation). The site currently contains a two-storey semi-detached dwelling with a detached garage within the rear yard accessed from Reserve Lane.

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

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

The immediate neighbouring properties are:

- North: No. 24 Howard Street, which is located on the opposite side of Reserve Lane to the rear of the subject site. No. 24 contains a three-storey RFB and includes windows and balconies that overlook the rear laneway.
- South: A series of sites on the opposite side of Oberon Street at No. 40, 42, and 44 Oberon Street, which contain RFBs or dwelling houses.
- West: No. 39 Oberon Street, which contains a two-storey dwelling house on the opposite side of Oberon Lane.

- East: No. 43 Oberon Street, which is the other half of the semi-detached building that forms the subject site. No. 43 is also two-storey, and contains a swimming pool in the rear yard, and a garage accessed from Reserve Lane.

Please refer to Figures 1 to 10 below, which include imagery of the subject site and its surrounds.



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



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



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

D57/25



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

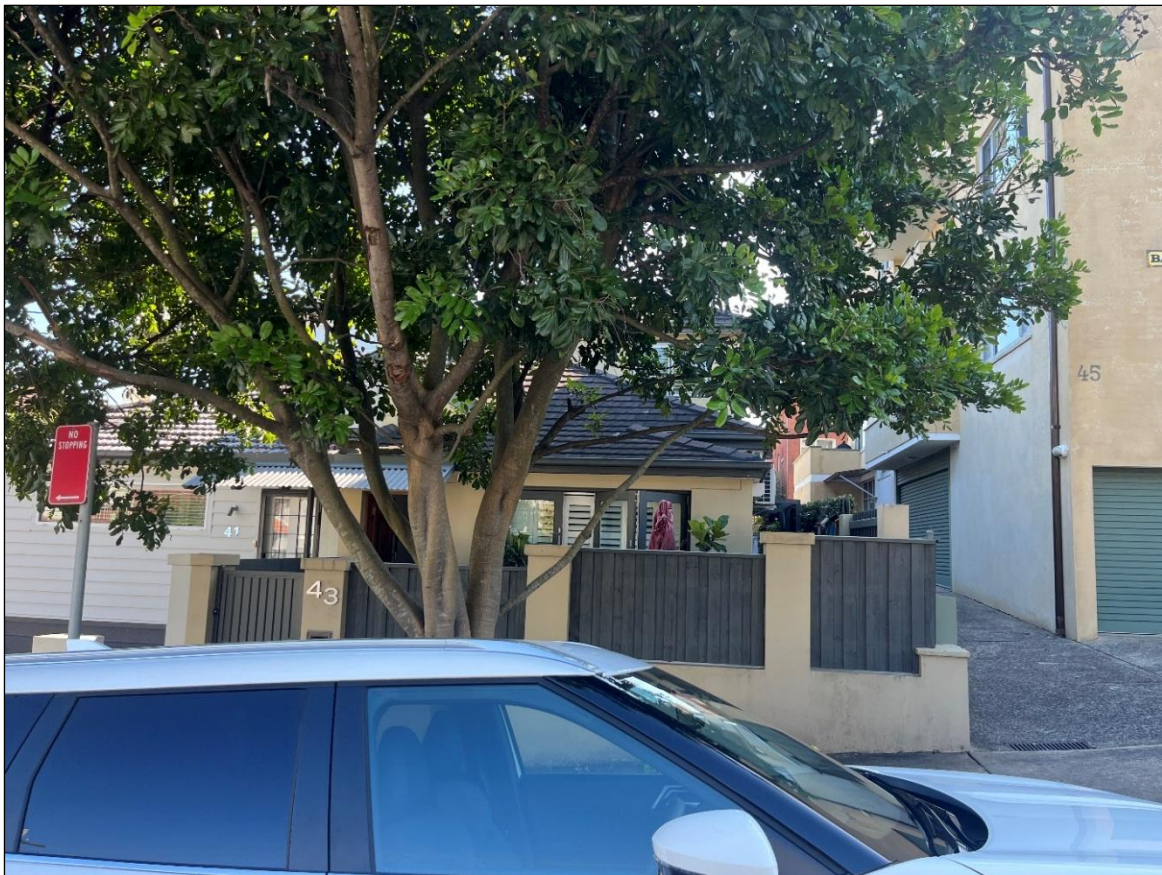


Figure 5: View of the front elevation of the immediate neighbour to the east, at No. 43 Oberon Street.



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



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

D57/25



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



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



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

3. Relevant history

The following development history is relevant to this DA.

- DA312/2024 was lodged with the Council on 23 April 2024, seeking alterations and additions to the existing dwelling house, including the demolition of an existing outbuilding and construction of a new garage accessed from the rear laneway. This application was approved by the RLPP on 24 October 2024, subject to conditions of consent. As part of the approval, a condition of consent was imposed to remove the garage, due to inadequate internal dimensions and inconsistent streetscape character.

As part of the RLPP determination of this application, they noted that the roof form of the garage should be redesigned to be more in keeping with the existing roof forms nearby within the laneway and to minimise amenity impacts to neighbouring properties.

- DA/312/2024/A was lodged with the Council on 3 March 2025 and sought a Section 4.55(2) modification to DA/312/2024 to reinstate the garage, through deletion of the condition requiring its removal, and providing design changes to the garage. This application was refused by the RLPP on 12 June 2025 on the basis that the application was improperly constructed as a modification application as the structure sought to be modified was not approved under the original application, and as such, could not meet the substantially the same test of Section 4.55 of the Environmental Planning and Assessment Act 1979.

This subject application follows the above applications and seeks consent for the garage structure and landscaping works in the rear yard.

4. Proposal

The proposal seeks development consent for:

- Demolition of the existing garage in the rear yard.
- Construction of a new garage comprising a car space and additional storage.
- Landscaping works in the rear yard.

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:

- GLN Planning on behalf of 43 Oberon Street, Randwick.
- 37 Oberon Street, Randwick.

Issue	Comment
Scale of the garage and appearance from the streetscape.	The scale and appearance of the garage have been further refined in response to the objections made by the neighbouring property. The orientation of the garage is supported as it provides improved amenity to the subject site, inclusive of a larger and more functional private open space area. The garage has appropriately navigated the power pole located on the Oberon Lane frontage, and its appearance is not indifferent to other examples of garages along the laneway. In respect of the objections made, the Applicant has further revised the design since the refused modification application (DA/312/2024/A). This has included reducing the scale of the garage, as it adjoins No. 43 Oberon Street, to be no higher than the existing common fence line. The skillion roof portion of the garage is now setback an additional 900mm from the shared boundary and limits any amenity impact on the neighbouring site. It is considered that the scale of the garage is appropriate for a low-density land use, and is consistent with the character of garages along Oberon and Reserve Lane.

Issue	Comment
Non-compliance with the FSR control of the Randwick Local Environmental Plan (RLEP) 2012	As discussed further within Section 6.4.1 of this report, the subject site is mapped under Clause 4.4(2) as having a FSR of 0.5:1, however, this mapping has no power in relation to this DA, given that Clause 4.4A(4) identifies that the mapping applicable to the site under Clause 4.4(2) does not apply for site's that contain dwellings or semi-detached dwellings if they are located in a R2 zone, and have an area under 300m². As the site meets these criteria, no FSR applies to the site. It is considered that the scale of the proposed garage is appropriate for the site for the reasons provided within this report.
Inconsistency with site coverage controls of the Randwick Development Control Plan (RDCP) 2023.	As identified in the key issues discussion and Appendix 2 of this report, the subject site fails to comply with the site coverage controls outlined in the RDCP 2023. The proposed design, as amended, has demonstrated a response to site constraints, providing a structure that is respectful of the laneway's character, enhances internal amenity at the subject site, and protects the amenity of neighbouring developments. The proposal also achieves the objectives of the control as discussed in Section 8.1 of this report; as such, a variation of the site cover control is appropriate in the circumstances of this DA.

D57/25

Issue	Comment
Inconsistency with the garage controls of the Randwick Development Control Plan (RDCP) 2023.	As identified in the key issues discussion and Appendix 2 of this report, the subject site fails to comply with certain garage controls of the RDCP 2023, which relate to layout and side setbacks. The orientation of the garage is supported as it provides improved amenity to the subject site, inclusive of a larger and more functional private open space area. The garage has appropriately navigated the power pole located on the Oberon Lane frontage, and its appearance is not indifferent to other examples of garages along the laneway. In respect of the objections made, the Applicant has further revised the design since the refused modification. This has included reducing the scale of the garage, as it adjoins No. 43 Oberon Street, to be no higher than the existing common fence line. The skillion roof portion of the garage is now setback 900mm from the shared boundary, and limits any amenity impact on the neighbouring site. The proposal also achieves the objectives of the control as discussed in Section 8.1 of this report; as such, a variation of these controls is appropriate in the circumstances of this DA.
Tree removal.	The submitted application does not seek the removal of the tree referenced in the objection. However, the Council's landscape officer has reviewed the application and recommended that the tree be removed, given its poor location and visible damage caused by passing cars and trucks. In addition, it is not considered that any adverse amenity impacts will result from the removal of the tree, given the generous setback (18m) of the neighbouring flat building on the opposite side of Reserve Lane. Adequate tree replacements are provided within the rear yard of the subject site.
Use of the proposed garage for habitable uses.	The application has sought the construction of a garage with storage provision. The submitted architectural plans, as amended, illustrate the use of the structure for car parking and storage. No other use is sought by this application.

5.1 Renotification

In accordance with the Randwick Community Engagement Strategy, the application was not required to be re-notified, given that the amendments made have reduced any impacts to neighbouring properties.

Notwithstanding this, and as the amended plans were publicly available on Council's DA tracker, a Submitter made further comments on the amendments made. To ensure clarity of the assessment process and provide the Panel with Council's response to these submissions, the additional submission is considered below:

- 41 Oberon Street, Randwick:

Issue	Comment
Slope of roof.	This Submitter suggested that the slope of the roof should follow an orientation of west (high side) to east (low side), instead of the proposed north (high side) and east (low side). The slope of the roof is acceptable as it provides a reduced scale when viewed from the private open space of the subject site. In addition, having the high side of the north side will allow the greater filtration of natural light and solar access throughout the year, in comparison to having the high side located on the western boundary. In considering the impact on the Submitter's property, the Applicant has reduced the scale of the garage to ensure that, where it immediately adjoins this site, it will not be higher than the existing common fence line. In this regard, the slope of the roof has no direct interface with the Submitter's property, given that it is now setback an additional 900mm, being a standard setback for development under the RDCP 2023.
Windows to the north elevation/use of the structure.	This submission raises concerns over the use of the structure, given that the windows could invite habitable use of the garage. The application has sought the construction of a garage with storage provision. The submitted architectural plans, as amended, illustrate the use of the structure for car parking and storage. No other use is sought by this application. In addition, nothing within the RDCP 2023 prevents a garage from having additional window openings.
Size of the garage.	Similar to the above concern, this submission raises an issue over the proposed use of the structure. As discussed above the proposed application seeks the construction of a garage to be used for car parking and storage. As will be elaborated upon within this report, the garage has been designed to respond to site constraints, such as the power pole along Oberon Lane, and to provide an improved private open space area to the subject site. The size of the garage is considered acceptable.

Issue	Comment
Setback from the eastern boundary.	This submission has acknowledged that the increased setback of the sloping roof form of 900mm is positive; however, they have suggested that this be increased to 1,200mm. The proposed garage is now no higher than the existing common fence line when it abuts No. 43 Oberon Street, for a depth of 900mm within the subject site; this is akin to the required setbacks required in Section 3.3.2 of the RDCP 2023. The proposed 900mm is considered appropriate to control the bulk and scale of the development. In regard to safer by design, appropriate casual surveillance of Reserve Lane is maintained, as discussed further in this report.
Height of the structure at the eastern boundary.	This submission has acknowledged that the reduced height of the structure at the eastern boundary is acceptable; however, they have suggested that it be no higher than 1.8m. A height of 1.8m will render the development unfunctional as a minimum head height of 2.2m is required for garages. The height of the structure, when it adjoins the neighbouring property, is no higher than the existing common fence line. As such, there will be no direct interface between the structure and the neighbouring property. The height of the structure at this interface is appropriate to control bulk and scale, and solar access issues. In regard to safer by design, appropriate casual surveillance of Reserve Lane is maintained, as discussed further in this report. In addition, there is no requirement within the Council's controls for a structure to be limited to a maximum of 1.8m on the boundary.
Impact to neighbouring properties during construction.	Standard conditions of consent are imposed to ensure any damage occurring to the neighbouring property is documented and resolved as part of the construction process, and that neighbouring properties are protected during excavation and earthwork activities.

6. Relevant Environment Planning Instruments

6.1. SEPP (Biodiversity and Conservation) 2021

Chapter 2 of the Biodiversity SEPP relates to the clearing of vegetation in non-rural areas. The proposal does not include tree removal as part of the application. Notwithstanding this, the Council's landscape officer has reviewed the application and identified that a tree is located on Council land adjacent to the rear boundary of the site, on Reserve Lane. The location of the garage would require substantial pruning works to be carried out on the tree, and also potential impacts to the root system.

Council landscape officer has recommended the removal of this tree at the Applicant's expense due to the tree's inappropriate location in a narrow laneway, previous damage to the trunk, and impact from the proposed garage. A suitable landscape design is proposed to offset the loss of the tree on the laneway, through the proposal of three trees within the rear yard.

6.2. SEPP (Resilience and Hazards) 2021

Chapter 4 - Remediation of Land

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 of the SEPP states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose.

It is not considered that the land is contaminated, as the subject site has a history of residential land use. In addition, the surrounding area does not contain any contaminating land use that could impact the site.

Therefore, as per Chapter 4 of the SEPP (Resilience and Hazards) 2021, it can be concluded that the subject land is suitable for continued residential development.

6.3. State Environment Planning Policy (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 proposed modification involves penetration of ground within 2m of an electricity distribution pole, and development that is carried out within 5m of an exposed overhead electricity powerline, and as such, clause 2.48 is applicable. The application has been referred to Ausgrid (the relevant electricity supply authority), and suitable conditions have been provided.

It is also noted that evidence has previously been provided by the Applicant that the proposed separation between the power pole and the driveway is acceptable (see Appendix 3).

6.4. Randwick Local Environmental Plan 2012 (LEP)

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

The site is zoned Residential R2 Low Density under Randwick Local Environmental Plan 2012. The proposed garage structure is considered ancillary to the existing dwelling house on the subject site, given that the garage will be used for storage and car parking. The land use of a dwelling house continues to be permitted with consent within the subject land use zone.

The following objectives apply to the R2 Low-Density Residential zone:

- *To provide for the housing needs of the community within a low 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 objectives of the zone are achieved in the following manner:

- The proposal will provide a garage structure that will provide adequate vehicle parking and additional storage for the owner of the subject site. Off-street parking is a desired characteristic of development within the area, especially sites that have access to rear laneways. The proposed garage structure is designed to respect the low-density character of the locality and limit adverse amenity impacts to neighbouring properties.
- The subject application does not prevent other land uses from providing facilities or services to meet the day-to-day needs of residents.
- The proposed garage has undergone substantial revisions to its design since the approval of DA/312/2024, and the imposition of a condition to delete the garage under that application. The new proposal ensures it contributes to the desirable elements of the existing streetscape. The design of the structure, as revised from DA/312/2024, has been modified from a large, obtrusive structure to one that respects the low-scale nature of the laneway. This has been achieved through the provision of a skillion roof form that slopes towards the rear yard of the site, ensuring the bulk and scale, as perceived from habitable areas, are reduced. In addition, a further amendment as part of this application has been proposed to limit the perception of bulk from the neighbouring rear yard of No. 43 Oberon Street, achieved through the lowering of the roof form immediately adjoining the boundary (within 900mm) to be no higher than the existing common fence line.
- This application presents a structure that has been modified to ensure the amenity of both the subject site and neighbouring sites is protected. This is achieved through the utilisation of a combined roof form, a skillion form that slopes to the rear yard of the subject site, to ensure solar access is retained and also to reduce the bulk of the structure as viewed by the residents, and a flat roof form is proposed for a depth of 900mm at the boundary shared with No. 43 Oberon Street to ensure no adverse bulk and scale impacts result.
- The proposed development does not impact the provision of housing affordability in the locality.
- The proposed application does not impact small-scale businesses in existing commercial buildings.

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

Clause	Development Standard	Proposal	Compliance (Yes/No)
Cl 4.4: Floor space ratio (max)	N/A for sites less than 300m ² (CL 4.4A(4))	N/A, subject site area is 191.6m ² . See discussion below.	N/A. See discussion below.

CI 4.3: Building height (max)	9.5m	The proposed garage has a maximum height of 2.9m.	Yes
CI 4.1: Lot Size (min)	275m ²	No subdivision proposed	N/A

6.4.1. Clause 4.4 - Floor Space Ratio

Clause 4.4 of the RLEP 2012 states the following:

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

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

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

(2A), (2B) (Repealed)”

As per Clause 4.4(2), the subject is mapped on the Floor Space Ratio Map, as having a maximum FSR of 0.5:1, see Figure 11 below:

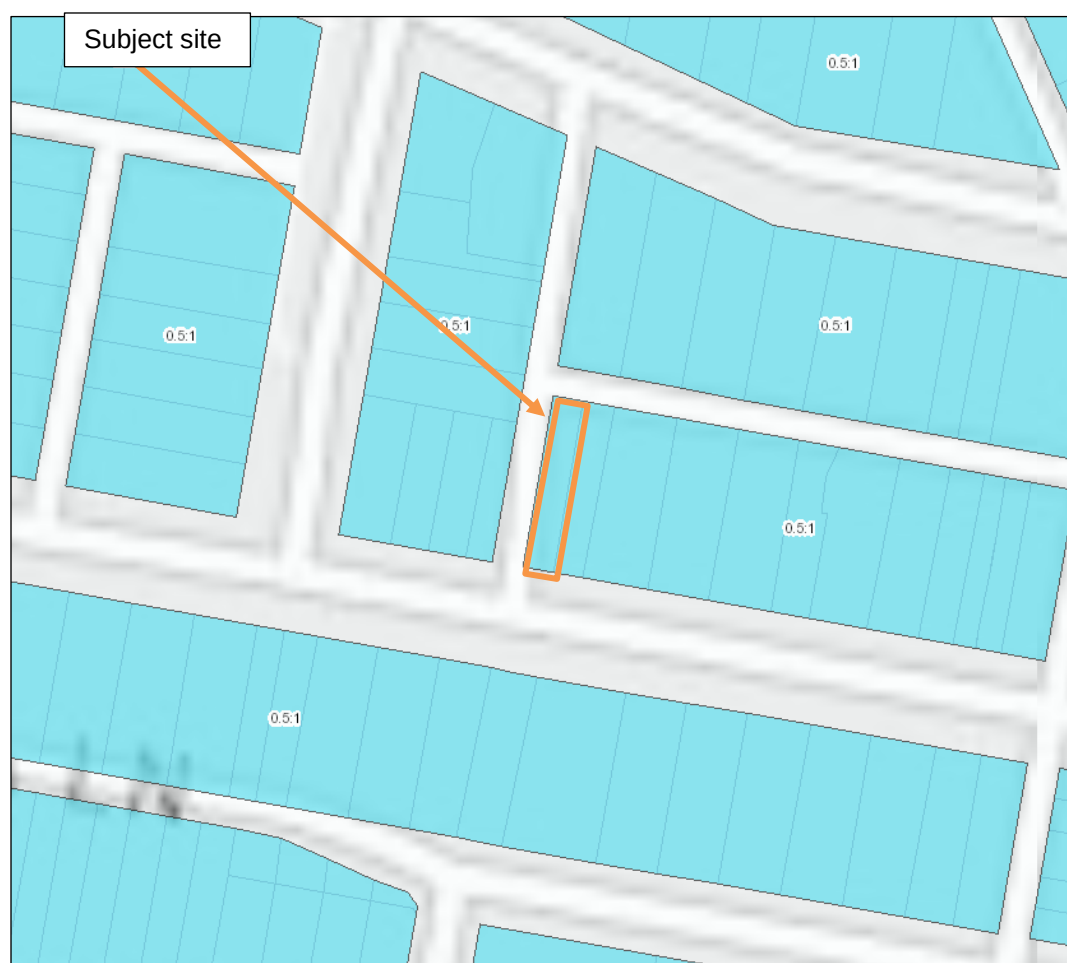


Figure 11: Floor Space Ratio map (Source: NSW Planning Portal Digital EPI Viewer).

However, referring to Clause 4.4A -Exceptions to Floor Space Ratio – Zones R2 and R3 of the RLEP 2013, subclause 4 overrides the provision of Clause 4.4(2), and outlines that it does not apply to a dwelling house or semi-detached dwelling on a lot in Zone R2 or R3 if the lot is under 300m². See below:

“4.4A Exceptions to floor space ratio—Zones R2 and R3

(4) Clause 4.4(2) does not apply to a dwelling house or semi-detached dwelling on a lot in Zone R2 Low Density Residential or Zone R3 Medium Density Residential if the lot size is 300m² or less.”

The subject site contains a semi-detached dwelling and is located on a lot within an R2 zone, which has a lot area of less than 300m². As such, the provisions of Clause 4.4(2) do not apply to the subject site, and the site does not have an FSR provision.

7. Development control plans and policies

7.1. Randwick Comprehensive DCP 2013

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

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

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

8. Environmental Assessment

The site has been inspected, and the application has been assessed in accordance with 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 section 6 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 RDCP 2023. See the table in Appendix 2 and the discussion in the 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 'Matters for Consideration'	Comments
Section 4.15(1)(b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	The environmental impacts of the proposed development on the natural and built environment have been addressed in this report. The proposed development is consistent with the dominant residential character in the locality. The proposal will not result in detrimental social or economic impacts on the locality.
Section 4.15(1)(c) – The suitability of the site for the development	The site is located in close proximity to local services and public transport. The site has sufficient area to accommodate the proposed land use and associated structures. Therefore, the site is considered suitable for the proposed development.
Section 4.15(1)(d) – Any submissions made in accordance with the EP&A Act or EP&A Regulation	The issues raised in the submissions have been addressed in this report.
Section 4.15(1)(e) – The public interest	The proposal promotes the objectives of the zone and will not result in any significant adverse environmental, social or economic impacts on the locality. Accordingly, the proposal is considered to be in the public interest.

8.1. Discussion of key issues

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

Sections 6.3 and 8.1 of Part C1 of the RDCP 2023 speak to the requirements of setbacks to side boundaries for garage and laneway development. See below:

“6.3. Setbacks of parking facilities.

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

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

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

“8.1. Development in laneways.

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

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

The proposed application includes the construction of a garage fronting both Reserve and Oberon Lanes. The proposed garage is inconsistent with the above provisions, as it is proposed to be built with a nil setback to both laneways and to the shared boundary to the east with No. 43 Oberon Street, which does not contain a parking facility or outbuilding built to the boundary.

This issue was raised within an RFI issued by the Council on 18 August 2025. It was noted in this RFI that, due to the large internal volume provided to the garage, a more sympathetic design could be explored to minimise adverse amenity impacts on neighbouring properties, such as perception of bulk and scale.

In response to the RFI, the Applicant submitted an amended package, which provided an amended design that reduced the scale of the garage. The revised design provides a reduction in the overall height by 200mm, and reduces the height of the structure within 900mm of the boundary shared with No. 43 Oberon Street to be no higher than the existing common fence.

In regard to the non-compliances of Sections 6.3 and 8.1, the following is noted.

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

A variation to this control is supported, as the proposed garage replaces an existing garage built to the rear boundary of Reserve Lane, and contains a minimal 300mm setback to Oberon Lane. In addition, there are numerous examples of garages along both Oberon Lane and Reserve Lane that have nil setback to the laneway. It is considered that the proposal is consistent with the character of laneway development.

The proposed application varies control 6.3(iii) & 8.1(v) as the garage is built to a side boundary (eastern boundary), and the adjoining property (No. 43 Oberon Street) does not have a garage/outbuilding built to this common boundary.

A variation to this control is supported as the proposed alternative to a compliant scheme provides a better outcome for the subject site without compromising the amenity of neighbouring properties or being inconsistent with similar developments in the laneway.

The subject site is currently constrained in terms of private open space in the rear yard due to the current orientation of the garage, which is located along Oberon Lane. This results in the rear yard containing a L-shaped private open space area, which features a passageway along the eastern side of the current garage. However, this passageway offers little usability and amenity to the residents of the subject site. The proposed alternative to the current arrangement includes a garage orientated along Reserve Lane. This alternative results in a squared-off private open space area that is increased in terms of usability and amenity. It also enables the proposed private open space area to meet the required dimensions for private open space areas as specified in Section 2.7 of Part C1 of the RDCP 2023. See Figures 12 and 13 below:

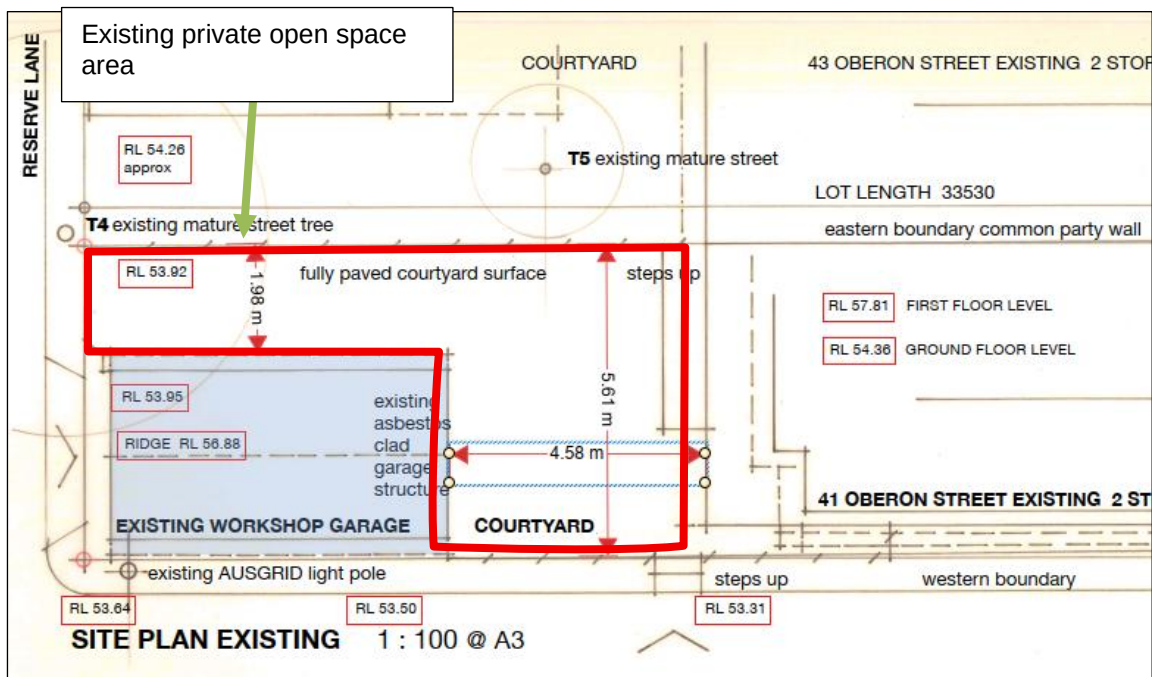


Figure 12: Mark-up of Drawing No. DA.02 of the architectural plans prepared by Studio GA illustrating the existing private open space area.

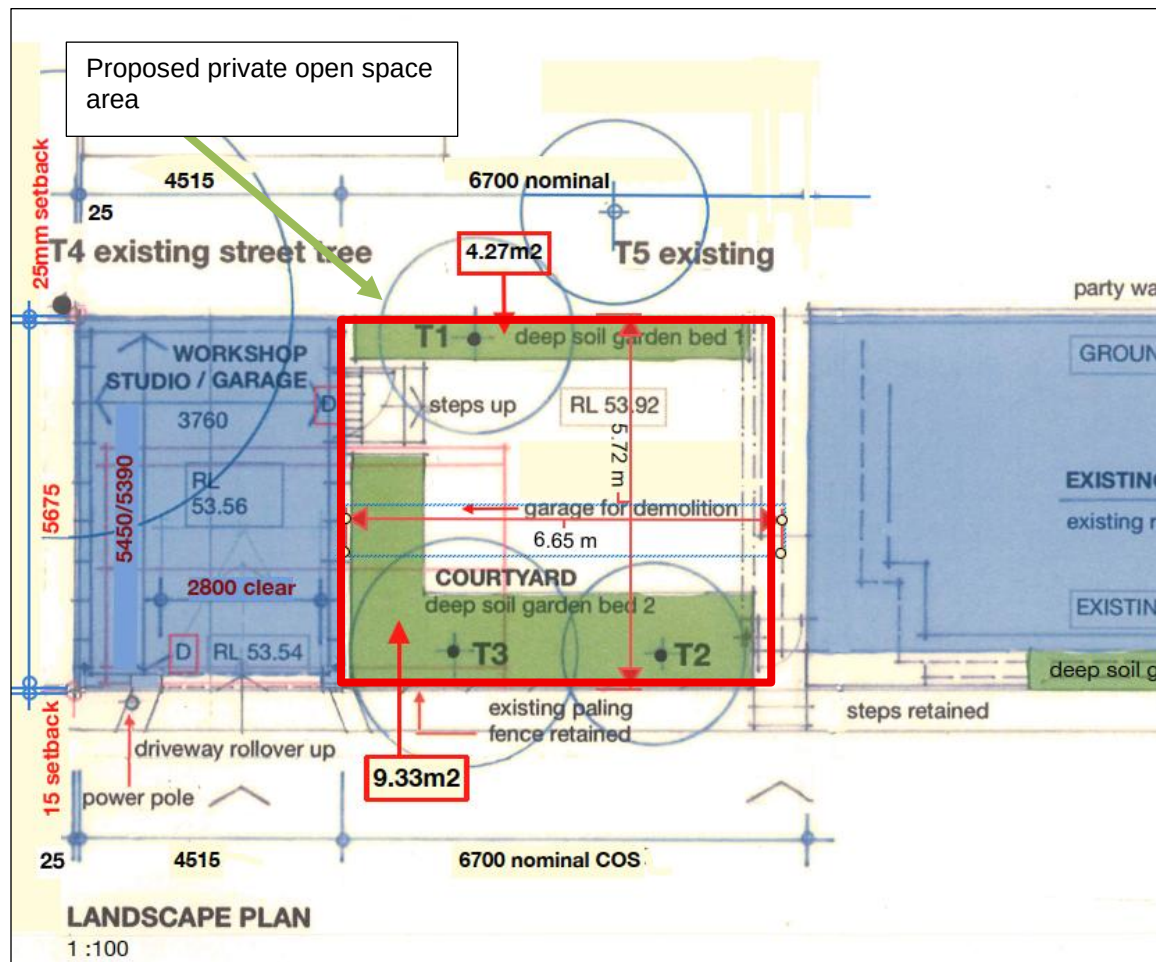


Figure 13: Mark-up of Drawing No. DA.08 of the architectural plans prepared by Studio GA illustrating the proposed private open space area.

The proposed garage has also been amended since DA/312/2024 and DA/312/2024/A, and its scale has been reduced. The reduced scale has been achieved through the deletion of the semi-circular roof and the provision of a skillion roof form, which is consistent with the character of the laneway. The skillion roof design that was submitted as part of DA/312/2024/A, and this application has been further amended by the Applicant to address the concerns raised by a Submitter at No. 43 Oberon Street (the immediate neighbour to the east). The overall height of the garage has been reduced by 200mm, and the Applicant has amended the roof form to provide an elongated box gutter that immediately adjoins the boundary of No. 43 Oberon Street for a depth of 900mm. This section will not exceed the existing height of the common fence line.

The transition of the roof form from DA/312/2024 to this subject application can be visualised below (see Figures 14 to 16).

D57/25

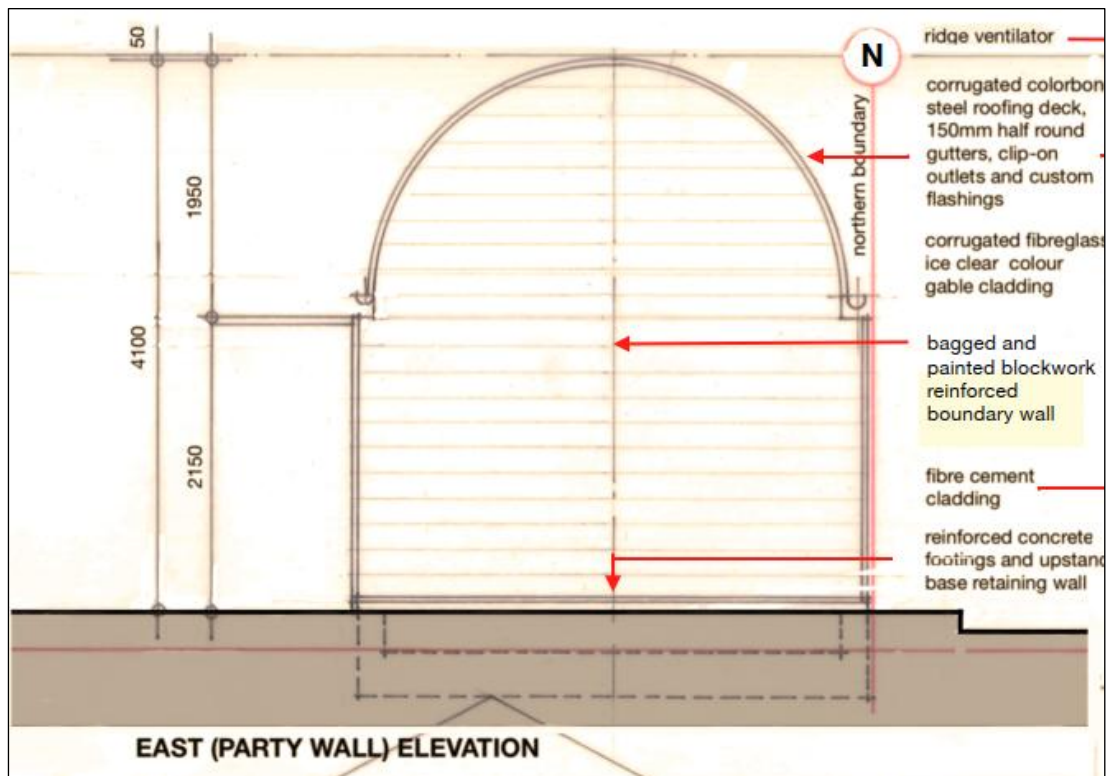


Figure 14: Extract of Drawing No. DA02 of the architectural plans prepared by Studio GA, as submitted with DA/312/2024, illustrating the eastern elevation of the originally proposed garage.

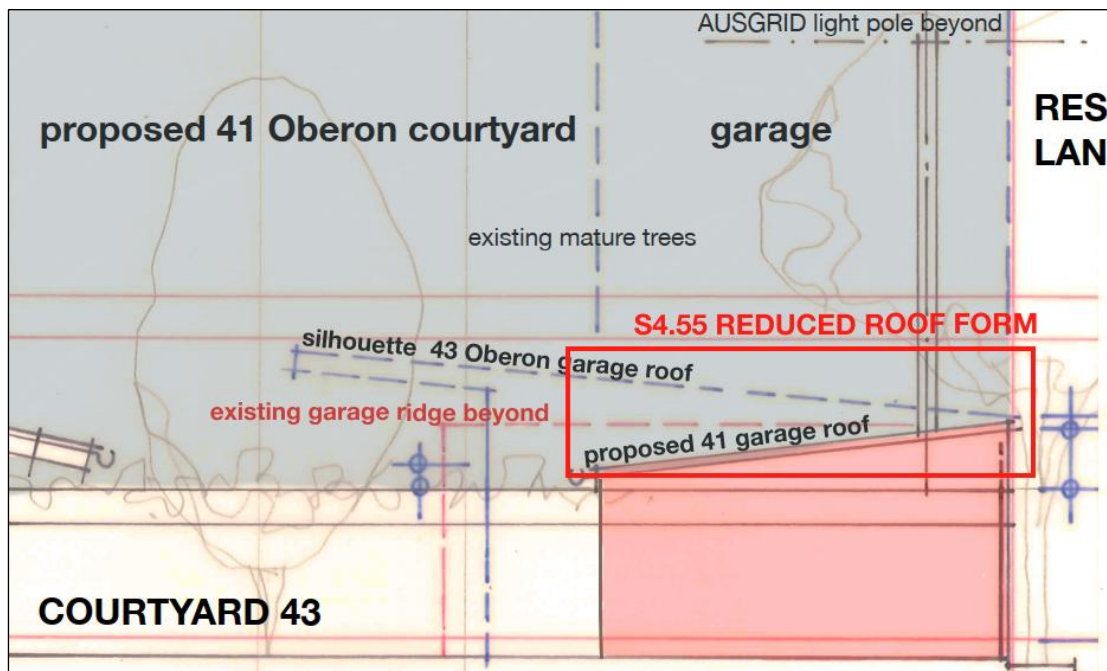


Figure 15: Extract of Drawing No. DA11 of the architectural plans prepared by Studio GA, as submitted with DA/312/2024/A, illustrates the eastern elevation of the proposed garage.

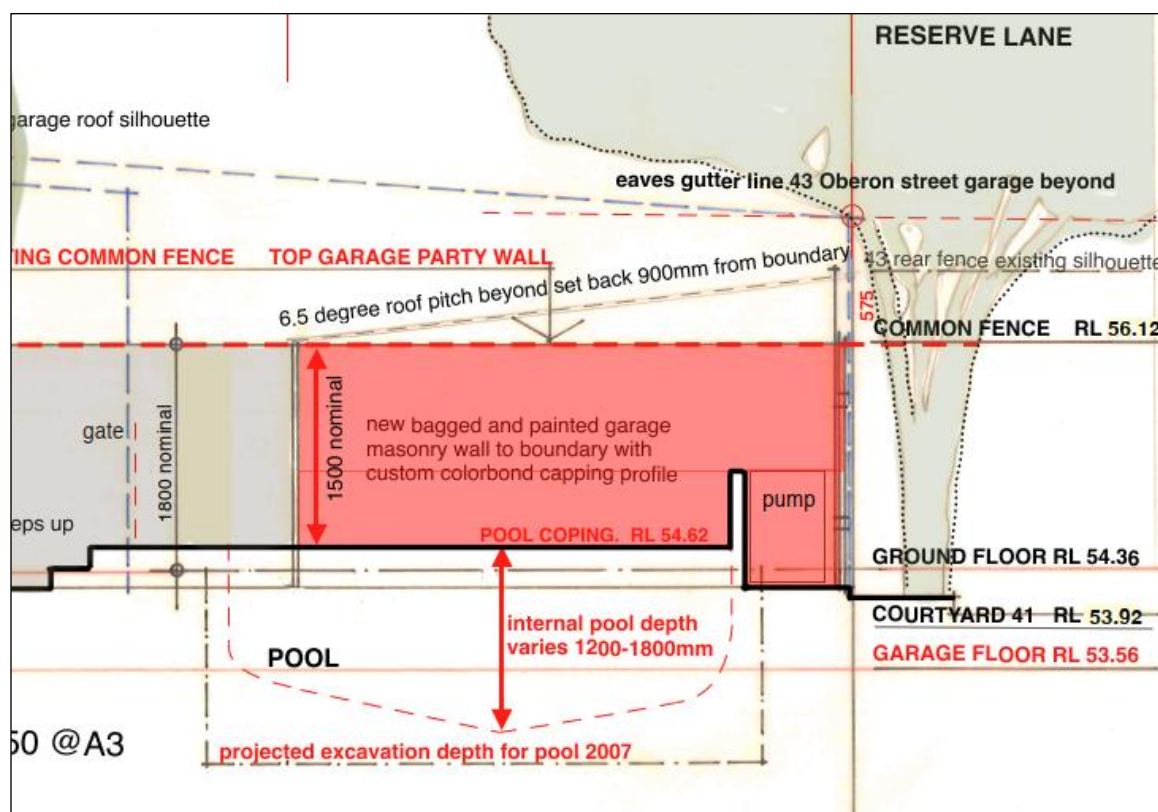


Figure 16: Extract of Drawing No. DA10 of the architectural plans prepared by Studio GA, as amended within this application, illustrates the eastern elevation of the proposed garage.

The Applicant has amended the design of the garage to ensure that no point exceeds the height of the existing common fence line. As such, there will be no discernible perception of bulk immediately on the boundary. The skillion roof form is setback 900mm from the boundary, which would be a standard setback requirement for non-laneway/garage development under the RDCP 2023.

To clarify, the proposed garage does not result in any visual privacy impacts to the rear yard of No. 43 Oberon Street, given that no openings are proposed along the common boundary that the two sites share.

It is also considered that the modified garage will not result in adverse visual bulk to the rear yard of No. 43 Oberon Street, as no structure will be the same height as the existing fence along the boundary.

Lastly, it is not considered that any unreasonable overshadowing impacts result from the modified garage. The Applicant has provided hourly shadow diagrams from 11am to 4pm, which illustrate the shadow impact of the garage as originally proposed at the lodgement of this DA, prior to the submission of the revised roof form. It is noted that due to the orientation of the site, no overshadowing impacts from the proposed garage are possible on No. 43 Oberon prior to 11am. These shadow diagrams outline that a minor amount of overshadowing is proposed onto the rear yard of No. 43 Oberon Street at 12pm, 1pm, 2pm, and 3pm on the winter solstice. The additional shadows are minor and do not prevent No. 43 Oberon Street from achieving 3 hours of solar access at midwinter in line with the provisions of Section 5.1 of Part C1 of the RDCP 2023. It is also noted that the rear yard of No. 43 Oberon Street is already heavily overshadowed at midwinter by its own garage, fencing, and landscaping at all times throughout the day. Reference should be given to additional solar access comments made within Section 8.1 of this report.

Furthermore, in line with Section 4.15(3A)(b) of the Act, it is considered that flexibility should be applied as an alternative solution has been presented that achieves the objectives of these sections of the RDCP 2023, as discussed below:

Section 6.3 of Part C1 of the RDCP 2023:

- *To ensure car parking and access facilities do not visually dominate the property frontage or streetscape.*

Planner's comment: The proposed garage structure, as amended, has successfully navigated key constraints of the site to provide a structure that is not out of character with the laneway and provides improved internal amenity for the subject site. The proposed garage is of a size and scale that will not dominate the streetscape of the laneway.

While it appears that the garage is inconsistent with the orientation of garages along the laneway, it is consistent with the orientation of garages of corner allotments, similar to that located at No. 22A Howard Street and No. 39 Oberon Street.

- *To ensure parking facilities are integrated with the architectural expression of the dwelling as an integrated element.*

Planner's comment: The proposed garage is separated from the dwelling and is not an integrated element. Notwithstanding this, the proposed form, materials, and finishes are not indifferent to the character of the dwelling on No. 41 Oberon Street.

- *To minimise hard paved surfaces occupied by driveways and parking facilities and maximise opportunities for deep soil planting and permeable surfaces for stormwater infiltration.*

Planner's comment: The proposed reorientation of the existing garage increases opportunities for deep soil planting and minimises unused spaces within the private open space of the subject site. The proposed development results in improved amenity for the subject site.

- *To ensure the location and design of parking and access facilities do not:*
 - *Pose undue safety risks on building occupants and pedestrians*
 - *Adversely impact on the amenity of neighbouring properties*
 - *Result in a loss of on-street parking and street trees.*

Planner's comment: The proposed garage has been amended to limit, as much as reasonable, any potential safety risks to building occupants and pedestrians. The Applicant has demonstrated that the garage has the dimensions required by Australian Standards and the Council to adequately fit a vehicle. The proposed garage is located along a laneway that has no pedestrian pathways; therefore, it is not considered that any undue safety risks will result in the public domain. Additionally, the status quo along the line of sight on Oberon and Reserve Lane is maintained.

As discussed above, the proposed garage is not expected to have any adverse amenity impacts on neighbouring properties.

The proposed garage does not result in the loss of any on-street car parking. While a street tree will need to be removed, this has been supported by the Council's landscape officer as the tree is damaged and in an unsafe position in the laneway.

Section 8.1 of Part C1 of the RDCP 2023:

- *To ensure any building fronting a rear lane has a scale and mass secondary to the main dwelling on the site and is appropriate for the width of the lane.*

Planner's comment: The proposed garage, as amended, will be of a mass and scale that is secondary to the main dwelling on site. The garage is also appropriate for the width of the laneway, given the character of garages that face both Oberon Lane and Reserve Lane. The orientation of the garage is acceptable for a corner allotment and improves the internal amenity of the site.

- *To promote casual surveillance and improve safety and security of laneways.*

Planner's comment: The garage, as amended, contains highlight windows facing Reserve Lane, which promotes casual surveillance. In addition, the reduced roof form will improve surveillance opportunities from the first-floor rear-facing windows of No. 41 and 43 Oberon Street. It is also noted that both Reserve and Oberon Lanes have excellent casual surveillance due to the large flat buildings that overlook both laneways. The proposed garage will not impact this outcome.

As noted above, it is considered that the variation to the setback controls of Sections 6.3 and 8.1 of Part C1 of the RDCP 2023 is acceptable.

- **Site Coverage (Section 2.4 of Part C1 of the RDCP 2023).**

Section 2.4 of Part C1 of the RDCP 2023 outlines maximum requirements for the site cover of buildings on development sites. As the subject site has an area of 191.6m², the maximum site cover permitted for the site is 60% or 114.96m². The subject site has an existing site cover of 113.38m² or 59.17%. The addition of the proposed garage will result in a site cover of 120.35m² or 62.81%, resulting in a variation of 5.39m² or 4.68%.

The proposed variation is a result of a site constraint, specifically the location of the power pole. Due to the power pole, the width of the garage has been elongated to ensure the garage door has an acceptable clearance from the pole. If this power pole were not present, the garage could be narrower, and it may comply with the control. Notwithstanding this, the garage has resulted in an improved amenity for the subject site, given the enhancement to the private open space area in terms of usability available to residents.

Additionally, the overall scale of the garage has been reduced to minimise any adverse amenity impacts on neighbouring properties. The height of the garage, as it adjoins No. 43 Oberon Street, no longer exceeds the existing height of the common fence line, and as such, no discernible bulk and scale impact will be present immediately on the boundary. In addition, the reduction in scale has been minimised as much as practicable to minimise any overshadowing impacts.

In line with Section 4.15(3A)(b) of the Act, it is considered that flexibility should be applied as an alternative solution has been presented that achieves the objectives of these sections of the RDCP 2023, as discussed below:

Section 2.4 of Part C1 of the RDCP 2023:

- *To ensure new development and alterations and additions to existing dwellings reserve adequate unbuilt upon areas for the purpose of private open space, deep soil planting, permeable surfaces and ancillary development.*

Planner's Comment: The layout and design of the proposed garage have taken into account the provision of private open space and deep soil elements within the site. The reorientation of the garage has ensured that a more functional private open space area, which achieves the dimension provision of Section 2.7 of the RDCP 2023, is provided. While no deep soil control applies to the subject site, as the increase in site cover is less than 10%, the proposal results in an improvement to the overall landscaping provisions of the site. The existing site provides a deep soil area of 11.2m² or 5.8%, the application increases this to 33.94m² or 17.7%.

It is considered that adequate private open space, deep soil planting, and permeable surfaces are provided notwithstanding the breach to the control.

- *To ensure a high level of environmental amenity for residents of low-density dwellings in the LGA.*

Planner's Comment: The exceedance of the site cover control does not prevent a high level of amenity being received at the subject site. The new works result in a private open space area that is more functional and usable for the residents.

The proposed garage, as amended, has been reduced in height to ensure that a high level of environmental amenity will be retained for the residents of neighbouring properties. In this manner, no adverse visual privacy, visual bulk, or overshadowing results.

A variation to the above control is considered reasonable in the circumstances of the subject application.

- **Solar Access and Overshadowing (Section 5.1 of the RDCP 2023).**

A submission made against the application has raised concerns in regard to the overshadowing of neighbouring properties, in this case, No. 43 Oberon Street.

Section 5.1 of the RDCP 2023 includes the following controls in regard to solar access and overshadowing to neighbouring properties:

“iii) A portion of the north-facing living area windows of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (winter solstice).

iv) The private open space of neighbouring dwellings must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June (winter solstice). The area covered by sunlight must be capable of supporting passive recreation activities.”

The Applicant has submitted hourly plan form overshadowing diagrams, from 11am to 4pm. No shadow diagrams were provided at 9am or 10am, as no overshadowing impacts to No. 43 are possible to be cast from the proposed garage due to the site's orientation.

The proposed shadows reflect the originally submitted plans prior to the submission of additional information. As part of the RFI submission, the Applicant chose not to update the overshadowing diagrams, contrary to the recommendation of the Council's assessing officer. Notwithstanding, it is considered that the resultant shadow impacts shown are only reduced as a result of the changes made, including the reduction in height of the roof form.

The proposed shadow diagrams demonstrate that no impact on the living area of No. 43 Oberon will occur as a result of the proposed garage; the existing status quo of solar access will be retained.

The proposed shadow diagrams illustrate an increase in shadowing at No. 43 Oberon Street at 12pm, 1pm, 2pm, and 3pm. See impact below:

- 12pm: The impact at midday is a small, narrow portion which occurs over the swimming pool of No. 43 Oberon Street. It is considered that sunlight is retained to No. 43 Oberon Street, which is capable of supporting passive recreation activities.
- 1pm: The impact at 1pm removes about half of the existing sunlight received at No. 43 Oberon Street; however, some sun is still retained to support passive recreational activities. The revised structure, which includes a reduced height, would only improve the amount of sunlight received by No. 43.
- 2pm: The impact at 2pm removes around a quarter of the existing sunlight received at No. 43 Oberon Street; however, some sun is still retained to support passive recreational activities. The revised structure, which includes a reduced height, would only improve the amount of sunlight received by No. 43.
- 3pm: The impact at 3pm removes a narrow portion of the existing sunlight received at No. 43 Oberon Street; however, some sun is still retained to support passive recreational activities. The revised structure, which includes a reduced height, would only improve the amount of sunlight received by No. 43.

As per the above discussion, the required three hours are obtained from 12pm to 3pm, providing sunlight that promotes passive recreational activities. In addition, and while not shown in the diagrams, there is existing vegetation in the form of a large pine tree, and an awning attached to the garage structure of No. 43, which has not been factored into the shadow diagrams, and would likely have some impact that would affect the retained sunlight to No. 43 Oberon Street. These shadows would be cast by the trees and structures of No. 43, not by the proposal.

9. Conclusion

That the application to demolish of existing garage and construction of an outbuilding comprising a single garage with storage provision, at the rear of the existing dwelling, be approved (subject to conditions) for the following reasons:

- The proposal is consistent with the objectives contained within the RLEP 2012 and the relevant requirements of the RDCP 2023
- The proposal is consistent with the specific objectives of the R2 zone in that the proposed activity and built form will provide for the housing needs of the community whilst enhancing the aesthetic character and protecting the amenity of the local residents.
- The scale and design of the proposal are considered suitable for the location and compatible with the desired future character of the locality.
- The scale and design of the proposal will not result in any adverse amenity impacts to neighbouring properties.

D57/25

Appendix 1: Referrals

1. External referral comments:

1.1. AUSGRID.

A referral was made to Ausgrid as required by Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. A response was received, which outlined that Ausgrid had no objection to the proposed development. This response is attached below:



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

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

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

Ausgrid does not object to the proposed development.
The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Ausgrid Overhead Powerlines are in the vicinity of the development

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

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

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

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable.

Visit the Ausgrid website for further details:

<https://www.ausgrid.com.au/Connections/Get-connected>

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

Regards,
Ausgrid Development Team

2. Internal referral comments:

2.1. Development Engineer and Landscape Comments:

"An application has been received for alterations and additions at the above site.

This report is based on the following plans and documentation:

- *Architectural Plans by Studio GA, Issue C dated 25/06/2025;*
- *Statement of Environmental Effects by Studio GA Issue A dated 20/06/2025;*
- *Landscape Plans by Kate Mitchell Design Issue C dated 25/06/2025;*
- *Detail & Level Survey by McDonald Surveying and dated 08/03/2023;*

General Comments

The engineering issues raised with the original proposal have now been addressed with the S4.55 plans and subsequent amendments to those plans. There are no objections to the proposed modifications from Development Engineering.

As Engineering and landscape Comments were also not included in the original planning report to the local Planning Panel, to ensure transparency and completion, these are now included in this report for the modified proposal

Parking Comments

The modified proposal has reduced the thickness of the rear wall which increases the length available for the carspace to 5.45m and is now fully compliant with AS 2890.1. This is supported by Development Engineering. The garage also has sufficient width and height clearance to accommodate a compliant car space.

As the garage is immediately adjacent to Oberon Lane care must be taken in levels design to ensure vehicles can adequately transition between the garage floor level and the laneway without scraping. With the proposed Garage Floor Level of RL 53.56 AHD this should not be difficult to achieve. Suitable conditions have been included in this report.

Access from Oberon Lane

Concerns were raised with the original proposal on access and turning manoeuvres from Oberon Lane as it is only 6.1m (20ft) wide. The widening of the garage opening to 2.8m and the existing No parking signs opposite the proposed garage entrance on Oberon Lane (giving more manoeuvring room) will address this issue. The modified proposal maintains this opening width and no objections are raised.

Ausgrid Light pole Comments

The original application was not supported by Ausgrid due to its proximity to an existing light pole on Oberon Street. After some amendments including most notably a setback 0.5m of the garage door opening from the face of the power pole, Ausgrid were accepting of the proposal. The modified proposal maintains this setback and hence no objections are raised by Development Engineering.

Drainage Comments

Stormwater runoff from the (redeveloped portion) site shall be discharged to the kerb and gutter along the site frontage by gravity (without the use of a charged system).

Landscape Comments

Landscape conditions were not included in the original consent, opportunity is there for taken for this application to correct this error. Landscape comments were not also included and now have been provided below.

Site Inspection was undertaken on Friday 28/3/2025 with all pictures of vegetation on D05662336 & D05279749.

Within Oberon Street council's verge, two, mature Cupaniopsis anacardioides (Tuckeroo) first is plotted centrally adjacent the subject site, second tree, is to the east of first tree, adjacent No.43

property, both 6 metres high, good health, good vigour, in close conflict with frontage works, material handling and such, most westerly tree **to be protected**, lastly, moving within the frontage of the property, there was a total absence of vegetation to which proposed new landscaping will be applied.

Moving towards the rear of the property, within the western side setback laneway, a small courtyard which was showing small insignificant vegetation, wholly within the eastern neighbouring No.43 property, centrally between the rear dwelling and rear garage, Cupressus Spp, 5 metres high, good health, good vigour, measuring from Landscape Plan by Kate Mitchell Design, Issue C, Dwg DA.08 dated 25/06/2025 this tree measured 4 metres south of proposed rear workshop garage, an existing brick retaining wall, measures along the eastern common boundary, north to south maintains protection to all roots, this wall would have been built before tree was planted to which roots would not be able to enter subject site property, with all these factors this neighbouring tree has ample clearance from works.

Moving to the rear of subject site, within Reserve Lane, on councils' verge, centrally between the two rear garages, Capaniopsis anacardioides (Tuckeroo) 6 metres high, good health, fair vigour, plotted between curb and subject site boundary wall, which measures 600mm wide, the trunk is of same size of between existing kerb and wall, which in time, this tree will inevitably damage the structures of wall and kerb.

There is noticeable trunk damage, to which it has been mechanically damaged by vehicles reversing from adjacent garages and driveways within this small laneway, this tree would have been planted from a seedling from nearby tree, with all these factors **this tree must be removed at Applicant costs**.

These alterations do not increase site coverage by more than 10%, the landscaping and tree canopy cover clauses in the C1 DCP 2023 will not apply."

Appendix 2: DCP Compliance Table**2.1 Part C1: Low Density Residential (2023)**

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	Classification	Zoning = R2 Low-Density Residential.	
2	Site planning		
2.1	Minimum lot size and frontage		
	Minimum lot size (RLEP).	Existing 191.6m ² . No subdivision proposed.	N/A.
2.2	Minimum frontage		
	i) Min frontage R2 = 12m ii) Min frontage R3 = 9m iii) No battle-axe or hatchet in R2 or R3 iv) Minimum frontage for attached dual occupancy in R2 = 15m v) Minimum frontage for detached dual occupancy in R2 = 18m	Min = 12m Existing = 5.715m No subdivision or dual occupancy is proposed.	N/A.
2.4	Site coverage		
	Up to 300 sqm = 60% 301 to 450 sqm = 55% 451 to 600 sqm = 50% 601 sqm or above = 45%	Site = 191.6m ² Existing = 113.38m ² (59.17%) Proposed = 120.35m ² (62.81%).	Variation is sought. Refer to key issues.
2.5	Deep soil permeable surfaces		
	New development, or alterations and additions that change the existing site coverage by more than 10%, must provide the minimum area of deep soil permeable surfaces as specified in the table below: i) Up to 300 sqm = 30% ii) 301 to 450 sqm = 35% iii) 451 to 600 sqm = 40% iv) 601 sqm or above = 45% v) Deep soil minimum width 900mm. vi) Maximise permeable surfaces to front vii) Minimum 25% of front setback is to be landscaped area	N/A. Change in site cover is only 6.1%.	N/A. However, the overall landscape character of the site is improved through the proposed works.
2.6	Landscaping and tree canopy cover		
	i) New development, or alterations and additions that changes the existing site coverage by more than 10%, must demonstrate that a minimum of 25% canopy coverage as a proportion of the site area can be achieved within 10 years from the completion of development based on maturity of trees selected ii) Up to 300 sqm = 2 trees iii) 301 to 450 sqm = 3 trees iv) 451 to 600 sqm = 4 trees v) 601 sqm or above = 4 trees	N/A. Change in site cover is only 6.1%. Notwithstanding this, three trees are proposed for planting under this DA (one x Frangipani and two x Dwarf Apple). The landscape nature of the site is improved as part of this application.	N/A. However, the overall landscape character of the site is improved through the proposed works.
2.7	Private open space (POS)		
	Dwelling & Semi-Detached POS		

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	i) Provide at least one (1) contiguous area of private open space satisfying the following dimensions based on site area: Up to 300 sqm = 5m x 5m 301 to 450 sqm = 6m x 6m 451 to 600 sqm = 7m x 7m 601 sqm or above = 8m x 8m ii) The contiguous private open space must satisfy the following criteria: - Be situated at ground level (except for dual occupancy (attached) development where one dwelling is situated above another) - Does not include any open space on podiums or roofs - Be adjacent to and directly accessible from the living or dining room of the dwelling - Oriented and configured to maximise solar access - Located to the rear of the allotment behind the dwelling where possible - Has minimal change in gradient - Includes landscaped areas, terraces, decks, paved surfaces and the like.	Site = 191.6m². Existing = 4.65m x 5.56m. Proposed = 6.7m x 5.665m.' The proposal achieves these criteria.	Yes. The proposed reorientation of the garage provides a resultant private open space area that now complies with the subject controls and provides improved functionality and amenity to the subject site.
3	Building envelope		
3.1	Floor space ratio LEP 2012 = no provision.	As discussed in Section 6.4.1 of this report, no FSR provision applies to the site.	N/A.
3.2	Building height		
	Maximum overall height LEP 2012 = 9.5m maximum	Existing = 8.32m (61.86m ridge – NGL 53.54m) No change to the maximum height of the dwelling. The proposed maximum height of the garage of 2.9m complies with the maximum height limit.	Yes.
	i) Any habitable space located above the first floor level must be integrated into the building roof form and roofline ii) The minimum floor-to-ceiling height for living areas, such as living/lounge, dining and bedrooms, is 2.7m iii) The minimum floor-to-floor height for building stories, excluding those above the first floor level within the building roofline, is 3.1m iv) An alternative design that varies from the two-storey height and street frontage in the	No upper levels are proposed above the garage. None proposed. Not applicable – garage structure only. Single-storey design proposed.	N/A. N/A. N/A. Yes.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)																								
	Zone R2 may be acceptable having regard to the following considerations: - Site topography - Site orientation - Allotment configuration - Flooding requirements - Allotment dimensions - Potential impacts on the visual amenity, solar access, privacy and views of the adjoining properties.																										
3.3	Setbacks																										
3.3.1	Front setbacks i) Average setbacks of adjoining (if none then no less than 6m) Transition area then merit assessment. ii) Corner allotments: Secondary Street frontage: - 900mm for allotments with primary frontage width of less than 7m - 1500mm for all other sites iii) do not locate swimming pools, above-ground rainwater tanks and outbuildings in front	No change to the front setback of the dwelling house is proposed. Refer to Section 6.3 'setbacks of parking facilities' and Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of car parking and laneway structures.	N/A.																								
3.3.2	i) New buildings and alterations and additions must comply with the following minimum side setbacks based on the primary frontage width: <table border="1"> <thead> <tr> <th colspan="4">Minimum side setbacks</th> </tr> <tr> <th>Existing primary frontage width</th> <th>Building heights 0m to 4.5m</th> <th>Building heights >4.5m to 7m</th> <th>Building heights >7m</th> </tr> </thead> <tbody> <tr> <td>Less than 6m</td> <td colspan="3">Merit assessment</td> </tr> <tr> <td>6m to less than 9m</td> <td>0.9m</td> <td>0.9m</td> <td>0.9m + (building height - 7m)</td> </tr> <tr> <td>9m to less than 12m</td> <td>0.9m</td> <td>$0.9m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.5m + 2 \times (\text{building height} - 7m)$</td> </tr> <tr> <td>12m and above</td> <td>1.2m</td> <td>$1.2m + \frac{\text{building height} - 4.5m}{4}$</td> <td>$1.8m + 2 \times (\text{building height} - 7m)$</td> </tr> </tbody> </table> Refer to 6.3 and 7.4 for parking facilities and outbuildings	Minimum side setbacks				Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m	Less than 6m	Merit assessment			6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)	9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$	12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$	No change to the setbacks of the dwelling house is proposed. Refer to Section 6.3 'setbacks of parking facilities' and Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of car parking and laneway structures.	N/A.
Minimum side setbacks																											
Existing primary frontage width	Building heights 0m to 4.5m	Building heights >4.5m to 7m	Building heights >7m																								
Less than 6m	Merit assessment																										
6m to less than 9m	0.9m	0.9m	0.9m + (building height - 7m)																								
9m to less than 12m	0.9m	$0.9m + \frac{\text{building height} - 4.5m}{4}$	$1.5m + 2 \times (\text{building height} - 7m)$																								
12m and above	1.2m	$1.2m + \frac{\text{building height} - 4.5m}{4}$	$1.8m + 2 \times (\text{building height} - 7m)$																								
3.3.3	Rear setbacks i) Minimum 25% of allotment depth or 8m, whichever lesser. Note: control does not apply to corner allotments. ii) Provide greater than aforementioned or demonstrate not required, having regard to: - Existing predominant rear setback line - reasonable view sharing (public and private) - protect the privacy and solar access iii) Garages, carports, outbuildings, swimming or spa pools, above-ground water tanks, and unroofed decks and terraces attached to the dwelling may encroach upon the required rear setback, in so far as they comply with other relevant provisions.	No change to the setbacks of the dwelling house is proposed. Refer to Section 6.3 'setbacks of parking facilities' and Section 8.1 'Development in Laneway' controls of the RDCP, which control setbacks of car parking and laneway structures.	N/A.																								

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	iv) For irregularly shaped lots = merit assessment on basis of:- - Compatibility - POS dimensions comply - minimise solar access, privacy and view sharing impacts Refer to 6.3 and 7.4 for parking facilities and outbuildings		
4	Building design		
4.1	General		
	Respond specifically to the site characteristics and the surrounding natural and built context - • articulated to enhance streetscape • stepping building on sloping site, • no side elevation greater than 12m • encourage innovative design	No change to the design of the dwelling house is proposed as part of this application. The garage has been amended from previous applications to respect site constraints and characteristics of the laneway, as discussed in the Key Issues section of this report.	Yes.
4.3	Alterations and additions to existing semi-detached and dual occupancy (attached) dwellings		
	i) Alterations and additions must respect and enhance the architectural character of the pair of semi-detached and dual occupancy (attached) dwellings as a coherent entity ii) The design of the dwelling must be based on a detailed site and contextual analysis iii) Design solutions must respect the existing architectural expression and symmetry between the pair of semi-detached and dual occupancy (attached) dwellings and address: - Locating the bulk of any first floor level addition, setback from the principal street frontage and accommodated to the rear of the dwelling, with a substantial portion of the existing front roof remaining intact - Positioning the addition behind the apex of existing hipped roofed houses. For gable roofs, additions should be setback from the gable end 100% of the height increase and retain any existing gable features and chimneys - Designing the first floor level addition as a low profile roof form that is visually secondary to the existing front roof. Alternatively, the addition should adopt a roof form that is compatible with the style and period of the existing roof to be retained. iv) Alterations and additions to semi-detached and dual occupancy (attached) dwellings may	No change to the design of the dwelling house is proposed as part of this application. The garage is a separate element from the semi-detached dwelling. Notwithstanding, its selection of materials and general form respects the key characteristics of the semi-detached dwellings.	Yes.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	be constructed to the common boundary with the adjoining dwelling v) Avoid the exposure of existing blank party walls of the adjoining semi-detached dwelling to the public domain vi) Alterations and additions must seek to minimise the creation of exposed party walls at the common boundary. Where this is not feasible, the party walls must be appropriately finished vii) The selection of materials used for alterations and additions must enhance the character of the pair of semi-detached dwellings and result in a coordinated / holistic design outcome.		
4.4	Roof terraces and balconies		
	<i>Rooftop terraces</i> i) on stepped buildings only (not on uppermost or main roof) ii) above garages on sloping sites (where garage is on low side) <i>Dormers</i> iii) Dormer windows do not dominate iv) Maximum 1500mm height, top is below roof ridge; 500mm setback from side of roof, face behind side elevation, above gutter of roof. v) Multiple dormers consistent vi) Suitable for existing <i>Clerestory windows and skylights</i> vii) Sympathetic to design of dwelling <i>Mechanical equipment</i> viii) Contained within roof form and not visible from street and surrounding properties.	No rooftop terrace or balcony is proposed.	N/A.
4.5	Roof Design and Features		
	<u>Dormer Windows</u> iv) Dormer windows must be located and have a size, bulk and scale that do not dominate the roof form or add excessively to the building mass v) The configuration of dormer windows must satisfy the following: - A maximum height from base to ridge of not more than 1.5m - The highest point of a dormer must be situated below the ridge of the roof to which it is attached - Dormers must be setback from the sides of the roof by a minimum of 500mm - The front face of a dormer must be setback from the external face of the wall immediately below - The base of a dormer must be positioned above the gutter of the roof in which it is situated. vi) Dormers occurring in the same roof plane must be similarly sized, configured, and arranged symmetrically.	No dormer windows proposed for the dwelling or garage.	N/A.

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
4.6	Colours, materials and finishes		
	i) The development application must include a schedule detailing the proposed materials and finishes for a new dwelling, alteration or addition in the DA documentation. The selection of colour and material palette must complement the character and style of the building ii) The exterior materials (such as wall cladding and roofing materials) of a building must be durable and non-reflective iii) External surfaces must be of lighter coloured materials to reduce the impacts of the urban heat island effect iv) The use of lighter coloured external materials must consider and mitigate undesirable or uncomfortable glare directed towards neighbouring properties v) Large expanses of rendered masonry must be avoided in street frontages and laneway elevations, except where they are required due to heritage considerations vi) A combination of materials and finishes must be selected to articulate long sections of walls and create visual interest vii) Select materials and details that are suitable for the local climatic conditions to properly withstand natural weathering, ageing and deterioration viii) Sandstone blocks in existing buildings or fences on the site must be recycled and re-used.	A schedule of colours/materials list has been submitted with the proposal. The proposed colours and materials are acceptable and complement the character and style of the existing dwelling on the site, and other buildings in the laneway.	Yes.
4.7	Earthworks		
	i) Any excavation and backfilling within the building footprint must be limited to a maximum 1m at any point on the allotment, unless it is demonstrated that the site gradient is too steep to reasonably construct a dwelling within this extent of site modification. Refer to Figure 16. These requirements do not apply to swimming or spa pool structures ii) The outer edge of any excavation, piling or sub-surface walls must be setback a minimum of 900mm from the side and rear boundaries	A cut of 520mm is proposed from the courtyard to the garage level to facilitate an accessible level entry from Oberon Lane. Appropriate retaining walls are illustrated on relevant boundaries.	Yes.
5	Amenity		
5.1	Solar access and overshadowing		
	Solar access to proposed development:		
	i) Portion of north-facing living room windows must receive a minimum of 3 hrs direct sunlight between 8am and 4pm on 21 June ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June.	A shadow analysis has been prepared and submitted as part of the architectural package developed by Studio GA. These shadows demonstrate that no	Yes.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
		additional shadows are cast on the building line of either No. 41 Oberon Street, or any additional shadows on the private open space area of No. 41 Oberon Street. The status quo of solar access retained to the subject site will be retained.	
	Solar access to neighbouring development:		
	i) Portion of the north-facing living room windows must receive a minimum of 3 hours of direct sunlight between 8am and 4pm on 21 June. ii) POS (passive recreational activities) receive a minimum of 3 hrs of direct sunlight between 8am and 4pm on 21 June. v) Solar panels on neighbouring dwellings, which are situated not less than 6m above ground level (existing), must retain a minimum of 3 hours of direct sunlight between 8am and	A shadow analysis has been prepared and submitted as part of the architectural package developed by Studio GA. These shadows demonstrate that no additional shadows are cast to the building line of No. 43 Oberon Street. The status quo of solar access to the living areas of the subject site and neighbouring development will remain. The submitted shadow analysis also demonstrates that while additional overshadowing is proposed for the private open space area of No. 41 Oberon Street, it continues to retain 3 hours of direct sunlight between 8 am and 4 pm on 21 June. Further comment is provided within the key issues section of this report. No solar panels are located on any adjoining property	Yes.

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	4pm on 21 June. If no panels, direct sunlight must be retained to the northern, eastern and/or western roof planes (not <6m above ground) of neighbouring dwellings. vi) Variations may be acceptable subject to a merits assessment with regard to: - Degree of meeting the FSR, height, setbacks and site coverage controls. - Orientation of the subject and adjoining allotments and subdivision pattern of the urban block. - Topography of the subject and adjoining allotments. - Location and level of the windows in question. - Shadows cast by existing buildings on the neighbouring allotments.	that will be impacted by the proposed works. No variation is proposed.	
5.2	Energy Efficiency and Natural Ventilation		
	i) Provide day light to internalised areas within the dwelling (for example, hallway, stairwell, walk-in-wardrobe and the like) and any poorly lit habitable rooms via measures such as: - Skylights (ventilated) - Clerestory windows - Fanlights above doorways - Highlight windows in internal partition walls ii) Where possible, provide natural lighting and ventilation to any internalised toilets, bathrooms and laundries iii) living rooms contain windows and doors opening to outdoor areas <i>Note: The sole reliance on skylight or clerestory window for natural lighting and ventilation is not acceptable</i>	The proposed application does not involve any change to a habitable portion of the subject site.	Yes.
5.3	Visual Privacy		
	Windows		
	i) All habitable room windows must be located to minimise any direct viewing of existing habitable room windows in adjacent dwellings by one or more of the following design measures: - Offsetting or staggering windows away from those of the adjacent building - Setting the window sills at a minimum of 1.6m above finished floor level - Installing fixed and translucent glazing up to a minimum of 1.6m above finished floor level - Installing fixed privacy screens outside the windows in question - Creating a recessed courtyard on the side elevations of a building measuring not less than 3m x 2m in size, with windows opening towards the courtyard in lieu of the common boundary.	The proposed garage structure will not result in any adverse privacy impacts to the subject site or neighbouring dwellings. The proposed highlight windows to the northern elevation of the garage will not result in any adverse visual privacy issues.	Yes.
5.4	Acoustic Privacy		

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	i) noise sources not located adjacent to adjoining dwellings bedroom windows iii) Development affected by noise from road traffic, aircraft and industrial and port operations must be designed and constructed in accordance with the relevant Australian Standards and guidelines (as a minimum) issued by the relevant agencies and authorities. As a minimum, the bedroom windows must be oriented away from the noise source wherever possible. Depending on the level of noise impact, developments are encouraged to exceed minimum noise standards to achieve a high standard of internal amenity.	The garage is located at the rear of the site, and adjacent to the laneway. It is away from any sensitive area of neighbouring properties. The site is not mapped in the ANEF contour area.	Yes.
5.5	Safety and Security		
	i) Dwelling's main entry on front elevation (unless narrow site) ii) Street numbering at front near entry. iii) 1 habitable room window (glazed area min 2 square metres) overlooking the street or a public place. iv) Front fences, parking facilities and landscaping does not obstruct casual surveillance (maintain safe access)	The proposed garage promotes additional casual surveillance through the provision of highlight windows to the laneway. The revised height and form of the garage structure allow overlooking of Reserve Lane from the first-floor windows of No. 41 and 43 Oberon Street, and will not impact the overlooking of the laneway from neighbouring RFBs.	Yes.
5.6	View Sharing		
	i) Reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. ii) Retaining existing views from the living areas are a priority over low use rooms iii) Retaining views for the public domain takes priority over views for the private properties iv) Fence design and plant selection must minimise obstruction of views v) Adopt a balanced approach to privacy protection and view sharing	The site is not in proximity to any significant views or vistas.	N/A.

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	vi) Demonstrate any steps or measures adopted to mitigate potential view loss impacts in the DA. (certified height poles used)		
6	Car Parking and Access		
6.1	Location of Parking Facilities:		
	All dwellings i) Provide a maximum of one vehicular access per property ii) Locate parking facilities off rear lanes, or secondary street frontages in the case of corner allotments, where available iii) Where rear lane or secondary street access is not available, parking facilities must be located behind the front façade alignment, either integrated within the dwelling or positioned to the side of the dwelling iv) Provide a single width garage or carport facing the primary street if the site frontage has a width of less than 12m v) A double width garage or carport may only be provided where: - The frontage width is at least 12m; and - The development is consistent with the predominant pattern in the street; and - The minimum deep soil permeable surfaces area in the front setback is achieved. vi) A tandem car parking garage or single garage and a carport, or hardstand space in front of a single garage, will be considered where two car parking spaces are required for a dwelling. Refer to B7 Transport, Traffic, Parking and Access vi) Avoid long driveways that require large expanses of impermeable surfaces	One vehicular access point is proposed. The proposed garage is located off the rear laneway. N/A. N/A. N/A. N/A. N/A. N/A.	Yes. Yes. N/A. N/A. N/A. N/A. N/A.
6.2	Parking Facilities forward of front façade alignment (if other options not available)		
	i) The following may be considered: - An uncovered single car space - A single carport (max. external width of not more than 3m and - Landscaping incorporated in site frontage ii) Regardless of the site's frontage width, the provision of garages (single or double width) within the front setback areas may only be considered where: - There is no alternative, feasible location for accommodating car parking; - Significant slope down to street level	The proposed garage addresses Oberon Lane. No vehicular access is proposed to Oberon Street, the primary frontage of the site.	N/A.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	- does not adversely affect the visual amenity of the street and the surrounding areas; - does not pose risk to pedestrian safety and - does not require removal of significant contributory landscape elements (such as rock outcrop or sandstone retaining walls)		
6.3	Setbacks of Parking Facilities		
	i) Garages and carports must comply with the side setback requirements stipulated in subsection 3.3. ii) Entry to garages and carports off the rear laneway must be setback a minimum of 1m from the laneway boundary. iii) Garages and carports built to the side boundary may be considered where: - The adjoining property has its parking facilities or outbuildings constructed to the common boundary; and - The location of car parking is compatible with the streetscape character; and - Appropriate sightlines will be maintained for drivers and pedestrians; and - Development seeks to amalgamate the driveway crossing with that of the adjoining property.	The proposed garage fails to comply with the side setback controls of the DCP, as a nil setback is proposed. Refer to key issue comments under Section 8.1 of this report.	Refer to key issue comments under Section 8.1 of this report.
6.4	Driveway Configuration		
	Maximum driveway width: - Single driveway – 3m - Double driveway – 5m Must taper driveway width at street boundary and at property boundary	The proposal results in a 2.8m-wide driveway at the property boundary, before widening to 4m at the road reserve for the driveway splays.	Yes.
6.5	Garage Configuration		
	i) recessed behind front of dwelling ii) The maximum garage width (door and piers or columns): - Single garage – 3m - Double garage – 6m	The proposed garage is located behind the dwelling in the rear yard. The proposed garage results in a width of 4.5m. This is due to additional storage being added to the width of the garage, rather than its length. This is partly a consequence of the power pole along Oberon Lane. The garage has been modified to reduce	Yes. Yes. On Merit.

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	iii) 5.4m minimum length of a garage. iv) May include an additional 6sqm of floor area through additional length for storage purposes that is excluded from FSR. v) 2.6m max wall height of detached garages, and max height of 3m for pitched roof. vi) recess garage door 200mm to 300mm behind walls (articulation)	its bulk and scale to an acceptable level, where no adverse amenity impacts result. Of importance, the interface of the garage with the eastern boundary has been revised to ensure it will not be higher than the existing boundary fence line. A variation is acceptable in this instance. The proposed garage has adequately demonstrated that it achieves a minimum length of 5.4m. The Council's development engineers have supported this. Additional storage is proposed; however, it is added to the width of the garage rather than the length. This is partly a consequence of the power pole along Oberon Lane. The garage has been modified to reduce its bulk and scale to an acceptable level, where no adverse amenity impacts result. A variation is acceptable in this instance. The controls under Section 8.1 of Part C1 of the RDCP 2023 control the height of the structure, given that it is a laneway structure.	Yes. Yes. On Merit. N/A. Yes. On Merit.

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	vii) 600mm max. parapet wall or bulkhead viii) minimum clearance 2.2m AS2890.1	While the garage door is flush to the external walls, articulation is proposed through timber battens to break up the bulk of the garage. The controls under Section 8.1 of Part C1 of the RDCP 2023 control the height of the structure, given that it is a laneway structure. 2.2m clearance is achieved.	N/A. Yes.
6.6	Carport Configuration		
	i) Simple post-support design (max. semi-enclosure using timber or metal slats minimum 30% open). ii) Roof: Flat, lean-to, gable or hipped with pitch that relates to dwelling iii) 3m maximum width. iv) 5.4m minimum length v) 2.6m maximum height with flat roof or 3.0m max. height for pitched roof. vi) No solid panel or roller shutter door. vii) front gate allowed (minimum 30% open) viii) Gate does not open to public land	The proposal is for a garage	N/A.
6.7	Hardstand Car Space Configuration		
	i) Prefer permeable materials in between concrete wheel strips. ii) 2.4m x 5.4m minimum dimensions	The proposal is for a garage	N/A.
7	Fencing and Ancillary Development		
7.1	General - Fencing		
	i) Use durable materials ii) Sandstone not rendered or painted iii) Do not use steel post and chain wire, barbed wire or dangerous materials iv) Avoid expansive surfaces of blank rendered masonry to street	No change.	N/A.
7.2	Front Fencing		
	i) 1200mm max. (Solid portion not exceeding 600mm), except for piers. - 1800mm max. provided upper two-thirds partially open (30% min), except for piers. ii) lightweight materials used for open design and evenly distributed iii) 1800mm max solid front fence permitted in the following scenarios: - Site faces arterial road - Secondary street frontage (corner allotments) and fence is behind the alignment	No change.	N/A.

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	of the primary street façade (tapered down to fence height at front alignment). <i>Note: Any solid fences must avoid continuous blank walls (using a combination of materials, finishes and details, and/or incorporate landscaping (such as cascading plants))</i> iv) 150mm allowance (above max fence height) for stepped sites v) Natural stone, face bricks and timber are preferred. Cast or wrought iron pickets may be used if compatible vi) Avoid roofed entry portal, unless complementary to established fencing pattern in heritage streetscapes. vii) Gates must not open over public land. viii) The fence must align with the front property boundary or the predominant fence setback line along the street. ix) Splay fence adjacent to the driveway to improve driver and pedestrian sightlines.		
7.3	Side and rear fencing		
	i) 1800mm maximum height (from existing ground level). Sloping sites step fence down (max. 2.2m). ii) Fence may exceed max. if level difference between sites iii) Taper down to front fence height once past the front façade alignment. iv) Both sides treated and finished.	Existing side fencing outside the footprint of the garage is retained.	N/A.
7.4	Outbuildings		
	i) Locate behind the front building line. ii) Locate to optimise backyard space and not over required permeable areas. iii) Except for laneway development, only single storey (3.6m max. height and 2.4m max. wall height) iv) Nil side and rear setbacks where: - finished external walls (not requiring maintenance; - no openings facing neighbours' lots and - maintain adequate solar access to the neighbours dwelling v) First floor addition to existing may be considered subject to: - Containing it within the roof form (attic) - Articulating the facades; - Using screen planting to visually soften the outbuilding; - Not being obtrusive when viewed from the adjoining properties; - Maintaining adequate solar access to the adjoining dwellings; and - Maintaining adequate privacy to the adjoining dwellings. vi) Must not be used as a separate business premises.	Section 8.1 overrides these controls due to the proposed garage being a laneway structure.	N/A.
7.5	Swimming pools and Spas		

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	i) Locate behind the front building line ii) Minimise damage to existing tree root systems on subject and adjoining sites. iii) Locate to minimise noise impacts on the adjoining dwellings. iv) Pool and coping level related to site topography (max 1m over lower side of site). v) Setback coping a minimum of 900mm from the rear and side boundaries. vi) Incorporate screen planting (min. 3m mature height unless view corridors affected) between setbacks. vii) Position decking to minimise privacy impacts. viii) Pool pump and filter contained in acoustic enclosure and away from the neighbouring dwellings.	No swimming pools are proposed.	N/A.
7.6	Air conditioning equipment		
	i) Minimise visibility from street. ii) Avoid locating on the street or laneway elevation of buildings. iii) Screen roof mounted A/C from view by parapet walls, or within the roof form. iv) Locate to minimise noise impacts on bedroom areas of adjoining dwellings.	N/A. No Air Conditioning units are proposed as part of this application.	N/A.
7.7	Communications Dishes and Aerial Antennae		
	i) Max. 1 communications dish and 1 antenna per dwelling. ii) Positioned to minimise visibility from the adjoining dwellings and the public domain, and must be: - Located behind the front and below roof ridge; - minimum 900mm side and rear setback and - avoid loss of views or outlook amenity iii) Max. 2.7m high freestanding dishes (existing).	No antenna or dish is proposed on the outbuilding	N/A
7.8	Clothes Drying Facilities		
	i) Located behind the front alignment and not be prominently visible from the street	Adequate space is proposed in the rear yard for the provision of a clothesline.	Yes.
8	Area Specific Controls		
8.1	Development in Laneways		
	i) Max. 6m height. Max. 4.5m external wall height. Mass and scale to be secondary to primary dwelling and upper level contained within roof form (attic storey). ii) 1 operable window to laneway elevation (casual surveillance)	The garage has been modified to result in a maximum height of 2.9m. The proposed roof form of the garage is no longer inconsistent with the character of the laneway. Highlight windows are proposed to Reserve Lane to	Yes. Yes.

D57/25

D57/25

DCP Clause	Controls	Proposal	Compliance (Yes/No/N/A/Conditioned)
	iii) Aligns with consistent laneway setback pattern (if no consistent setback, then 1m rear setback). (Refer to Sub-Section 6 for controls relating to setback to garage entry.) iv) Nil side setback allowed subject to: - adjoining building similarly constructed - no unreasonable visual, privacy and overshadowing impacts v) Screen or match exposed blank walls on adjoining properties (i.e. on common boundary).	encourage casual surveillance. Setbacks are consistent with the pattern of nil setbacks for outbuildings along Oberon and Reserve Lane. A near nil side setback (0.025m) is proposed to the common boundary with No. 43 Oberon Street. Refer to the key issues section of this report under Section 8.1. New blank walls are proposed to adjoining properties.	Yes. Refer to key issues. Yes.

3.2 Section B7: Transport, Traffic, Parking and Access

DCP Clause	Controls	Proposal	Compliance
3.2	Vehicle Parking Rates		
	1. Space per dwelling house with up to 2 bedrooms 2. Spaces per dwelling house with 3 or more bedrooms Note: Tandem parking for 2 vehicles is allowed.	One car space is proposed in the new garage.	Yes.

Appendix 3: Ausgrid advice regarding power pole

Address all relevant correspondence to:
Ausgrid
Banksmeadow Design
8 Moore St NSW 2019
Australia



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

22-10-2024
Studio GA
A01, 122 Terry Street,
Rozelle, NSW 2039
Australia

Local Government Area – 41 Oberon St , Randwick

Dear Sir

Please be advised that your request to deviate from NS167 for reduced clearance between a pole and driveway has been approved subject to the following conditions:

- Approval granted to install driveway with a minimum clearance of 500mm from pole MA-9607 face;
- Garage is for non dwelling purposes;
- This approval is for 41 Oberon St , Randwick only;

Yours sincerely

Responsible officer: GAT & Associates, Town Planners

File Reference: DA/634/2025

D57/25

Draft Development Consent Conditions (Dwellings and Dual Occupancies)



Folder /DA No:	DA/634/2025
Property:	41 Oberon Street, RANDWICK NSW 2031
Proposal:	Demolition of existing garage and construction of an outbuilding comprising a single garage with storage provision, at the rear of existing dwelling.
Recommendation:	Approval

GENERAL CONDITIONS

Condition

1. Approved plans and documentation

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

Plan	Drawn by	Dated	Received by Council
DA.01 – Oberon Lane Elevation, Site Data, and Schedule and Finishes.	Studio GA	Undated	4 July 2025
DA.02 - Site Plans, Existing Plan, Proposed Plan.	Studio GA	20 June 2025	4 July 2025
DA.03 - Garage/Courtyard Plan, Garage Section BB	Studio GA	4 September 2025	10 September 2025
DA.03B – Garage Dimensions Overlay Diagram.	Studio GA	29 August 2025	10 September 2025
DA.04B – Garage Section DD (Adjacent to Common Boundary)	Studio GA	29 August 2025	10 September 2025
DA.05 – Roof Drainage Plan	Studio GA	20 June 2025	10 September 2025
DA.06 – Garage West Elevation, Section BB	Studio GA	29 August 2025	10 September 2025
DA.07 – Garage Reserve Lane North Elevation	Studio GA	29 August 2025	10 September 2025
DA.08 -	Studio GA	20 June 2025	10 September

Condition				
	Landscape Plan, Schedule of Planting			2025
	DA.09 Landscape Works Plans – Area Calculations	Studio GA	20 June 2025	10 September 2025
	DA.10 – Garage East Elevation	Studio GA	29 August 2025	10 September 2025
	Longitudinal Site Section – 43 Oberon – Garage East Elevation	Studio GA	29 August 2025	10 September 2025
	DA.12 – Garage Dimensions Accommodation Area Plan Details	Studio GA	29 August 2025	10 September 2025
	DA.13 – Garage South Elevation, Section CC	Studio GA	29 August 2025	10 September 2025
	DA.14 – Garage West Elevation, Section EE	Studio GA	29 August 2025	10 September 2025

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

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

2. Ausgrid requirements

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.

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

Condition Reason: To ensure consistency with the requirements of stakeholders within the proximity of the site.

Condition

BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition

3. **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.

4. **External Colours, Materials & Finishes**
The colours, materials and surface finishes to the development must be consistent with the relevant plans, documentation and colour schedules provided with the development application.

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

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

5. **Security Deposits**
The following security deposits requirement must be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to Council's assets and infrastructure; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 4.17(6) of the *Environmental Planning and Assessment Act 1979*:
 - \$2000.00 - Damage / Civil Works Security Deposit
Security deposits may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

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

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

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

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

The approved plans must be submitted to the Sydney Water Tap in™ online service, to determine whether the development will affect Sydney Water's

	Condition
	wastewater and water mains, stormwater drains and/or easements, and if any further requirements need to be met. The Tap in™ service provides 24/7 access to a range of services, including: • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service. Condition Reason: To ensure the development satisfies Sydney Water requirements.
7.	Building Code of Australia 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). 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.
8.	Excavation Earthworks and Support of Adjoining Land Details of proposed excavations and support of the adjoining land and buildings are to be prepared and be included in the construction certificate, to the satisfaction of the appointed Certifier. Condition Reason: To ensure adjoining land is adequately supported.
9.	Excavation, Earthworks and Support of Adjoining Land A report must be obtained from a professional engineer prior to undertaking demolition, excavation or building work in the following circumstances, which details the methods of support for any buildings located on the adjoining land, to the satisfaction of the Principal Certifier: • when undertaking excavation or building work within the zone of influence of the footings of a dwelling or other building that is located on the adjoining land; • when undertaking demolition work to a wall of a dwelling or other substantial structure that is built to a common or shared boundary (e.g. semi-detached or terrace dwelling); • when constructing a wall to a dwelling or associated structure that is located within 900mm of a dwelling located on the adjoining land; and • as otherwise may be required by the Certifier for the development.

Condition	
	The demolition, excavation and building work and the provision of support to the dwelling or associated structure on the adjoining land, must also be carried out in accordance with the abovementioned report, to the satisfaction of the Principal Certifier. Condition Reason: To ensure adjoining land is adequately supported.
10.	Stormwater Drainage A surface water/stormwater drainage system must be provided in accordance with the following requirements, to the satisfaction of the Certifier and details are to be included in the construction certificate:- Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works. Condition Reason: To control and manage stormwater run-off so as not to adversely impact neighbouring properties and Council's stormwater assets.
11.	Design Alignment levels The design alignment level (the finished level of concrete, paving or the like) at the property boundary for the driveway shall be 120mm above the invert of the gutter at all points opposite. The design alignment levels at the property boundary as issued by Council and their relationship to the roadway must be indicated on the building plans for the construction certificate (a construction note on the plans is considered satisfactory). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to. Any request to vary the design alignment levels must be forwarded to and approved in writing by Council's Development Engineers and may require a formal amendment to the development consent via a Section 4.55 application. Enquiries regarding this matter should be directed to Council's Development Engineer on 9093-6881. Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.
12.	Design Alignment levels The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$191. This amount is to be paid prior to a construction certificate being issued for the development. Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.
13.	Garage Design The gradient of the internal garage must be designed and constructed to not exceed a grade of 1 in 20 (5%) and the levels of the garage must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate documentation and a copy of the plans are to be forwarded to Council's Development Engineers. NOTE: Transitional grading of up to 1 in 8 (12.5%) is permitted internally on the garage (within 1.2m of the Oberon Lane boundary alignment only) to successfully transition between the garage slab and the Council issued alignment levels. Condition Reason: To ensure all parking and driveway works are designed and constructed in accordance with the relevant requirements.

	Condition
14.	Sydney Water All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation. The plans must be approved by Sydney Water prior to demolition, excavation or construction commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in to apply. The Tap in™ service provides 24/7 access to a range of services, including: • Building plan approvals • Connection and disconnection approvals • Diagrams • Trade waste approvals • Pressure information • Water meter installations • Pressure boosting and pump approvals • Change to an existing service or asset, e.g. relocating or moving an asset. Sydney Water's Tap in™ online service is available at: https://www.sydneywater.com.au/tapin The Principal Certifier must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service. Condition Reason: To ensure the development satisfies Sydney Water requirements
15.	Landscape Plans Written certification from a qualified professional in the Landscape industry (must be eligible for membership with a nationally recognised organisation/association) must state that the scheme submitted for the Construction Certificate is substantially consistent with the Landscape Plans by Kate Mitchell Design, Issue C, Dwg DA.08 dated 25/06/2025, with both this written statement and plans to then be submitted to, and be approved by, the Principal Certifier. Condition Reason: To ensure consistency with approved landscape plans.
16.	Street Tree Management To ensure retention of the most western mature Cupaniopsis anacardioides (Tuckeroo) within Oberon Street council's verge, adjacent subject site, 5 metres high, good health, good vigour, in close conflict with frontage works, material handling and such, the following measures are to be undertaken: a) All documentation submitted for the Construction Certificate application must show their retention, with the position and diameter of their trunk, canopy to be clearly and accurately shown on all plans in relation to the proposed works. b) The street tree must be physically protected by installing an evenly spaced star pickets at a setback of 1000 mm to its east and west, matching up with the kerb to its south, footpath to its north, to which, safety para-webbing shall then be permanently attached to completely enclose the tree for the duration of works. c) This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are

	Condition
	completed, to which, signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE (TPZ), DO NOT REMOVE/ENTER". d) If additional trunk or branch protection is required, this can be provided by wrapping layers of geo-textile, underfelt, carpet, hessian or similar around affected areas, to which, lengths of evenly spaced hardwood timbers shall then be placed around their circumference and are to be secured by 8 gauge wires or steel strapping at 300mm spacing. NO nailing to the trunk. e) The applicant is not authorised to perform any other works to these public trees and must contact Council's Landscape Development Officer on 9093-6633 should clearance pruning or similar be necessary. If approval is given, it can only be performed by Council, wholly at the applicants cost, GIVING UP TO SIX WEEKS NOTICE, with payment to be received prior to pruning or any Occupation Certificate. f) Within the TPZ there is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble, with all Site Management Plans to comply with these requirements. g) The Principal Certifier must ensure compliance with these requirements, both on the plans as well as on-site during the course of works and prior to any Occupation Certificate. A refundable deposit in the form of cash, credit card, cheque OR bank for an amount of \$600.00 must be paid into Tree Amenity Income via Council's Customer Service Centre, prior to a Construction Certificate being issued for the development to ensure compliance with the conditions listed in this consent, and preservation of the trees. The refundable deposit will be eligible for refund following an Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form' and pending a satisfactory inspection by Council's Landscape Development Officer (9093-6633) Any contravention of Council's conditions relating to the trees at any time during the course of the works or prior to an Occupation Certificate may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 4.17 (6) of the Environmental Planning and Assessment Act 1979. Condition Reason: To ensure proper management of the street trees surrounding the site.

17.

Street Tree Removal

The applicant must submit a payment of **\$1968.75 (GST INCLUSIVE)** to cover the following costs:

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

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

Condition	
	issued for the development.
	The applicant must contact Council's Landscape Development Officer on 9093-6633 (quoting the receipt number) and giving at least four working weeks' notice (allow longer for public holidays or extended periods of rain) to arrange for removal of the street tree prior to the commencement of site works, as well as upon completion, to arrange for planting of the replacement street tree if needed. After this, any further enquiries regarding scheduling/timing or completion of works are to be directed to Council's North Area Tree Preservation & Maintenance Coordinator on 9093-6964.
18.	Condition Reason: To ensure proper management of the street trees surrounding the site. Waste Management A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of any Construction Certificate. The plan must include, but not be limited to: a) The estimated volume of waste and method of disposal for the construction and operation phases of the development; b) The design of the on-site waste storage and recycling area; and c) Administrative arrangements for waste and recycling management during the construction process. The approved Waste Management Plan must be complied with at all times in the carrying out of the development. Condition Reason: To ensure waste management for the development and ongoing operation of the site is appropriately managed.

BEFORE BUILDING WORK COMMENCES

Condition	
19.	Building Certification & Associated Requirements The following requirements must be complied with prior to the commencement of any building works (including any associated demolition or excavation work: a) a <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

Condition	
	inspections and other inspections to be carried out, as specified by the Principal Certifier; and
	e) at least two days' notice must be given to the Principal Certifier and Council, in writing, prior to commencing any works.
	Condition Reason: Statutory requirement. To ensure appropriate safeguarding measures are in place prior to the commencement of any building, work, demolition or excavation.
20.	Home Building Act 1989 In accordance with section 4.17 (11) of the <i>Environmental Planning and Assessment Act 1979</i> and sections 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>, in relation to residential building work, the requirements of the <i>Home Building Act 1989</i> must be complied with. Details of the Licensed Building Contractor and a copy of the relevant Certificate of Home Warranty Insurance or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifier and Council. Condition Reason: Prescribed condition under section 69 & 71 of the <i>Environmental Planning and Assessment Regulation 2021</i>.
21.	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. 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.
22.	Construction Site Management Plan A Construction Site Management Plan must be developed and implemented prior to the commencement of any works. The construction site management plan must include the following measures, as applicable to the type of development: • location and construction of protective site fencing and hoardings • location of site storage areas, sheds, plant & equipment • location of building materials and stock-piles • tree protective measures • dust control measures • details of sediment and erosion control measures • site access location and construction • methods of disposal of demolition materials • 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

Condition	
measures to be implemented to ensure public health and safety.	
The site management measures must be implemented prior to the commencement of any site works and be maintained throughout the works.	
A copy of the Construction Site Management Plan must be provided to the Principal Certifier and Council prior to commencing site works. A copy must also be maintained on site and be made available to Council officers upon request.	
Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.	
23.	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. Condition Reason: To protect the environment from the effects of sedimentation and erosion from development sites.
24.	Construction Noise & Vibration Management Plan Noise and vibration from the works are to be minimised and mitigated by implementing appropriate noise management and mitigation strategies. A Construction Noise & Vibration Management Plan Guideline must be prepared by a suitably qualified person in accordance with the Environment Protection Authority Construction Noise and the Assessing Vibration: A Technical Guideline and be implemented throughout the works. A copy of the Construction Noise Management Plan must be provided to the Principal Certifier and Council prior to the commencement of any site works. Condition Reason: To protect the amenity of the neighbourhood during construction.
25.	Public Utilities A <i>Public Utility Impact Assessment</i> must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service. Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier and adhered to.
26.	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	
27.	Site Signage

Condition

It is a condition of the development consent that a sign must be erected in a prominent position at the front of the site before/upon commencement of works and be maintained throughout the works, which contains the following details:

- a) showing the name, address and telephone number of the principal certifier for the work, and
- b) showing the name, address, contractor, licence number and telephone number of the principal contractor, including a telephone number on which the principal contractor may be contacted outside working hours, or owner-builder permit details (as applicable) and
- c) stating that unauthorised entry to the work site is prohibited.

The sign must be—

- a) maintained while the building work is being carried out, and
- b) removed when the work has been completed.

This section does not apply in relation to—

- a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- b) Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

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

28. 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)	• 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	• 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.

29. 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

	Condition
	fence (with geotextile fabric attached to the inside of the fence to provide dust control); heavy-duty plywood sheeting (painted white), or other material approved by Council in writing. Adequate barriers must also be provided to prevent building materials or debris from falling onto adjoining properties or Council land. All site fencing, hoardings and barriers must be structurally adequate, safe and be constructed in a professional manner and the use of poor-quality materials or steel reinforcement mesh as fencing is not permissible. Notes: • <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> Condition Reason: To require measures that will protect the public, and the surrounding environment, during site works and construction.
30.	Public Safety & Site Management Public safety and convenience must be maintained during demolition, excavation and construction works and the following requirements must be complied with at all times: a) Building materials, sand, soil, waste materials, construction equipment or other articles must not be placed upon the footpath, roadway or nature strip at any time. b) Soil, sand, cement slurry, debris or any other material must not be permitted to enter or be likely to enter Council's stormwater drainage system or cause a pollution incident. c) Sediment and erosion control measures must be provided to the site and be maintained in a good and operational condition throughout construction. d) The road, footpath, vehicular crossing and nature strip must be maintained in a good, safe, clean condition and free from any excavations, obstructions, trip hazards, goods, materials, soils or debris at all times. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be repaired immediately to the satisfaction of Council. f) Noise and vibration from the work shall be minimised and appropriate strategies are to be implemented, in accordance with the Noise and Vibration Management Plan prepared in accordance with the relevant EPA Guidelines. g) During demolition excavation and construction works, dust emissions must be minimised, so as not to have an unreasonable impact on nearby residents or result in a potential pollution incident. h) The prior written approval must be obtained from Council to discharge any site stormwater or groundwater from a construction site into Council's drainage system, roadway or Council land. i) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be

	Condition
	implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council. j) A Road/Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road/Asset Opening Permit must be complied with. Please contact Council's Road/Asset Openings officer on 9093 6691 for further details. Condition Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.
31.	Excavations and Support of Adjoining Land The adjoining land and buildings located upon the adjoining land must be adequately supported at all times and in accordance with section 74 of the Environmental Planning and Assessment Regulation 2021 and approved structural engineering details. Excavations must also be properly guarded to prevent them from being dangerous to life, property or buildings. Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.
32.	Building Encroachments There must be no encroachment of any structures or building work onto Council's road reserve, footway, nature strip, public place or neighbouring properties. Condition Reason: To ensure no encroachment onto public land and to protect Council land.
33.	Survey Report A Registered Surveyor's check survey certificate or other suitable documentation must be obtained at the following stage/s of construction to demonstrate compliance with the approved setbacks, levels, layout and height of the building: • prior to construction (pouring of concrete) of footings for the building and boundary retaining structures, • prior to construction (pouring of concrete) of new floor levels, • prior to issuing an Occupation Certificate, and • as otherwise may be required by the Principal Certifier. The survey documentation must be forwarded to the Principal Certifier and a copy is to be forwarded to the Council. Condition Reason: To ensure compliance with approved plans.
34.	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

Condition	
	9093 6691 or 1300 722 542. Condition Reason: To ensure protection and/or repair of Council's Road & footpath assets and ensure public safety.
35.	Tree Management Approval is granted for the removal of the <i>Capaniopsis anacarioides</i> (Tuckeroo) 6 metres high, good health fair vigour, within Reserve Lane, on councils' verge, centrally between the two rear garages, plotted between a curb and subject site boundary wall, trunk is same width as kerb and wall and will inevitably damage the structure of the rear wall, trunk damaged due to been damaged by vehicles reversing from adjacent garages and driveway, in direct conflict with the works. Condition Reason: To ensure proper management of the street trees surrounding the site.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
36.	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.
37.	Council's Infrastructure, Vehicular Crossings and Street Verge The applicant must meet the full cost for a Council approved contractor to: - Construct a 3.2m wide concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site to Council's specifications and requirements. <u>Note: the vehicle crossing should then splay towards the site boundary such that the width at the boundary is 2.8m & coincident with the garage opening.</u> - Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specifications and requirements. Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
38.	Council's Infrastructure, Vehicular Crossings and Street Verge The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc. which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway. Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
39.	Council's Infrastructure, Vehicular Crossings and Street Verge All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering

Condition	
	and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
	a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 8 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details. b) Works on Council land must not commence until the written letter of approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval. c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.
	Condition Reason: To ensure works on Council property are completed in accordance with Council's requirements and an appropriate quality for new public infrastructure.
40.	Landscaping Certification 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 Kate Mitchell Design, Issue C, Dwg DA.08 dated 25/06/2025.
	Condition Reason: To ensure consistency with approved landscape plans.
41.	Landscaping Certification Suitable strategies shall be implemented to ensure that the landscaping is maintained in a healthy and vigorous state until maturity, for the life of the development.
	Condition Reason: To ensure consistency with approved landscape plans.

OCCUPATION AND ONGOING USE

Condition	
42.	Use of Premises The garage structure being approved as part of this application is to be used only for that shown on the approved set of plans, being that of car parking and storage, unless amended as part of a different application.
	Condition Reason: To ensure the development is used for its intended purpose.
43.	External Lighting External lighting to the premises must be designed and located so as to minimise light-spill beyond the property boundary or cause a public nuisance.
	Condition Reason: To protect the amenity of the surrounding area and residents.
44.	Waste Management

Condition	
	Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council.
	Condition Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste.
45.	Plant & Equipment Noise from the operation of all plant and equipment upon the premises shall not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997 and Regulations</i>. Condition Reason: To protect the amenity of the surrounding area and residents.
46.	Use of parking spaces The car spaces within the development are for the exclusive use of the occupants of the building. The car spaces must not be leased to any person/company that is not an occupant of the building. Condition Reason: To ensure that adequate parking facilities to service the development are provided on site, and to prevent leasing out of car spaces to non-residents.

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
47.	Demolition Work A Demolition Work Plan must be developed and be implemented for all demolition work, in accordance with the following requirements: a) Demolition work must comply with Australian Standard AS 2601 (2001), Demolition of Structures; SafeWork NSW requirements and Codes of Practice and Randwick City Council's Asbestos Policy. b) The Demolition Work Plan must include the following details (as applicable): • The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor • Details of hazardous materials in the building (including materials containing asbestos) • Method/s of demolition (including removal of any hazardous materials including materials containing asbestos) • Measures and processes to be implemented to ensure the health & safety of workers and community • Measures to be implemented to minimise any airborne dust and asbestos • Methods and location of disposal of any hazardous materials (including asbestos) • Other measures to be implemented to ensure public health and safety • Date the demolition works will commence/finish. The Demolition Work Plan must be provided to the Principal Certifier prior to commencing any demolition works or removal of any building work or materials. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request. If the demolition work involves asbestos products or materials, a copy of

Condition
the Demolition Work Plan must be provided to Council not less than 2 days before commencing any work. <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> <i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i> Condition Reason: To ensure demolition work area carried out in accordance with the relevant standards and requirements.

DURING DEMOLITION WORK

Condition
48. Demolition Work Any demolition work must be carried out in accordance with relevant Safework NSW Requirements and Codes of Practice; Australian Standard - AS 2601 (2001) - Demolition of Structures and Randwick City Council's Asbestos Policy. Details of compliance are to be provided in a demolition work plan, which shall be maintained on site and a copy is to be provided to the Principal Certifier and Council. Demolition or building work relating to materials containing asbestos must also be carried out in accordance with the following requirements: • 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. <i>A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.</i> Condition Reason: To ensure that the handling and removal of asbestos from the site is appropriately managed.